

18 September 2019 (as amended and restated on 18 December 2019)

JEWEL MIDCO LIMITED
as the Parent

JEWEL BIDCO LIMITED
as the Company

**THE PARENT AND THE SUBSIDIARIES OF THE PARENT
SPECIFIED HEREIN**
as Original Borrowers and Original Guarantors

ROYAL BANK OF CANADA

as Global Coordinators

arranged by

ROYAL BANK OF CANADA

and

ROYAL BANK OF CANADA
as Senior Lead Arranger

with

THE FINANCIAL INSTITUTIONS SPECIFIED HEREIN
as Original Lenders

RBC EUROPE LIMITED

as Agent

RBC EUROPE LIMITED
as Security Agent

SENIOR FACILITIES AGREEMENT

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THIS AGREEMENT is dated ~~18 September~~ 18 September 2019 (the “date of this Agreement”) (as amended and restated on 18 December 2019), and made

BETWEEN:

- (1) **JEWEL MIDCO LIMITED** a private limited company incorporated under the laws of England and Wales with registration number 12204276 (the “**Parent**”);
- (2) **JEWEL BIDCO LIMITED** a private limited company incorporated under the laws of England and Wales with registration number 12204354 (the “**Company**”);
- (3) **THE SUBSIDIARIES** of the Parent listed in Part 1 of Schedule 1 (*The Original Parties*) as original borrowers (the “**Original Borrowers**”);
- (4) **THE PARENT AND THE SUBSIDIARIES OF THE PARENT** listed in Part 1 of Schedule 1 (*The Original Parties*) as original guarantors (the “**Original Guarantors**”);
- (5) **ROYAL BANK OF CANADA** as global coordinator (the “**Global Coordinator**”);
- (6) **ROYAL BANK OF CANADA** as bookrunner and senior lead arranger (the “**Arranger**”);
- (7) **THE FINANCIAL INSTITUTIONS** listed in Part 2 of Schedule 1 (*The Original Parties*) as lenders (the “**Original Lenders**”);
- (8) **RBC EUROPE LIMITED** as agent of the other Senior Finance Parties (the “**Agent**”); and
- (9) **RBC EUROPE LIMITED** as security trustee for the Secured Parties (the “**Security Agent**”).

IT IS AGREED as follows:

**SECTION 1
INTERPRETATION**

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

“**Acceleration Event**” means, following the occurrence of an Event of Default which is then continuing, the Agent delivering a notice pursuant to, and in accordance with, Clause 37.18 (*Acceleration and Cancellation*) or Clause 37.19 (*Loans Due on Demand*).

“**Acceptable Bank**” means:

- (a) a bank which has a rating for its long-term unsecured and non credit-enhanced debt obligations of BBB+ or higher by S&P or Fitch Ratings Ltd or Baa1 or higher by Moody’s or a comparable rating from an internationally recognised credit rating agency;
- (b) an Original Lender or any other Lender that becomes a Revolving Facility Lender as part of primary syndication and such Lender’s Affiliates; or
- (c) any other bank or financial institution approved by the Agent.

“Accession Deed” means a document substantially in the form set out in Schedule 6 (*Form of Accession Deed*).

“Accountants’ Report” means the buy-side financial and tax due diligence report relating to the Target prepared by Ernst & Young LLP.

“Accounting Principles” means, as applicable, (a) in relation to any member of the Group incorporated in the United Kingdom, generally accepted accounting principles, standards and practices in the United Kingdom and (b) in relation to any member of the Group not incorporated in the United Kingdom, generally accepted accounting principles, standards and practices in the jurisdiction of incorporation of the relevant member of the Group including, if applicable, IFRS.

“Accounting Reference Date” means a date falling on or around 31 December.

“Acquired Indebtedness” means Indebtedness of a person (a) existing at the time such person becomes a Restricted Subsidiary or (b) assumed in connection with the acquisition of assets from such person, in each case other than Indebtedness Incurred in connection with, or in contemplation of, such person becoming a Subsidiary or such acquisition. Acquired Indebtedness shall be deemed to be Incurred on the date of the relevant acquisition of assets from any person or the date the acquired person becomes a Restricted Subsidiary.

“Acquisition” means the acquisition by the Company of the Target Group by way of a Scheme Acquisition or, following an Offer Conversion, by way of an Offer Acquisition and the operation of the Squeeze-Out Procedures, in each case on the terms of the Acquisition Documents.

“Acquisition Documents” means (i) the Co-operation Agreement; (ii) following service of an Offer Conversion Notice, each of the Offer Transaction Documents and (iii) in relation to a Scheme Acquisition, the Scheme Documents.

“Acquisition and Refinancing Costs” means all fees, costs and expenses (and taxes thereon) and all capital, stamp, documentary registration and other Taxes incurred by or on behalf of the Company or any other member of the Group in connection with the Acquisition, the refinancing of certain indebtedness of the Target Group (including, without limitation, the refinancing of the Existing Facilities Agreements) or the Transaction Documents.

“Acquisition Clean-up Period” has the meaning set out in Clause 37.20 (*Clean-Up Period*).

“Acquisition Indebtedness” means Indebtedness of (a) a member of the Group Incurred to finance or refinance, or otherwise Incurred in connection with, any acquisition of any assets (including Share Capital), business or person, or any merger or consolidation of any person with or into a member of the Group or (b) any person that is acquired by or merged or consolidated with or into a member of the Group (including Indebtedness thereof Incurred in connection with any such acquisition, merger or consolidation).

“Additional Assets” means (a) any property or assets that replace the property or assets that are the subject of a Disposal; (b) any property or assets (other than Indebtedness and Share Capital) used or to be used by the Group or otherwise useful in a Related Business, and any capital expenditure in respect of any property or assets already so used; (c) the Share Capital of a person that is engaged in a Related Business and becomes a Restricted Subsidiary as a result of the acquisition of such Share Capital by the Group, or (d) Share Capital of any person that at such time is a Restricted Subsidiary acquired from a third party.

“**Additional Borrower**” means a company which becomes an Additional Borrower in accordance with Clause 40 (*Changes to the Obligors*).

“**Additional Guarantor**” means a company which becomes an Additional Guarantor in accordance with Clause 40 (*Changes to the Obligors*).

“**Additional Obligations**” means senior or subordinated Indebtedness which Indebtedness may be (a) secured by the Transaction Security on the basis that it ranks *pari passu* with the Initial Senior Facilities Liabilities without any preference between them, (b) secured by the Transaction Security on the basis that it ranks junior to the Initial Senior Facilities Liabilities or (c) unsecured, including, in each case, customary bridge financings, in each case issued or incurred by a Borrower or a Guarantor, the terms of which Indebtedness:

- (a) do not provide for a maturity date or weighted average life to maturity earlier than the Termination Date in respect of the original Facility B Loans or shorter than the remaining weighted average life to maturity of the original Facility B Loans, as the case may be (other than an earlier maturity date and/or shorter weighted average life to maturity for customary bridge financings which, subject to customary conditions, would either be automatically converted into or required to be exchanged for permanent financing which does not provide for an earlier maturity date or a shorter weighted average life to maturity than the Termination Date in respect of the original Facility B Loans or the remaining weighted average life to maturity of the original Facility B Loans, as applicable); and
- (b) do not provide for any mandatory prepayment or redemption from the Disposal Proceeds (other than any Disposal in respect of any assets, business or person the acquisition of which was financed, all or in part, with such Additional Obligations and the disposal of which was contemplated by any definitive agreement in respect of such acquisition) or Recovery Proceeds or Insurance Proceeds or from Excess Cash Flow, to the extent the Net Proceeds of such Disposal, Recovery Claim or insurance claim or such Excess Cash Flow are required to be applied to repay the Utilisations hereunder pursuant to Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*), on more than a rateable basis with the Facility B Loans,

provided that (x) such Indebtedness shall not have the benefit of any Security Interest that does not also secure the Initial Senior Facilities Liabilities, or be guaranteed by any person other than the Guarantors and (y) such Indebtedness (and all related obligations) shall be subject to the terms of the Intercreditor Agreement or an Other Intercreditor Agreement.

“**Additional Obligations Documents**” means any document or instrument (including any guarantee, security agreement or mortgage and which may include any or all of the Senior Finance Documents) issued or executed and delivered with respect to any Additional Obligations, Rollover Indebtedness or Letter of Credit Facilities by any Obligor.

“**Additional Obligor**” means an Additional Borrower or an Additional Guarantor.

“**Affiliate**” means, in relation to ~~any~~ a person, a Subsidiary ~~of that person or a Holding Company of that person or any other Subsidiary of that Holding Company,~~ a Subsidiary of any such Holding Company or any other person directly or indirectly controlling or controlled by, or who is directly or indirectly under common control with, such person (and for the purposes of this definition, the term “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or agency or otherwise).

“**Affiliate Transaction**” has the meaning given to that term in Clause 33.1 (*Affiliate Transaction Restriction*).

“**Agent’s Spot Rate of Exchange**” means the Agent’s spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market at or about 11:00 a.m. on a particular day.

“**Agreed Security Principles**” means the principles set out in Schedule 14 (*Agreed Security Principles*).

“**Amendment**” has the meaning given to it in paragraph (c) of Clause 31.2 (*Permitted Restrictions*).

[“Amendment and Restatement Deed” means the amendment and restatement Deed dated 18 December 2019 between the Original Lender, the Security Agent, the Agent, the Parent and the Company.](#)

“**Ancillary Commencement Date**” means, in relation to an Ancillary Facility, the date on which that Ancillary Facility is first made available, which date shall be a Business Day within the Availability Period for the Original Revolving Facility.

“**Ancillary Commitment**” means, in relation to an Ancillary Lender and an Ancillary Facility, the maximum Base Currency Amount which that Ancillary Lender has agreed (whether or not subject to satisfaction of conditions precedent) to make available from time to time under an Ancillary Facility and which has been authorised as such under Clause 9 (*Ancillary Facilities*), to the extent that amount is not cancelled or reduced under this Agreement or the Ancillary Documents relating to that Ancillary Facility.

“**Ancillary Document**” means each document relating to or evidencing the terms of an Ancillary Facility.

“**Ancillary Facility**” means any ancillary facility made available by an Ancillary Lender in accordance with Clause 9 (*Ancillary Facilities*).

“**Ancillary Lender**” means each Lender (or Affiliate of a Lender) which makes available an Ancillary Facility in accordance with Clause 9 (*Ancillary Facilities*).

“**Ancillary Outstandings**” means, at any time, in relation to an Ancillary Lender and an Ancillary Facility then in force the aggregate of the equivalents (as calculated by that Ancillary Lender) in the Base Currency of the following amounts outstanding under that Ancillary Facility:

- (a) the principal amount under each overdraft facility and on-demand short term loan facility (net of any credit balances on any account of any Borrower of an Ancillary Facility with the Ancillary Lender making available that Ancillary Facility to the extent that the credit balances are freely available to be set off by that Ancillary Lender against liabilities owed to it by that Borrower under that Ancillary Facility);
- (b) the face amount of each guarantee, bond and letter of credit under that Ancillary Facility; and
- (c) the amount fairly representing the aggregate exposure (excluding interest and similar charges) of that Ancillary Lender under each other type of accommodation provided under that Ancillary Facility,

in each case as determined by such Ancillary Lender, acting reasonably in accordance with its normal banking practice, in consultation with the relevant Borrower, and in accordance with the relevant Ancillary Document.

“**Annual Financial Statements**” has the meaning given to that term in Clause 25 (*Information Undertakings*).

“**Anti-Corruption Laws**” means all laws, rules and regulations of any jurisdiction applicable to the Parent or its Restricted Subsidiaries from time to time concerning or relating to bribery, corruption or money laundering (including the Bribery Act 2010 and the United States Foreign Corrupt Practices Act of 1977).

“**Approved Existing Ancillary Facility**” means the ancillary facilities or other facilities of the type described in Clause 9.1 (*Type of Facility*) made available to the Group (including the Target Group) by a Lender (or an Affiliate of a Lender) which, prior to the Closing Date, are agreed and designated in writing as Approved Existing Ancillary Facilities by a Borrower (or the Parent on its behalf) and the Lender (or the relevant Affiliate of such Lender) which will provide those ancillary facilities as Ancillary Facilities under this Agreement in place of a corresponding part of that Lender’s unutilised Original Revolving Facility Commitments and promptly notified to the Agent.

“**Approved Lender List**” means the list of banks, financial institutions, trusts, funds or other entities in the agreed form and held by the Agent (as the same may be amended from time to time pursuant to Clause 38.2 (*Conditions of assignment or transfer*)).

“**Assignment Agreement**” means an agreement substantially in the form set out in Schedule 5 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee *provided that* if that other form does not contain the undertaking set out in the form set out in Schedule 5 (*Form of Assignment Agreement*) it shall not be a Creditor/Creditor Representative Accession Undertaking as defined in, and for the purposes of, the Intercreditor Agreement.

“**Authorisation**” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

“**Availability Period**” means:

- (a) in relation to Facility B, the Certain Funds Period;
- (b) in relation to the Original Revolving Facility, the period from and including the Closing Date, to and including the date falling one Month prior to the Termination Date for the Original Revolving Facility;
- (c) in relation to any Incremental Facility Commitments, such period (which, in respect of Incremental Facility Commitments under the Ratio Incremental Facility, may not, without the consent of the Arranger, start before the Syndication Closing Date) as may be agreed to by all the Incremental Facility Lenders in respect of those Incremental Facility Commitments and specified in the notice delivered by the Parent in accordance with Clause 2.3 (*Incremental Facility*) in respect of those Incremental Facility Commitments; and
- (d) in relation to any Senior Loan Refinancing Facility Commitments, such period (which, in respect of Senior Loan Refinancing Facility Commitments which constitutes Indebtedness incurred under Clause 29.1 (*Ratio Debt*), may not, without the consent of the Arranger, start before the Syndication Closing Date) as may be agreed to by all the Senior Loan Refinancing Facility Lenders in respect of those

Senior Loan Refinancing Facility Commitments and specified in the notice delivered by the Parent in accordance with Clause 2.4 (*Senior Loan Refinancing Facility*) in respect of those Senior Loan Refinancing Facility Commitments.

“Available Commitment” means, in relation to a Facility, a Lender’s Commitment under that Facility minus (subject to Clause 9.8 (*Affiliates of Lenders as Ancillary Lenders*)) and as set out below):

- (a) the Base Currency Amount of its participation in any outstanding Utilisations under that Facility and, in the case of the Original Revolving Facility only, the Base Currency Amount of the aggregate of its Ancillary Commitments; and
- (b) in relation to any proposed Utilisation, the Base Currency Amount of its participation in any other Utilisations that are due to be made under that Facility on or before the proposed Utilisation Date and, in the case of the Original Revolving Facility only, the Base Currency Amount of its Ancillary Commitment in relation to any new Ancillary Facility that is due to be made available on or before the proposed Utilisation Date.

For the purposes of calculating a Lender’s Available Commitment in relation to any proposed Utilisation under a Revolving Facility, the following amounts shall not be deducted from a Lender’s Commitment under the Revolving Facility:

- (i) that Lender’s participation in any Revolving Facility Utilisations, in each case, that are due to be repaid or prepaid on or before the proposed Utilisation Date;
- (ii) that Lender’s (or its Affiliate’s) Ancillary Commitments to the extent that they are due to be reduced or cancelled on or before the proposed Utilisation Date; and
- (iii) that Lender’s (or its Affiliate’s) participation in any Letter of Credit or Bank Guarantee in respect of which the Borrower has provided cash cover.

“Available Facility” means, in relation to a Facility, the aggregate for the time being of each Lender’s Available Commitment in respect of that Facility.

“Bail-In Action” means the exercise of any Write-down and Conversion Powers.

“Bail-In Legislation” means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and
- (b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

“Bank Guarantee” means a bank guarantee, substantially in the form set out in Schedule 12 (*Form of Bank Guarantee*) or in any other form requested by the Parent and agreed by the Agent and the Issuing Bank.

“Bank Levy” means the United Kingdom bank levy as set out in the Finance Act 2011 (UK), the French *taxe bancaire de risque systémique* as set out in Article 235 ter ZE of the

French *code général des impôts* (France), and the German Bank Levy as set out in the German Restructuring Fund Act (*Restrukturierungsfondgesetz*) and any similar levy imposed by another jurisdiction.

“**Bank Products Agreement**” means any agreement pursuant to which a bank or other financial institution agrees to provide:

- (a) treasury services;
- (b) credit card, merchant card, purchasing card or stored value card services (including the processing of payments and other administrative services with respect thereto); and
- (c) cash management services (including controlled disbursements, automated clearinghouse transactions, return items, netting, overdrafts, depository, lockbox, stop payment, electronic funds transfer, information reporting, wire transfer and interstate depository network services).

“**Bank Products Obligations**” means, of any person, the obligations of such person pursuant to any Bank Products Agreement.

“**Base Case Model**” means the financial model including profit and loss, balance sheet and cash flow projections in agreed form relating to the Group (for these purposes assuming Completion has occurred), each prepared by the Original Investors.

“**Base Currency**” means sterling.

“**Base Currency Amount**” means:

- (a) in relation to a Utilisation, the amount specified in the Utilisation Request delivered by a Borrower for that Utilisation (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent’s Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date or, if later, on the date the Agent receives the Utilisation Request in accordance with the terms of this Agreement) and, in the case of a Letter of Credit or Bank Guarantee, as adjusted under Clause 6.8 (*Revaluation of Letters of Credit or Bank Guarantees*) at six monthly intervals; and
- (b) in relation to an Ancillary Commitment, the amount specified as such in the notice delivered to the Agent by the Parent pursuant to Clause 9.2 (*Availability*) (or, if the amount specified is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent’s Spot Rate of Exchange on the date which is three Business Days before the Ancillary Commencement Date for that Ancillary Facility or, if later, the date the Agent receives the notice of the Ancillary Commitment in accordance with the terms of this Agreement),

as adjusted to reflect any repayment, prepayment, consolidation or division of a Utilisation, or (as the case may be) cancellation or reduction of an Ancillary Facility.

“**Base Currency Equivalent**” means, with respect to any amount denominated in the Base Currency, the amount thereof and, with respect to the principal amount of any Indebtedness made or outstanding in a currency other than the Base Currency, any amount in respect of any letter of credit or bank guarantee denominated in a currency other than the Base Currency, or any other amount in a currency other than the Base Currency, at any date of determination thereof, an amount in the Base Currency equivalent to such principal amount

or such other amount calculated on the basis of the Agent's Spot Rate of Exchange on the relevant date of determination.

"Blocking Law" means:

- (a) any provision of Council Regulation (EC) No 2271/1996 (or any law or regulation implementing such Regulation in any member state of the European Union or the United Kingdom); or
- (b) any similar blocking or anti-boycott law implemented by a Sanctions Authority.

"Board of Directors" means, for any person, the board of directors or other governing body of such person or, if such person does not have such a board of directors or other governing body and is owned or managed by a single entity, the board of directors or other governing body of such entity, or, in either case, any committee thereof duly authorised to act on behalf of such board of directors or other governing body. Unless otherwise provided, "Board of Directors" means the Board of Directors of the Parent.

"Borrower" means the Original Borrower or an Additional Borrower unless it has ceased to be a Borrower in accordance with Clause 40 (*Changes to the Obligors*) and, in respect of an Ancillary Facility only, any Affiliate of a Borrower that becomes a borrower of that Ancillary Facility with the approval of the relevant Lender(s) pursuant to the provisions of Clause 9.9 (*Affiliates of Borrowers*).

"Break Costs" means the amount (if any) by which:

- (a) the interest (excluding the Margin and the effect of any applicable interest rate floor) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

"Business Competitor" means a person, a material part of whose business is substantially similar to that carried out by the Group (or an Affiliate of such a person). provided that, a Lender or prospective Lender shall not be a Business Competitor if its ownership of, affiliation to or other rights in respect of (excluding rights arising pursuant to security granted by a Business Competitor in support of indebtedness) the issued share capital of any such entity is:

- (a) administered by persons operating behind appropriate information barriers implemented or maintained as required by law, regulation or internal policy and in any event to the extent required to ensure that such administration is independent from such Lender's interests under the Senior Finance Documents and any information provided under the Senior Finance Documents is not disclosed or otherwise made available to any person(s) operating behind such information barrier; or
- (b) administered by an Affiliate of such Lender which is managed and controlled independently from that Lender (and where customary information barriers are in

place) and provided that in such circumstances any information made available under the Senior Finance Documents is not disclosed or otherwise made available to any such Affiliate.

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in London, [Dublin](#), [New York City](#) and:

- (a) (in relation to any date for payment or purchase of a currency other than euro) the principal financial centre of the country of that currency; or
- (b) (in relation to any date for payment or purchase of euro) any TARGET Day.

“**Capitalised Lease Obligation**” means an obligation that is required to be classified and accounted for as a capitalised lease for financial reporting purposes in accordance with the Accounting Principles. The maturity of any Capitalised Lease Obligation shall be the date of the last payment of rent or any other amount due under the relevant lease.

For the avoidance of doubt, “Capitalised Lease Obligation” shall not include:

- (a) an obligation of any person to pay rent or other amounts pursuant to any Sale and Leaseback Transaction in respect of real property; or
- (b) an obligation of any person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligation would be required to be classified and accounted for as an operating lease under the Accounting Principles as applied in the Original Financial Statements referred to in paragraph (a) of the definition of Original Financial Statements.

“**Cash**” means cash in hand or held with an Acceptable Bank credited to an account in the name of a member of the Group and to which that member of the Group alone or together with other members of the Group is beneficially entitled and includes credit card receivables, cheques which are in the process of being cleared and any cash collateral for so long as:

- (a) such member of the Group is capable of requiring that repayment of that cash is made within 90 days after the relevant date of calculation;
- (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of any member of the Group or of any other person whatsoever or on the satisfaction of any other condition;
- (c) there is no Security over that cash except for Transaction Security or any Permitted Security constituted by a netting or set-off arrangement entered into by members of the Group in the ordinary course of their banking arrangements; and
- (d) the cash is freely and (except as mentioned in paragraph (a) above) immediately available to be applied in repayment or prepayment of the Facilities,

except, in each case, where any of the foregoing conditions are not satisfied due to a contingency or security or other restriction arising in the ordinary course of the Group’s banking or other trading arrangements.

“**Cash Equivalent Investments**” means any of the following:

- (a) [reserved]

- (b) securities issued or fully guaranteed or insured by the United States of America, Canada, the United Kingdom or a member state of the European Union or any agency or instrumentality of any thereof;
- (c) time deposits, certificates of deposit or bankers' acceptances of:
 - (i) any bank or other institutional lender under this Agreement or any affiliate thereof; or
 - (ii) any commercial bank having capital and surplus in excess of £500,000,000 (or the relevant local currency equivalent thereof as of the date of such investment) and the commercial paper of the holding company of which is rated at least A-1 or the equivalent thereof by S&P or at least P-1 or the equivalent thereof by Moody's (or, if at such time neither is issuing ratings, a comparable rating of another nationally recognised rating agency);
- (d) repurchase obligations with a term of not more than seven days for underlying securities of the types described in paragraphs (a) and (c) above entered into with any financial institution meeting the qualifications specified in paragraph (c)(i) or (c)(ii) above;
- (e) money market instruments, commercial paper or other short-term obligations rated at least A-1 or the equivalent thereof by S&P or at least P-1 or the equivalent thereof by Moody's (or, if at such time neither is issuing ratings, a comparable rating of another nationally recognised rating agency);
- (f) investments in money market funds subject to the risk limiting conditions of Rule 2a-7 or any successor rule of the SEC under the Investment Company Act of 1940, as amended; and
- (g) any other debt security approved by the Agent (acting on the instructions of the Majority Lenders).

“**CEO**” means the Chief Executive Officer of the Parent, or, if no chief executive officer is appointed, such other person fulfilling the functions of the chief executive officer of the Parent.

“**Certain Funds Period**” means the period commencing on (and including) the date of this Agreement and ending on (and including) the earliest to occur of:

- (a) where the Acquisition proceeds by way of a Scheme:
 - (i) the date on which the Scheme lapses or is withdrawn with the consent of the Takeover Panel or by order of the Court (unless, on or prior to that date, the Borrower has notified the Arrangers that it intends to launch an Offer and the Offer Press Release for the Offer has been released); and
 - (ii) 11.59pm London time on the date on which the Target has become a wholly owned subsidiary of the Company and all of the consideration payable under the Acquisition in respect of the shares in the Target or proposals made or to be made under Rule 15 of the Takeover Code in connection with the Acquisition, has in each case been paid in full including in respect of:
 - (A) the acquisition of any shares in the Target to be acquired after the Closing Date (including pursuant to the Target's amended articles of association); and

- (B) any Rule 15 of the Takeover Code proposals made or to be made in connection with the Acquisition;
- (b) where the Acquisition is to be consummated pursuant to an Offer:
- (i) the date on which the Offer lapses, terminates or is withdrawn in accordance with its terms and in compliance with the Takeover Code, the requirements of the Takeover Panel and all applicable laws and regulations (unless, on or prior to that date, the Borrower has notified the Arrangers that the Target intends to launch a Scheme and the Scheme Press Release for the Scheme has been released); and
 - (ii) 11.59pm London time on the date on which the Target has become a wholly owned subsidiary of the Company and all of the consideration payable under the Acquisition in respect of the shares in the Target or proposals made or to be made under Rule 15 of the Takeover Code in connection with the Acquisition, has in each case been paid in full including in respect of:
 - (A) the acquisition of any shares in the Target to be acquired after the Closing Date (including pursuant to a Squeeze-Out Procedure); and
 - (B) any Rule 15 of the Takeover Code proposals made or to be made in connection with the Acquisition; and
- (c) 11.59 p.m. London time on 19 March 2020;

provided that, for the avoidance of doubt, a switch from a Scheme to an Offer or from an Offer to a Scheme (or, for the avoidance of doubt, any amendments to the terms or conditions of a Scheme or an Offer) shall not constitute a lapse, termination or withdrawal for the purposes of this definition.

“**Certain Funds Utilisation**” means:

- (a) in relation to Facility B only, a Utilisation made or to be made under such Facility during the Certain Funds Period where such Utilisation is to be made solely for any of the purposes set out in paragraph (a) of Clause 3.1 (*Purpose*); or
- (b) in relation to the Original Revolving Facility only, a Utilisation made or to be made under the Original Revolving Facility during the Certain Funds Period for any of the purposes set out in paragraph (a) of Clause 3.1 (*Purpose*).

“**CFO**” means the Chief Financial Officer of the Parent or his/her deputy, or, if no chief financial officer is appointed, such other person fulfilling the functions of the chief financial officer of the Parent.

“**Change of Control**” means:

- (a) at any time prior to a Listing the ~~Relevant Holders~~Original Investors cease to:
 - (i) beneficially own and control (directly or indirectly) issued share capital having the right to cast, or control the casting of, more than 50 per cent. of the maximum number of votes that might be cast at a general meeting of the Parent; and/or
 - (ii) control the majority of the board of directors of the Parent; and/or

- (b) upon and at any time after a Listing:
- (i) the Relevant Holders cease to beneficially own and control (directly or indirectly) issued share capital having the right to cast, or control the casting of, more than 30 per cent. of the votes capable of being cast in general meetings of the Parent (unless no other person or persons acting in concert (other than the Relevant Holders) beneficially owns (directly or indirectly) issued share capital having the right to cast, or control the casting of, more than 30 per cent. of the votes capable of being cast in general meetings of the Parent); or
 - (ii) any person or persons acting in concert (other than the Relevant Holders) beneficially owns (directly or indirectly) issued share capital having the right to cast, or control the casting of, more than the votes capable of being cast in general meetings of the Parent by the Relevant Holders; or
- (c) the Parent ceases to directly hold 100 per cent. of the issued share capital of the Company.

For the purposes of this definition:

- (i) “**acting in concert**” means, a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition directly or indirectly of shares in the Parent by any of them, either directly or indirectly, to obtain or consolidate control of the Parent;
- (ii) “**control**” of the Parent means the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (A) appoint or remove the majority of the directors or other equivalent officers of the Parent; or
 - (B) give directions with respect to the operating and financial policies of the Parent with which the directors or other relevant officers of the Parent are, subject to their fiduciary and other duties and obligations, generally obliged to comply;
- (iii) the term “**Relevant Holders**” shall include any person acting in the capacity of underwriter in relation to a Listing, but shall exclude such person in its capacity as shareholder following the take-up of shares by such person after the completion of the distribution of the shares subject to the relevant underwriting agreement; and
- (iv) a person “**beneficially owns**” share capital or voting shares in another person if it directly or indirectly beneficially owns share capital or voting shares, respectively, in such other person.

“**Charged Property**” means all of the assets of the Obligors which from time to time are, or are expressed to be, the subject of the Transaction Security.

“**Clean-Up Date**” means the date falling 120 days after the Closing Date.

“**Closing Date**” means the first Utilisation Date with respect to Facility B.

“**Code**” means the US Internal Revenue Code of 1986.

“**Commitment**” means a Facility B Commitment, an Extended Tranche Commitment, an Incremental Facility Commitment, a Senior Loan Refinancing Facility Commitment or an Original Revolving Facility Commitment.

“**Commodities Agreement**” means in respect of a person, any commodity futures contract, forward contract, option or similar agreement or arrangement (including derivative agreements or arrangements), as to which such person is a party or beneficiary.

“**Completion**” means the day on which the company acquires a majority or all of the ordinary share capital of the Target.

“**Companies Act**” means the UK Companies Act 2006, as amended.

“**Compliance Certificate**” means a certificate substantially in the form set out in Schedule 8 (*Form of Compliance Certificate*).

“**Confidential Information**” means all information relating to the Parent, any Obligor, the Group, the Target Group, the Senior Finance Documents, or a Facility of which a Senior Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Senior Finance Party or which is received by a Senior Finance Party in relation to, or for the purpose of becoming a Senior Finance Party under, the Senior Finance Documents or a Facility from either:

- (a) any Investor, any Parent Holdco or any Related Person of any Investor or any Parent Holdco or any, member of the Group or member of the Target Group or any of their respective advisers; or
- (b) another Senior Finance Party if the information was obtained by that Senior Finance Party directly or indirectly from any Investor, any Parent Holdco or any Related Person of any Investor or the Parent Holdco or any member of the Group or member of the Target Group or any of their respective advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (i) information that:
 - (A) is or becomes public information other than as a direct or indirect result of any breach by that Senior Finance Party or its Affiliates of Clause 51 (*Confidentiality*); or
 - (B) is identified in writing at the time of delivery as non-confidential by any Investor, any Parent Holdco or any Related Person of any Investor or the Parent Holdco or any member of the Group or member of the Target Group or any of their respective advisers; or
 - (C) is known by that Senior Finance Party before the date the information is disclosed to it in accordance with paragraph (a) or (b) above or is lawfully obtained by that Senior Finance Party after that date, from a source which is, as far as that Senior Finance Party is aware, unconnected with the Group or the Target Group or any Investor or Parent Holdco and which, in either case, as far as that Senior

Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; or

- (ii) any Funding Rate or Reference Bank Quotation.

“**Co-operation Agreement**” means the agreement dated on or about the date hereof, between the Company, Emerald Partners LLC, and Target.

“**Confidentiality Undertaking**” means a confidentiality undertaking substantially in the form set out in Schedule 9 (*Form of Confidentiality Undertaking*) or in such other form with such amendments as may have been agreed between the Parent and the relevant Lender.

“**Consolidated Senior Secured Leverage Ratio**” has the meaning given to that term in Clause 26.2 (*Financial Definitions*).

“**Consolidated Total Leverage Ratio**” has the meaning given to that term in Clause 26.2 (*Financial Definitions*).

“**Constitutional Documents**” means an up-to-date copy of its articles of incorporation, articles of association or equivalent in the Relevant Jurisdiction of the Parent.

“**Contributing Entities**” means each of:

- (a) any member of the Group regulated by the FCA (or an equivalent body in another jurisdiction);
- (b) Charles Taylor Investment Management Company Limited;
- (c) LCL International Life Assurance Company Limited; and
- (d) any other member of the Group designated as a “**Contributing Entity**” by the Agent and the Company.

“**Council Regulation (EC) 2271/96**” means Council Regulation (EC) No. 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom.

“**Court Meeting**” means the meeting of the holders of the Target Shares (or any adjournment thereof) to be convened by order of the Court under Part 26 of the Companies Act for the purposes of considering and, if thought fit, approving the Scheme.

“**Covenant Group**” means the Guarantors and the Contributing Entities.

“**CRR**” means the Council Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

“**Cure Amount**” has the meaning given to that term in paragraph (a) of Clause 26.3 (*Debt Cure*).

“**Currency Agreement**” means in respect of a person, any foreign exchange contract, currency swap agreement or other similar agreement or arrangements (including derivative agreements or arrangements), as to which such person is a party or a beneficiary.

“**Debt Purchase Transaction**” means, in relation to a person, a transaction where such person:

- (a) purchases by way of assignment or transfer;
 - (b) enters into any sub-participation in respect of; or
 - (c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of,
- any Commitment or amount outstanding under this Agreement.

“**Default**” means an Event of Default or any event or circumstance specified in Clause 37 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Senior Finance Documents or any combination of any of the foregoing) be an Event of Default.

“**Defaulting Lender**” means any Lender (other than a Lender which is a Sponsor Affiliate):

- (a) which has failed to make its participation in a Loan available or has notified the Agent that it will not make its participation in a Loan available by the Utilisation Date of that Loan in accordance with Clause 5.4 (*Lenders’ participation*) or has failed to provide cash collateral (or has notified the Issuing Bank or the Company (which has notified the Agent) that it will not provide cash collateral) in accordance with Clause 7.5 (*Cash collateral by Non-Acceptable Lender*);
- (b) which has otherwise rescinded or repudiated a Senior Finance Document; or
- (c) which is an Issuing Bank which has failed to issue a Letter of Credit or Bank Guarantee (or has notified the Agent or the Company (which has notified the Agent) that it will not issue a Letter of Credit or Bank Guarantee) in accordance with Clause 6.5 (*Issue of Letters of Credit or Bank Guarantees*) or which has failed to pay a claim (or has notified the Agent or the Company (which has notified the Agent) that it will not pay a claim) in accordance with (and as defined in) Clause 7.2 (*Claims under a Letter of Credit or Bank Guarantee*); or
- (d) with respect to which (or any Holding Company of which) an Insolvency Event has occurred and is continuing,

unless, in the case of paragraph (a) or (c) above:

- (i) its failure to pay, or to issue a Letter of Credit or Bank Guarantee, is caused by:
 - (A) administrative or technical error; or
 - (B) a Disruption Event; andpayment is made within five Business Days of its due date; or
- (ii) the Lender is disputing in good faith whether it is contractually obliged to make the payment in question.

“**Delegate**” means any delegate, agent, nominee, attorney or co-trustee appointed by the Security Agent.

“**Designated Gross Amount**” has the meaning given to that term in Clause 9.2 (*Availability*).

“**Designated Net Amount**” has the meaning given to that term in Clause 9.2 (*Availability*).

“**Designated Non-Cash Consideration**” means the Fair Market Value of non-cash consideration received by any member of the Group in connection with a Disposal that is so designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer of the Parent, setting out the basis of such valuation.

“**Designated Preferred Shares**” means Preferred Share Capital of the Parent (other than Disqualified Share Capital) or any Parent Holdco that is issued after the Closing Date for cash (other than to a Restricted Subsidiary) and is so designated as Designated Preferred Shares at or prior to the issuance thereof, pursuant to a certificate of a Responsible Officer of the Parent; *provided that* the cash proceeds of such issuance shall be excluded from the calculation set out in paragraph (iii)(B) of Clause 30.1 (*Limitation on payments and investments*).

“**Designation Date**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Disinterested Directors**” means, with respect to any Affiliate Transaction, one or more members of the Board of Directors of the Parent, or one or more members of the Board of Directors of a Parent Holdco, having no material direct or indirect financial interest in or with respect to such Affiliate Transaction. A member of any such Board of Directors shall not be deemed to have such a financial interest by reason of such member’s holding Share Capital of the Parent, any Restricted Subsidiary or any Parent Holdco, any Share Capital or other debt or equity securities of any Management Holdco or any options, warrants or other rights in respect of any of the foregoing.

“**Disposal**” means:

- (a) a sale, lease, licence, transfer or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions) (each referred to as a “**disposal**” for the purposes of this definition and the definition of “Permitted Asset Disposal”); or
- (b) the issuance, sale, transfer or other disposal of Share Capital of any Restricted Subsidiary (other than Preferred Share Capital or Disqualified Share Capital of Restricted Subsidiaries issued in compliance with Clause 29 (*Limitation on Indebtedness*) or directors’ qualifying shares or de minimis share holdings which are issued to comply with legal or regulatory requirements and shares issued to foreign nationals as required under applicable law), whether in a single transaction or a series of related transactions.

“**Disposal Proceeds**” has the meaning set out in Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*).

“**Disqualified Share Capital**” means, with respect to any person, any Share Capital (other than Management Shares) that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable or exercisable) or upon the happening of any event (other than following the occurrence of a Change of Control or other similar event described under such terms as a “change of control” or a Disposal or other disposition):

- (a) matures or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise;
- (b) is convertible or exchangeable for Indebtedness or Disqualified Share Capital or

- (c) is redeemable at the option of the holder thereof (other than following the occurrence of a Change of Control or other similar event described under such terms as a “change of control” or a Disposal or other disposition),

in whole or in part, in each case on or prior to the Termination Date in respect of the original Facility B Loan,

provided that Share Capital issued under or pursuant to any employee share scheme, or by or pursuant to any such scheme to any employees of the Parent or any Subsidiary, shall not constitute Disqualified Share Capital solely because it may be required to be repurchased or otherwise acquired or retired in order to satisfy applicable statutory or regulatory obligations.

“**Disruption Event**” means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facilities (or otherwise in order for the transactions contemplated by the Senior Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
- (i) from performing its payment obligations under the Senior Finance Documents; or
- (ii) from communicating with other Parties in accordance with the terms of the Senior Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

“**Dormant Subsidiary**” means a member of the Group which:

- (a) does not trade (for itself or as agent for any person); and
- (b) does not own, legally or beneficially, assets (including, without limitation, indebtedness owed to it) which in aggregate have a value of £10,000 or more or its equivalent in other currencies.

“**EEA Member Country**” means any member state of the European Union, Iceland, Liechtenstein and Norway and any other country that becomes a member of the European Economic Area on or after the date of this Agreement.

“**Effective Date**” means the date on which the Scheme Court Order is filed or registered (as the case may be) at the registrar of companies for England & Wales.

“**Employee Share Schemes**” means (i) the Charles Taylor Deferred Annual Bonus Plan; (ii) the Charles Taylor Long Term Incentive Plan; (iii) the Charles Taylor Sharesave Scheme; (iv) the Charles Taylor Restricted Share Plan; and (v) the Charles Taylor Retention Share Award Plan.

“**Environment**” means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including, without limitation, land under water).

“**Environmental Claim**” means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

“**Environmental Law**” means any applicable law or regulation in any jurisdiction in which a member of the Group conducts business which relates to the pollution or protection of the Environment.

“**Environmental Permits**” means any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group conducted on or from the properties owned or used by any member of the Group.

“**Equity Commitment Letter**” means the equity commitment letter from Lovell Minnick Equity Partners V LP and Lovell Minnick Equity Partners V-A LP to the Company dated 19 September 2019.

“**Equity Documents**” means the Equity Commitment Letter and any other document designated as an “Equity Document” by the Agent and the Parent.

“**EU Bail-In Legislation Schedule**” means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

“**EUR**” means The Council of the European Union Regulation No. 2015/848 on Insolvency Proceedings (Recast).

“**EURIBOR**” means, in relation to any Loan in euro:

- (a) the applicable Screen Rate as of the Specified Time for euro and for a period equal in length to the Interest Period of that Loan; or
- (b) as otherwise determined pursuant to Clause 16.1 (*Unavailability of Screen Rate*),

provided that if EURIBOR is less than zero, EURIBOR will be deemed to be zero.

“**Event of Default**” means any event or circumstance specified as such in Clause 37 (*Events of Default*).

“**Excess Cash Flow**” has the meaning given to that term in Clause 26.2 (*Financial definitions*).

“**Excluded Contribution**” means Net Cash Proceeds, or the Fair Market Value of property or assets, received by the Parent as capital contributions to the Parent after the Closing Date or from the issuance or sale (other than to a Restricted Subsidiary) of Share Capital (other than Disqualified Share Capital) of the Parent or from Subordinated Shareholder Funding, in each case to the extent designated as an Excluded Contribution pursuant to a certificate of a Responsible Officer of the Parent and not previously included in the calculation set out in paragraph (iii)(B)(x) of Clause 30.1 (*Limitation on payments and investments*) for purposes of determining whether a Restricted Payment may be made.

“**Excluded Disposal Proceeds**” has the meaning given to that term in Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*).

“**Excluded Jurisdiction**” means the People’s Republic of China.

“**Existing Facilities Agreement**” means the Senior Facilities Agreement dated 7 November 2013 between the Target as company, the original borrowers listed therein, the original guarantors listed therein, the financial institutions listed therein and the Royal Bank of Scotland plc as agent and security agent, as amended or amended and or restated from time to time.

“**Excluded Insurance Proceeds**” has the meaning given to that term in Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*).

“**Excluded Recovery Proceeds**” has the meaning given to that term in Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*).

“**Existing Indebtedness**” means the existing financial indebtedness of the Target Group including pursuant to the Existing Facilities Agreement.

[“Existing Iranian JV” means the joint venture between Charles Taylor Holdings BV and the Iran Group of Surveyors Limited Liability Company.](#)

“**Existing Lender**” has the meaning given to that term in Clause 38.1 (*Assignments and transfers by the Lenders*).

“**Existing Revolving Facility**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Existing Revolving Facility Commitments**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Existing Revolving Tranche**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Existing Term Facility**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Existing Term Loans**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Existing Term Tranche**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Existing Tranche**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Expiry Date**” means, for a Letter of Credit or a Bank Guarantee, the last day of its Term.

“**Extended Revolving Facility Commitments**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Extended Revolving Facility Loan**” means any loan utilised in respect of Extended Revolving Facility Commitments.

“**Extended Revolving Facility Tranche**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Extended Term Loan**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Extended Term Tranche**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Extended Tranche**” means an Extended Term Tranche or an Extended Revolving Facility Tranche.

“**Extended Tranche Commitments**” means, with respect to any Extended Tranche:

- (a) in relation to any Lender that participates in an Extension with respect to such Extended Tranche, the amount of its Commitments in respect of the Existing Term Facility or Existing Revolving Facility (as applicable) converted into an Extended Tranche on the Extension Date applicable to such Extended Tranche and the amount of any of those Extended Tranche Commitments transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any of those Extended Tranche Commitments transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“**Extension**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Extension Date**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Extension Notice**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Facility**” means a Term Facility or the Revolving Facility.

“**Facility B**” means the term loan facility made available under this Agreement as described in sub-paragraph (a)(i) of Clause 2.1 (*The Facilities*).

“**Facility B Borrower**” means the Company and any wholly owned member of the Group which accedes as an Additional Borrower under Facility B in accordance with Clause 40 (*Changes to the Obligors*) unless it has ceased to be a Facility B Borrower in accordance with Clause 40 (*Changes to the Obligors*).

“**Facility B Commitment**” means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading “Facility B Commitment” in Part 2 of Schedule 1 (*The Original Parties*) and the amount of any other Facility B Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*); and
- (b) in relation to any other Lender, the amount in the Base Currency of any Facility B Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*),

to the extent:

- (i) not cancelled, reduced or transferred by it under this Agreement; and
- (ii) not deemed to be zero pursuant to Clause 39.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates*).

“**Facility B Lender**” means any lender who makes available a Facility B Commitment or a Facility B Loan.

“Facility B Loan” means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

“Facility Office” means:

- (a) in respect of a Lender or an Issuing Bank, the office or offices notified by that Lender or an Issuing Bank to the Agent in writing on or before the date it becomes a Lender or an Issuing Bank (or, following that date, by not less than five Business Days’ written notice) as the office or offices through which it will perform its obligations under this Agreement, provided that a Lender or Issuing Bank shall not nominate more than two offices; or
- (b) in respect of any other Senior Finance Party, the office in the jurisdiction in which it is resident for tax purposes.

“Fair Market Value” means, with respect to any asset or property, the fair market value of such asset or property as determined in good faith by the Board of Directors, whose determination shall be conclusive.

“FATCA” means:

- (a) sections 1471 to 1474 of the Code and any associated regulations and official interpretations;
- (b) any treaty, law, regulation or official interpretation of any jurisdiction other than the US, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law, regulation or official interpretation referred to in paragraph (a) above; and
- (c) any agreement entered into in connection with any treaty, law, regulation or official interpretation referred to in paragraph (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

“FATCA Application Date” means:

- (a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014; or
- (b) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraph (a) above, the first date from which such payment may become subject to a deduction or withholding required by FATCA.

“FATCA Deduction” means a deduction or withholding from a payment under a Senior Finance Document required by FATCA.

“FATCA Exempt Party” means a Party that is entitled to receive payments free from any FATCA Deduction.

“Fee Letter” means:

- (a) any letter or letters between the Arrangers and the Parent and/or the Company (or the Agent and the Parent and/or the Company or the Security Agent and the Parent and/or the Company) setting out any of the fees referred to in Clause 17 (*Fees*); and

- (b) any agreement to which a member of the Group is party setting out fees payable to a Senior Finance Party referred to in paragraph (e) of Clause 2.2 (*Increase*), paragraph (k) of Clause 2.3 (*Incremental Facility*), paragraph (k) of Clause 2.4 (*Senior Loan Refinancing Facility*), Clause 17.5 (*Fees payable in respect of Letters of Credit or Bank Guarantees*) or Clause 17.6 (*Interest, commission and fees on Ancillary Facilities*) of this Agreement or under any other Senior Finance Document.

“**Financial Quarter**” means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

“**Financial Year**” means the annual accounting period of the Group ending on the Accounting Reference Date in each year.

“**Financing Disposition**” means any sale, transfer, conveyance or other disposition of, or creation or incurrence of any Security on, all right, title and interest in, to and under all Receivables of the Parent or any of its Restricted Subsidiaries, all Related Security and Collections with respect to such Receivables and all proceeds of the foregoing, together with all rights, remedies, powers and privileges with respect to such Receivables, to or in favour of any Special Purpose Entity, or by any Special Purpose Subsidiary, in each case, for the purpose of a Special Purpose Financing.

For the purposes of this definition:

- (i) “**Related Security**” means with respect to any Receivable:
- (A) all of the Parent’s or its Subsidiary’s (as applicable) interest, if any, in the goods (including returned goods), the sale of which by the Parent or its Subsidiary (as applicable) gave rise to such Receivable;
 - (B) all other security interests or Security and property subject thereto from time to time, if any, purporting to secure payment of such Receivable, together with all financing statements signed or authorised by an Obligor describing any collateral securing such Receivable;
 - (C) all guarantees, indemnities, letters of credit, letter of credit rights, insurance or other agreements or arrangements of any kind from time to time supporting or securing payment of such Receivable;
 - (D) all correspondence, memoranda, computer programs, tapes, discs, papers, books or other documents or transcribed information of any type whether expressed in ordinary or machine readable language relating to, and all service contracts and any other contracts associated with, such Receivable; and
 - (E) all proceeds of the foregoing; and
- (ii) “**Collections**” means for any Receivable as of any date, the sum of all amounts (whether in the form of wire transfer, cash, cheques, drafts, or other instruments) received by the Parent or its Subsidiary (as applicable) in payment of, or applied to, any amount owed by each and every person who purchased goods or services as evidenced by an invoice setting forth the payment terms for such goods or services and who is obligated to make payments on account of such Receivable (including but not limited to all

amounts received on account of any defaulted Receivable) on or before such date, including:

- (A) all amounts received on account of such Receivable and all other fees and charges;
- (B) cash proceeds of Related Security with respect to such Receivable; and
- (C) all amounts deemed to have been received pursuant to customary terms of a Special Purpose Financing in respect of such Receivable.

“**Funding Rate**” means any individual rate notified by a Lender to the Agent pursuant to paragraph (a)(ii) of Clause 16.4 (*Cost of funds*).

“**Funds Flow Statement**” means a funds flow statement in agreed form.

“**Future Acquisition**” means an acquisition by any member of the Group:

- (a) if the acquisition is made by a limited liability person established for the purpose of making that acquisition, of a business or undertaking carried on as a going concern; or
- (b) if the acquisition is of a person, of a controlling interest (or of such interest as would result in a controlling interest being held following such acquisition) in any person with limited liability (and, for this purpose, “**control**” means (x) holding more than 50 per cent. of the voting shares or equivalent voting interests in the relevant person, (y) having the ability to appoint directors which control a majority of the votes which may be cast at a meeting of the board of directors or analogous governing body of the relevant person and (z) the ability to control the dividend or distributions policy of the relevant person).

“**Future Sanctioned Country**” means a country or territory that becomes, or whose government becomes, the subject of Sanctions of equivalent or greater breadth and depth to Sanctioned Countries. As of the date of this Agreement, the Parties agree that there are no Future Sanctioned Countries.

“**General Meeting**” means the general meeting of the holders of Target Shares (or any adjournment thereof) to be convened in connection with the implementation of the Scheme.

“**Governmental Authority**” means the government of the United Kingdom or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supranational bodies, such as the European Union or the European Central Bank).

“**Gross Outstandings**” means, in relation to any Multi-account Overdraft, the Ancillary Outstandings of that Multi-account Overdraft but calculated on the basis that the words “(net of any credit balances on any account of any Borrower of an Ancillary Facility with the Ancillary Lender making available that Ancillary Facility to the extent that the credit balances are freely available to be set off by that Ancillary Lender against liabilities owed to it by that Borrower under that Ancillary Facility)” in paragraph (a) of the definition of “Ancillary Outstandings” were deleted.

“**Group**” means the Parent and its Restricted Subsidiaries from time to time (including, from the Closing Date and until any such person is designated as an Unrestricted Subsidiary, each member of the Target Group).

“**Group LTIP**” means any long term incentive plan or other arrangement, in each case, pursuant to which any member of management or any individual or nominee shareholder on behalf of a member of management directly or indirectly owns any Share Capital in the Parent or any Parent Holdco.

“**Group Structure Chart**” means the group structure chart in the agreed form.

“**Guarantee**” means any obligation, contingent or otherwise, of any person directly or indirectly guaranteeing any Indebtedness or other obligation of any other person, *provided that* the term “**Guarantee**” shall not include endorsements for collection or deposit in the ordinary course of day to day business. The term “**Guarantee**” used as a verb has a corresponding meaning.

“**Guarantor**” means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 40 (*Changes to the Obligors*).

“**Hedge Counterparty**” means any person which is or has become a party to the Intercreditor Agreement as a Hedge Counterparty in accordance with the provisions of the Intercreditor Agreement and, if applicable, to any Other Intercreditor Agreement as a hedge counterparty in accordance with the provisions of such Other Intercreditor Agreement.

“**Hedging Agreement**” has the meaning given to that term in the Intercreditor Agreement.

“**Hedging Liabilities**” has the meaning given to such term in the Intercreditor Agreement.

“**Hedging Obligations**” means as to any person, the obligations of such person pursuant to any Interest Rate Agreement, Currency Agreement or Commodities Agreement.

“**Holding Company**” means, in relation to a person, any other person in respect of which it is a Subsidiary.

“**IFRS**” means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements and as applied in the relevant jurisdiction.

“**Impaired Agent**” means the Agent at any time when:

- (a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Senior Finance Documents by the due date for payment;
- (b) the Agent otherwise rescinds or repudiates a Senior Finance Document;
- (c) (if the Agent or a Holding Company of the Agent is also a Lender) it or its Holding Company is a Defaulting Lender under paragraph (a), (b) or (c) of the definition of “Defaulting Lender”; or
- (d) an Insolvency Event has occurred and is continuing with respect to the Agent or its Holding Company,

unless, in the case of paragraph (a) above:

- (i) its failure to pay is caused by:
 - (A) administrative or technical error; or
 - (B) a Disruption Event; andpayment is made within five Business Days of its due date; or
- (ii) the Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

“**Increase Confirmation**” means a confirmation substantially in the form set out in Schedule 15 (*Form of Increase Confirmation*).

“**Increase Date**” means the date on which the increase in Commitments described in the relevant Increase Confirmation takes effect.

“**Increase Lender**” has the meaning given to that term in Clause 2.2 (*Increase*).

“**Increased Costs**” has the meaning given to that term in Clause 19.1 (*Increased costs*).

“**Incremental Facilities Amount**” means at any date of determination, the sum of:

- (a) the amount which, on a *pro forma* basis, after giving effect to the Incurrence of such additional amount (and after giving effect to any acquisition consummated concurrently therewith and all other *pro forma* adjustments permitted by the terms of this Agreement and calculated as if any revolving Incremental Facility Loan were fully drawn on the effective date thereof) would not result in the Consolidated Senior Secured Leverage Ratio being greater than 4.25:1.00 (or 4.75:1.00 in relation to any Incurrence on or prior to the first anniversary of the first Utilisation Date that takes place in connection with any acquisition or Investment) or in the Consolidated Total Leverage Ratio being greater than 4.75:1.00 (the “**Ratio Incremental Facility**”) (it being understood that if *pro forma* effect is given to the entire committed amount of any such additional amount on the date of initial borrowing of such Indebtedness or entry into of the definitive agreement providing the commitment to fund such Indebtedness, such committed amount may thereafter be borrowed and reborrowed in whole or in part, from time to time, without further compliance with this paragraph (a)); and
- (b) an amount equal to all voluntary prepayments (other than any prepayment from the proceeds of Refinancing Indebtedness) of the Term Loans (the “**Voluntary Prepayment Incremental Facility**”),

provided that:

- (i) capacity under the Voluntary Prepayment Incremental Facility shall be deemed to be used before capacity under the Ratio Incremental Facility; and
- (ii) loans may be incurred under each of the Ratio Incremental Facility and the Voluntary Prepayment Incremental Facility, and proceeds from any such incurrence under each of the Ratio Incremental Facility and the Voluntary Prepayment Incremental Facility may be utilised in a single transaction by first calculating the incurrence under the Voluntary Prepayment Incremental Facility then calculating the incurrence under the Ratio Incremental Facility.

“Incremental Facility” means any uncommitted facility which may be granted to an Incremental Facility Borrower as described in sub-paragraph (a)(iii) of Clause 2.1 (*The Facilities*).

“Incremental Facility Accession Certificate” means a document substantially in the form set out in Part 2 of Schedule 17 (*Permitted Form of Incremental Facility Notice and Incremental Facility Accession Certificate*).

“Incremental Facility Borrower” means each member of the Group (other than the Parent) identified in the applicable Incremental Facility Notice as a Borrower in respect of the applicable Incremental Facility (*provided that* if any such member of the Group is not already a Borrower it shall accede as an Additional Borrower in respect of the Incremental Facility in accordance with Clause 40 (*Changes to the Obligors*)) unless it has ceased to be a Borrower in accordance with Clause 40 (*Changes to the Obligors*).

“Incremental Facility Commitments” means, in relation to any Incremental Facility Commitment identified in an Incremental Facility Notice:

- (a) in relation to any Incremental Facility Lender, the amount identified in that Incremental Facility Notice and the amount of any of those Incremental Facility Commitments transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any of those Incremental Facility Commitments transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“Incremental Facility Lender” means any Lender under the Incremental Facility.

“Incremental Facility Loan” means, in respect of any Incremental Facility Commitments, a Loan made by the Incremental Facility Lenders in respect of those Incremental Facility Commitments.

“Incremental Facility Notice” means a notice substantially in the form set out in Part 1 of Schedule 17 (*Permitted Form of Incremental Facility Notice and Incremental Facility Accession Certificate*) delivered by the Parent to the Agent in accordance with Clause 2.3 (*Incremental Facility*).

“Incur” means issue, create, assume, enter into any Guarantee of, incur, extend or otherwise become liable for (and the terms **“Incurs,” “Incurred”** and **“Incurrence”** shall be construed accordingly) *provided that*:

- (a) any Indebtedness or Share Capital of a person existing at the time such person becomes a Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Subsidiary at the time it becomes a Subsidiary;
- (b) accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness, and the payment of dividends on Share Capital constituting Indebtedness in the form of additional shares of the same class of Share Capital, will not be deemed to be an Incurrence of Indebtedness; and
- (c) any Indebtedness issued at a discount (including Indebtedness on which interest is payable through the issuance of additional Indebtedness) shall be deemed Incurred at

the time of original issuance of the Indebtedness at the initial accreted amount thereof.

“**Indebtedness**” means, with respect to any person on any date of determination (without duplication) the aggregate outstanding principal, capital or nominal amount of:

- (a) the indebtedness of such person for borrowed money;
- (b) the obligations of such person evidenced by bonds, debentures, notes or other similar instruments;
- (c) all reimbursement obligations of such person in respect of letters of credit, bankers’ acceptances or other similar instruments (the amount of such obligations being equal at any time to the aggregate then undrawn and unexpired amount of such letters of credit, bankers’ acceptances or other instruments plus the aggregate amount of drawings thereunder that have not then been reimbursed);
- (d) all obligations of such person to pay the deferred and unpaid purchase price of property (except Trade Payables), which purchase price is due more than one year after the date of supply of such property;
- (e) all Capitalised Lease Obligations of such person;
- (f) the redemption, repayment or other repurchase obligations of such person with respect to any Disqualified Share Capital of such person or (with respect to any Restricted Subsidiary) any Preferred Share Capital, but excluding, in each case, any accrued dividends (the amount of such obligation to be equal at any time to the maximum fixed mandatory redemption, repayment or repurchase price for such Share Capital, or if less (or if such Share Capital has no such fixed price), to the mandatory redemption, repayment or repurchase price therefor calculated in accordance with the terms thereof as if then redeemed, repaid or repurchased, and if such price is based upon or measured by the Fair Market Value of such Share Capital, such Fair Market Value shall be as determined in good faith by senior management of the Parent, the Board of Directors of the Parent or the Board of Directors of the issuer of such Share Capital);
- (g) all Indebtedness of other persons secured by a Security Interest on any asset of such person, whether or not such Indebtedness is assumed by such person, *provided that* the amount of Indebtedness of such person shall be the lesser of (i) the Fair Market Value of such asset at such date of determination (as determined in good faith by the Parent) and (ii) the amount of such Indebtedness of the other persons;
- (h) all Guarantees granted by such person of Indebtedness of other persons, to the extent so Guaranteed by such person; and
- (i) Indebtedness arising under any Treasury Transaction (and when calculating the amount of Indebtedness in respect of any Treasury Transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of such Treasury Transaction, that amount) shall be taken into account),

provided that the term “**Indebtedness**” shall in any event not include (i) Subordinated Shareholder Funding, (ii) any obligations or liabilities of any member of the Group in connection with any earn-outs or similar arrangements provided that such obligations or liabilities (x) have no cash pay interest prior to the Termination Date for Facility B, (y) are unsecured and (z) are subordinated in right of payment to Indebtedness under this Agreement pursuant to the Intercreditor Agreement or otherwise to the satisfaction of the Agent (acting

reasonably) and (iii) any “parallel debt” obligations created in connection with a Security Interest created to secure other Indebtedness permitted to be Incurred under this Agreement and **provided further that** the amount of Indebtedness of any person at any date shall be determined as set forth above or as otherwise provided for in this Agreement, or otherwise shall equal the amount thereof that would appear as a liability on a balance sheet of such person (excluding any notes thereto) prepared in accordance with the Accounting Principles.

“**Indemnified Person**” has the meaning given to that term in Clause 20.2 (*Other indemnities*).

“**Information Memorandum**” means the document in the form approved by the Parent concerning the Original Obligors and the Target Group which, at the request of the Parent and on its behalf, has been prepared in relation to this transaction and distributed by the Arrangers to selected entities in connection with the syndication of the Facilities, together with any supplements thereto in the form approved by the Parent.

“**Initial Agreement**” has the meaning given to such term in paragraph (c) of Clause 31.2 (*Permitted Restrictions*).

“**Initial Senior Facilities Liabilities**” means all present and future liabilities and obligations at any time of any member of the Group to any Secured Party under the Senior Finance Documents, both actual and contingent and whether incurred solely or jointly or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension;
- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any claim for damages or restitution; and
- (d) any claim as a result of any recovery by any Obligor of a payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

“**Insolvency Event**” in relation to an entity means that such entity:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting

creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;

- (e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:
 - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
 - (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (f) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (g) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (h) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;
- (i) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (h) above; or
- (j) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

"Insurance Proceeds" has the meaning set out in Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*).

"Intellectual Property" means:

- (a) any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each member of the Group (which may now or in the future subsist).

"Intercreditor Agreement" means the intercreditor agreement dated on or about the date hereof between, among others, the Parent, the Arranger, the Agent, the Security Agent and the Company.

“Interest Period” means, in relation to a Loan, each period determined in accordance with Clause 15 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 14.3 (*Default interest*).

“Interest Rate Agreement” means with respect to a person, any interest rate protection agreement, future agreement, option agreement, swap agreement, cap agreement, collar agreement, hedge agreement or other similar agreement or arrangement (including derivative agreements or arrangements), as to which such person is a party or a beneficiary.

“Interpolated Screen Rate” means, in relation to any Loan, the rate which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time for the currency of that Loan.

“Investment” means, in any person by any other person, any direct or indirect advance, loan or other extension of credit (other than to customers, dealers, licensees, franchisees, landlords, suppliers, consultants, directors, officers or employees of any person in the ordinary course of day-to-day business) or capital contribution (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others) to, or any purchase or acquisition of Share Capital, Indebtedness or other similar instruments issued by, such person, *provided that*:

- (a) for purposes of the definition of “Unrestricted Subsidiary” and Clause 30 (*Limitation on Restricted Payments*) only:
 - (i) **“Investment”** shall include the portion (proportionate to the Parent’s equity interest in such Subsidiary) of the Fair Market Value of the net assets of any Subsidiary of the Parent at the time that such Subsidiary is designated an Unrestricted Subsidiary, *provided that* upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Parent shall be deemed to continue to have a permanent **“Investment”** in an Unrestricted Subsidiary in an amount (if positive) equal to (x) the Parent’s **“Investment”** in such Subsidiary at the time of such redesignation less (y) the portion (proportionate to the Parent’s equity interest in such Subsidiary) of the Fair Market Value of the net assets of such Subsidiary at the time of such redesignation; and
 - (ii) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value (as determined in good faith by the Parent) at the time of such transfer; and
 - (iii) for purposes of paragraph (iii)(C) of Clause 30.1 (*Limitation on payments and investments*), the amount resulting from the redesignation of any Unrestricted Subsidiary as a Restricted Subsidiary shall be the Fair Market Value of the Investment in such Unrestricted Subsidiary at the time of such redesignation; and
- (b) Guarantees that constitute Indebtedness shall not be deemed to be Investments; and

- (c) the amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced (at the Parent's option) by any dividend, distribution, interest payment, return of capital, repayment or other amount or value received in respect of such Investment *provided further that*, to the extent that the amount of Restricted Payments outstanding at any time pursuant to Clause 30.1 (*Limitation on payments and investments*) is so reduced by any portion of any such amount or value that would otherwise be included in the calculation of Consolidated Net Income, such portion of such amount or value shall not be so included for the purposes of calculating the amount of Restricted Payments that may be made pursuant to Clause 30.1 (*Limitation on payments and investments*).

“Investment Grade Rating” means, a rating equal to or higher than A3 (or the equivalent) by Moody's and A- (or the equivalent) by S&P, or any equivalent rating by any other Rating Agency.

“Investment Grade Securities” means:

- (a) securities issued or directly and fully guaranteed or insured by the United States government or any agency thereof (other than Cash Equivalent Investments);
- (b) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the members of the Group;
- (c) investments in any fund that invests exclusively in investments of the type described in paragraphs (a) and (b) above, which fund may also hold immaterial amounts of cash pending investment or distribution; and
- (d) corresponding instruments in countries other than the United States customarily utilised for high quality investments.

“Investors” mean the Original Investors and their or any subsequent successors or assignees or transferees.

“Issuing Bank” means any Lender which has notified the Agent that it has agreed to the Parent's request to be an Issuing Bank pursuant to the terms of this Agreement (and if more than one Lender has so agreed, such Lenders shall be referred to, whether acting individually or together, as the **“Issuing Bank”**) *provided that*, in respect of a Letter of Credit or Bank Guarantee issued or to be issued pursuant to the terms of this Agreement, the **“Issuing Bank”** shall be the Issuing Bank which has issued or agreed to issue that Letter of Credit or Bank Guarantee.

“ITA” means the Income Tax Act 2007.

“Junior Capital” means, collectively, any Indebtedness of any Parent Holdco or the Parent that:

- (a) is not secured by any asset of any member of the Group;
- (b) is expressly subordinated to the prior payment in full of the Initial Senior Facilities Liabilities and the Hedging Liabilities pursuant to the Intercreditor Agreement, pursuant to an Other Intercreditor Agreement or otherwise to the satisfaction of the Agent (acting reasonably);
- (c) has a final maturity date that is not earlier than, and provides for no scheduled payments of principal prior to, the date that is 91 days after the Termination Date in

respect of the original Facility B Loans (other than through conversion or exchange of any such Indebtedness for Share Capital (other than Disqualified Share Capital) of the Parent or any Parent Holdco or any other Junior Capital);

- (d) has no mandatory redemption or prepayment obligations other than obligations that are subject to the prior payment in full in cash of the Initial Senior Facilities Liabilities and the Hedging Liabilities; and
- (e) does not require the payment of cash interest until the date that is 91 days after the Termination Date in respect of the original Facility B Loans.

“Junior Secured Indebtedness” means any Indebtedness of any member of the Group (whether outstanding on the Closing Date or thereafter Incurred) that ranks, or is intended to rank, *pari passu* in right of repayment with, but junior and/or subordinated in right of security to, the Initial Senior Facilities Liabilities and the Hedging Liabilities.

“LCA Certain Funds Lenders” means, in respect of a Limited Condition Acquisition:

- (a) the Revolving Facility Lender(s) in respect of the applicable Revolving Facility;
- (b) the Incremental Facility Lender(s) in respect of the applicable Incremental Facility; or
- (c) the Lender(s) in respect of any Facility under which the Commitments have been increased, including by way of an additional tranche, in accordance with the terms of this Agreement, but only in respect of the additional Commitments or tranche which have become available for drawing,

in each case, pursuant to which the relevant Borrower intends to make or has made a LCA Certain Funds Utilisation in order to finance such Limited Condition Acquisition.

“LCA Certain Funds Period” means, in relation to any Limited Condition Acquisition, the period commencing on the date (which shall be after the Closing Date) a legally binding commitment for such Limited Condition Acquisition is signed by a member of the Group to the earlier of:

- (a) the longstop date contained in such binding commitment to complete such Limited Condition Acquisition;
- (b) the date falling six Months after the date of such legally binding commitment; and
- (c) the end of the Availability Period in relation to the relevant Facility to be drawn to fund any part of the relevant Limited Condition Acquisition.

“LCA Certain Funds Utilisation” means a Utilisation made or to be made during the LCA Certain Funds Period where such Utilisation is to be made solely to finance a Limited Condition Acquisition (including the refinancing or the acquisition of the LCA Target’s debts and payment of related transaction or restructuring costs, fees and expenses).

“LCA Election” has the meaning set out in paragraph (l) of Clause 1.2 (*Construction*).

“LCA Target” means the target of a Limited Condition Acquisition and its Subsidiaries.

“LCA Test Date” has the meaning set out in paragraph (l) of Clause 1.2 (*Construction*).

“Legal Opinion” means any legal opinion delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) or Clause 40 (*Changes to the Obligors*).

“**Legal Reservations**” means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, bankruptcy, liquidation, administration, examinership, moratorium, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;
- (c) similar principles, rights and defences to those principles, rights and defences referred to in paragraphs (a) and/or (b) above under the laws of any Relevant Jurisdiction; and
- (d) general principles of equity and any other matters which are set out as qualifications or reservations as to matters of law of general application, or of general application to companies, corporations or other persons, in the Legal Opinions.

“**Lender**” means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 2.2 (*Increase*), Clause 2.3 (*Incremental Facility*), Clause 2.4 (*Senior Loan Refinancing Facility*) or Clause 38 (*Changes to the Lenders*),

which in each case has not ceased to be a Lender in accordance with the terms of this Agreement.

“**Letter of Credit**” means a letter of credit, substantially in the form set out in Schedule 11 (*Form of Letter of Credit*) or in any other form requested by the Parent and agreed by the Agent and the Issuing Bank.

“**Letter of Credit Facility**” means any facility, in each case with one or more banks or other lenders, institutions or financing providers providing for letters of credit or bank guarantees, in each case including all agreements, instruments and documents executed and delivered pursuant to or in connection with any of the foregoing.

“**LIBOR**” means, in relation to any Loan:

- (a) the applicable Screen Rate as of the Specified Time for the currency of that Loan and for a period equal in length to the Interest Period of that Loan; or
- (b) as otherwise determined pursuant to Clause 16.1 (*Unavailability of Screen Rate*),

provided that if LIBOR is less than zero, LIBOR will be deemed to be zero.

“**Limitation Acts**” means the Limitation Act 1980, the Prescription and Limitation (Scotland) Act 1973 and the Foreign Limitation Periods Act 1984.

“**Limited Condition Acquisition**” means a Future Acquisition by any member of the Group, the consummation of which is not conditioned on the availability of, or on obtaining, third party financing.

“Listing” means an admission to trading of all or any part of the share capital (or securities giving access to the share capital, whether through conversion or redemption into shares, exchange for shares, or through the exercise of a warrant or other right or option to subscribe for shares) of the Company or the Parent or of any Holding Company (other than any Investor) of the Parent on any internationally-recognised, regulated stock exchange or any other sale or issue by way of flotation or public offering of share capital or any equivalent circumstances in relation to the Company or the Parent or any Holding Company (other than any Investor) of the Parent in any jurisdiction or country.

“Listing Proceeds” has the meaning set out in Clause 12.4 (*Listing*).

“Listing Rules” means, in respect of a Listing, the listing rules of the investment exchange on which the Listing takes place.

“LMA” means the Loan Market Association.

“Loan” means a Term Loan or a Revolving Facility Loan.

“Lovell Minnick” means Lovell Minnick Partners LLC and any successor to the investment management business thereof.

“Lovell Minnick Parties” means collectively Lovell Minnick, Lovell Minnick Partners Inc., Lovell Minnick Holdings LLC, Fund V UGP LLC, Lovell Minnick Equity Advisors LLP, Lovell Minnick Equity Partners V LP, Lovell Minnick Equity Partners V-A LP, LM Freeway Holdings LP, LM Freeway Co-Investment LP or (i) any other investment fund or vehicle which is managed and/or advised by Lovell Minnick or a Related Person of Lovell Minnick or its Related Persons or (ii) any person controlling, controlled by or under common control with Lovell Minnick, or any other fund or vehicle managed by Lovell Minnick or its Related Persons.

“Major Default” means, in relation to a Certain Funds Utilisation, with respect to each Original Obligor only (and not, for the avoidance of doubt, with respect to or relating to any other member of the Group or Target Group or any procurement obligation of an Original Obligor with respect to any member of the Group or Target Group) and, in relation to an LCA Certain Funds Utilisation, with respect to each Obligor (and not, for the avoidance of doubt, with respect to or relating to any other member of the Group or the LCA Target or any procurement obligation of an Obligor with respect to any other member of the Group or the LCA Target) any Event of Default under any of Clause 37.1 (*Failure to pay*) insofar as it relates to a Certain Funds Utilisation, Clause 37.3 (*Other obligations*) insofar as it relates only to a breach (in the case of a Certain Funds Utilisation, with respect to each Original Obligor (and not, for the avoidance of doubt, with respect to or relating to any other member of the Group or any procurement obligation of an Original Obligor with respect to any member of the Target Group) and, in the case of an LCA Certain Funds Utilisation, with respect to each Obligor (and not, for the avoidance of doubt, with respect to or relating to any other member of the Group or the LCA Target or any procurement obligation of an Obligor with respect to any other member of the Group or any LCA Target)) of Clause 27.5 (*Claims Pari Passu*), Clause 27.6 (*Consents and Approvals*), 27.15 (*Holding Companies*), paragraphs (a) and (b) of Clause 27.25 (*Sanctions*), paragraph (a) of Clause 27.26 (*Anti-corruption law*), Clause 29 (*Limitation on Indebtedness*), Clause 28.1 (*Scheme Undertakings*) (but not Clause 28.1(c) (*Progress of Scheme*), Clause 28.1(d)(ii), Clause 28.1(d)(iv) (*Terms of Scheme*), Clause 28.1(d)(v), Clause 28.1(e) (*Certificate of registration of Scheme Court Order*) or Clause 28.1(f) (*Take Private Procedure*)), Clause 28.2 (*Offer Undertakings*) (but not Clause 28.2(b) (*Progress of Offer*) or Clause 28.2(c)(iv)), Clause 30 (*Limitation on Restricted Payments*), Clause 31 (*Limitation on Restrictive Agreements*), Clause 32 (*Limitation on Sales of Assets and Shares*), Clause 35 (*Limitation on*

Fundamental Changes) and Clause 34 (*Limitation on Security*) and Clause 37.4 (*Misrepresentation*) insofar as it relates to a breach of any Major Representation, Clause 37.6 (*Insolvency*), Clause 37.7 (*Insolvency proceedings*), Clause 37.8 (*Execution or Distress*), Clause 37.10 (*Expropriation*), Clause 37.12 (*Repudiation*) or Clause 37.13 (*Illegality*) **provided that** in relation to any Certain Funds Utilisation for the purpose set out in paragraph (a) of Clause 3.1 (*Purpose*), an Event of Default under Clause 37.3 (*Other Obligations*) relating to a breach of Clause 27.5 (*Claims Pari Passu*), Clause 27.6 (*Consents and Approvals*), paragraphs (a) and (b) of Clause 27.25 (*Sanctions*) and Clause 30 (*Limitation on Restricted Payments*) will not be a Major Default.

“Major Representation” means a representation or warranty, in relation to a Certain Funds Utilisation with respect to an Original Obligor only (and not, for the avoidance of doubt, in respect of or relating to any other member of the Group and/or the Target Group) and, in relation to an LCA Certain Funds Utilisation, with respect to each Obligor only (and not, for the avoidance of doubt, with respect to or relating to any other member of the Group or the LCA Target) under any of Clause 24.2 (*Status*) to Clause 24.5 (*Execution of the Senior Finance Documents*) inclusive, Clause 24.9 (*Validity and Admissibility in Evidence*), Clause 24.17 (*Security and Indebtedness*) and Clause 24.24 (*Holding Company*).

“Majority Lenders” means a Lender or Lenders whose Commitments aggregate more than 50 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 50 per cent. of the Total Commitments immediately prior to that reduction).

“Management” means the reinvestors or family members or relatives thereof or trusts for the benefit of any of the foregoing or any entity through which such persons may hold equity in the Parent and/or any of its Holding Companies, or any of their heirs, executors, successors or legal representatives who, at any particular date, shall beneficially own or have the right to acquire, directly or indirectly, equity of the Parent and/or any of its Holding Companies.

“Management Advances” means:

- (a) loans or advances made to directors, management members, officers, employees or consultants of any Parent Holdco, the Parent or any Restricted Subsidiary (i) in respect of travel, entertainment or moving related expenses incurred in the ordinary course of business, (ii) in respect of moving related expenses incurred in connection with any closing or consolidation of any facility or (iii) in the ordinary course of day-to-day business, when aggregated with the amount of any outstanding Management Guarantees under paragraph (b) thereof, not exceeding £2,000,000 in the aggregate outstanding at any time;
- (b) promissory notes of, or loans to, Management or Management Investors acquired, or made, in connection with the issuance of, or purchase of, Management Shares to, or by, such Management or Management Investors;
- (c) Management Guarantees; or
- (d) other Guarantees of borrowings by Management or Management Investors in connection with the purchase of Management Shares, which Guarantees are permitted under Clause 29 (*Limitation on Indebtedness*).

“Management Guarantees” means guarantees:

- (a) of up to, when aggregated with the amount of any outstanding Management Advances under paragraphs (b), (c) and (d) of the definition of Management Advances and any Management Indebtedness, an aggregate principal amount

outstanding at any time of up to the greater of £5,000,000 and 14 per cent. of Consolidated EBITDA of borrowings by Management or Management Investors in connection with their purchase of Management Shares; or

- (b) made on behalf of, or in respect of loans or advances made to, directors, officers, employees or consultants of any Parent Holdco or any member of the Group (x) in respect of travel, entertainment and moving related expenses incurred in the ordinary course of day-to-day business or (y) in the ordinary course of day-to-day business, and when aggregated with the amount of any outstanding Management Advances under paragraph (a) of the definition thereof, not exceeding the greater of £2,000,000 and 6 per cent. of Consolidated EBITDA in the aggregate outstanding at any time.

“Management Holdco” means any person formed for the purpose of investing in or holding, directly or indirectly, Share Capital of the Parent or any Parent Holdco on behalf of the Management or Management Investors.

“Management Indebtedness” means Indebtedness of up to, when aggregated with any Management Advances under paragraphs (b), (c) and (d) thereof and Management Guarantees under paragraph (a) thereof, an aggregate principal amount outstanding at any time of the greater of £5,000,000 and 15 per cent. of Consolidated EBITDA Incurred to:

- (a) any person other than Management or a Management Investor; and
- (b) any Management or Management Investor,

in each case, to finance the repurchase or other acquisition of Share Capital of the Parent or any Parent Holdco (including any options, warrants or other rights in respect thereof) or Share Capital or other debt or equity securities of any Management Holdco (including any options, warrants or other rights in respect thereof) from any Management or Management Investor, which repurchase or other acquisition of Share Capital is permitted by Clause 30 (*Limitation on Restricted Payments*).

“Management Investors” means, collectively, the managing directors, directors, officers, employees and managers of, or consultants to, the Parent and/or any of its Holding Companies, or family members or relatives thereof or trusts for the benefit of any of the foregoing or any entity through which such persons may hold equity in the Parent and/or any of its Holding Companies, or any of their heirs, executors, successors or legal representatives who, at any particular date, shall beneficially own or have the right to acquire, directly or indirectly, equity of the Parent and/or any of its Holding Companies.

“Management Shares” means Share Capital of any Parent Holdco or Share Capital or other debt or equity securities of any Management Holdco (including in each case any options, warrants or other rights in respect thereof) held by any of the Management or Management Investors.

“Mandatory Prepayment Account” means an interest-bearing account:

- (a) held in the United Kingdom by a Borrower with an Acceptable Bank;
- (b) identified in a letter between the Parent and the Agent as a Mandatory Prepayment Account;
- (c) subject to Security in favour of the Security Agent which Security is in form and substance satisfactory to the Agent and Security Agent, each acting reasonably; and

- (d) from which no withdrawals may be made by any members of the Group except as contemplated by this Agreement,

(as the same may be redesignated, substituted or replaced from time to time).

“**Margin**” means:

- (a) in relation to any Facility B Loan, ~~4.50~~5.75 per cent. per annum
- (b) in relation to any Original Revolving Facility Loan, 4.00 per cent. per annum;
- (c) in relation to any Incremental Facility Loan, the percentage rate per annum specified by the Parent in the relevant Incremental Facility Notice;
- (d) in relation to any Senior Loan Refinancing Facility Loan, the percentage rate per annum specified by the Parent in the relevant Senior Loan Refinancing Facility Notice;
- (e) in relation to any Extended Tranche, the percentage rate per annum specified by the Parent in the relevant Extension Notice;
- (f) in relation to any Unpaid Sum relating or referable to a Facility, the rate per annum specified above for that Facility; and
- (g) in relation to any other Unpaid Sum, the highest rate specified above,

but if:

- (i) no Event of Default has occurred and is continuing;
- (ii) a period of at least 9 Months has expired since the Closing Date; and
- (iii) the Consolidated Senior Secured Leverage Ratio in respect of the most recently completed Relevant Period, for the avoidance of doubt, *provided that* such Relevant Period ended at least 9 Months after the Closing Date, is within a range set out below,

then the Margin for each Loan under Facility B and the Original Revolving Facility will be the percentage per annum set out below in the column for that Facility opposite that range (and in relation to any Extended Term Loan, Extended Revolving Facility Loan, Incremental Facility Loan or any Senior Loan Refinancing Facility Loan, the Margin ratchet shall be as specified by the Parent in the relevant Extension Notice, Incremental Facility Notice or Senior Loan Refinancing Facility Notice, as applicable):

Consolidated Senior Secured Leverage Ratio	Original Revolving Facility Margin % p.a.
Greater than or equal to 4.25:1	4.00
Less than 4.25:1 but greater than or equal to 4.00:1	3.75
Less than 4.00:1 but greater than or equal to 3.75:1	3.50
Less than 3.75:1 but greater than or equal to 3.50:1	3.25
Less than 3.50:1	3.00

<u>Consolidated Senior Secured Leverage Ratio</u>	<u>Facility B Margin</u> <u>% p.a.</u>
Greater than or equal to 3.25:1	4.50 <u>5.75</u>
Less than 3.25:1 but greater than or equal to 2.75:1	4.25 <u>5.50</u>
Less than 2.75:1	4.00 <u>5.25</u>

However:

- (A) any increase or decrease in the Margin for a Loan shall take effect on the date of (or if the applicable Compliance Certificate is received after 12 noon, on the Business Day following the date of) receipt by the Agent of the Compliance Certificate for that Relevant Period pursuant to Clause 25.2 (*Provision and contents of Compliance Certificate*) (the “**Reset Date**”);
- (B) if, following receipt by the Agent of the annual audited financial statements of the Group and related Compliance Certificate, those statements and Compliance Certificate do not confirm the basis for a reduced Margin or alternatively show that a reduced Margin should have applied, then the provisions of Clause 14.2 (*Payment of interest*) shall apply and the Margin for that Loan shall be the percentage per annum determined using the table above and the revised Consolidated Senior Secured Leverage Ratio calculated using the figures in the Compliance Certificate; and
- (C) while an Event of Default is continuing, the Margin for each Facility B Loan or Original Revolving Facility Loan shall be the highest percentage per annum set out above (or, in relation to any Extended Term Loan, Extended Revolving Facility Loan, Incremental Facility Loan or Senior Loan Refinancing Facility Loan, in the relevant Extension Notice, Incremental Facility Notice or Senior Loan Refinancing Facility Notice, as applicable) for a Loan under that Facility. Once such Event of Default is waived or otherwise ceases to be continuing, the Margin will be recalculated by reference to the Quarterly Financial Statements most recently delivered to the Agent on the assumption that as at the date such Quarterly Financial Statements were delivered no such Event of Default had occurred and was continuing with effect from the date such Event of Default ceases to be continuing.

For the avoidance of doubt, there is no limit (subject to the maximum and minimum applicable Margin) on the amount by which the applicable Margin may decrease or increase at any Reset Date.

“**Market Capitalisation**” shall mean an amount equal to (i) the total number of issued and outstanding shares of share capital of the Parent or any Parent Holdco on the date of declaration of the relevant dividend or making of any other Restricted Payment, as applicable, multiplied by (ii) the arithmetic mean of the closing prices per share of such share capital on the London Stock Exchange (or, if the primary listing of such share capital is on another

exchange, on such other exchange) for the 30 consecutive trading days immediately preceding such date.

“**Material Adverse Effect**” means, taking into account all relevant circumstances:

- (a) a material adverse effect on the consolidated business, assets or financial condition of the Group taken as a whole; or
- (b) a material adverse effect on the ability of the Obligors taken as a whole to perform their payment obligations under the Senior Finance Documents; or
- (c) an event or circumstance which, subject to the Legal Reservations and the Perfection Requirements, adversely affects the validity, enforceability or effectiveness of any Senior Finance Document to an extent which is materially adverse to the interests of the Senior Finance Parties under the Senior Finance Documents taken as a whole and which, if capable of remedy, is not remedied within 15 Business Days after the earlier of the date on which the Parent becomes aware of such event or circumstance and the date on which the relevant Obligor receives written notice from the Agent and/or Security Agent of such event or circumstance.

“**Material Company**” means a member of the Group (other than a Special Purpose Subsidiary) which:

- (a) is the Parent, the Company or an Obligor;
- (b) holds shares in any Borrower or a person referred to in paragraphs (c) and (d) below;
- (c) is listed in Schedule 13 (*Material Companies*) provided that, after the Closing Date, (x) any such member of the Group organised in England & Wales will cease to be a Material Company if it becomes a Dormant Subsidiary pursuant to paragraphs (a) and (b) of that definition and (y) any such member of the Group will cease to be a Material Company if it ceases to meet the conditions in paragraph (d) below; or
- (d) has earnings before interest, tax, depreciation and amortisation calculated on the same basis as Consolidated EBITDA (and calculated on an unconsolidated basis and excluding intra-Group items) representing 5 per cent. or more of Consolidated EBITDA or has gross assets (calculated on an unconsolidated basis and excluding intra-Group items and investments in other members of the Group) representing 5 per cent. or more of the gross assets of the Group, calculated on a consolidated basis.

Compliance with the conditions set out in paragraph (d) above shall be determined by reference to the latest audited financial statements of that Subsidiary (if any) and the latest audited consolidated financial statements of the Group. However, if a Subsidiary meeting the test set out in paragraph (d) above has been acquired since the date as at which the latest audited consolidated financial statements of the Group were prepared, the financial statements shall be deemed to be adjusted in order to take into account the acquisition of that Subsidiary (that adjustment being certified by the Parent’s Auditors as representing an accurate reflection of the revised Consolidated EBITDA or gross assets of the Group).

A report by the Parent’s Auditors that a Subsidiary is or is not a Material Company shall, in the absence of manifest error, be conclusive and binding on all Parties.

“**Material Intellectual Property**” means any Intellectual Property owned by any Obligor if the termination of the rights of such Obligor to use such Intellectual Property or any other

loss of such Intellectual Property would reasonably be expected to have a Material Adverse Effect.

“**Minimum Extension Condition**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Month**” means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period and “**Monthly**” shall be construed accordingly.

“**Moody’s**” means Moody’s Investors Service Limited.

“**Multi-account Overdraft**” means an Ancillary Facility which is an overdraft facility comprising more than one account.

“**Net Cash Proceeds**” means, with respect to any issuance or sale of any securities of the Parent or any Subsidiary or by the Parent or any Subsidiary, or any capital contribution, or any Incurrence of Indebtedness, or the incurrence of Subordinated Shareholder Funding, the cash proceeds of such issuance, sale, contribution, incurrence or Incurrence net of legal fees, accountants’ fees, underwriters’ or placement agents’ fees, discounts or commissions and brokerage, consultant and other fees actually incurred in connection with such issuance, sale, contribution, incurrence or Incurrence and net of all taxes paid or payable as a result, or in respect, thereof.

“**Net Outstandings**” means, in relation to a Multi-account Overdraft, the Ancillary Outstandings of that Multi-account Overdraft.

“**Net Proceeds**” has the meaning given to that term in Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*).

“**New Lender**” has the meaning given to that term in Clause 38.1 (*Assignments and transfers by the Lenders*).

“**New Shareholder Injections**” means the aggregate amount subscribed for shares (including, without limitation, preference shares) issued by the Parent after the Closing Date or capital contributions to the Parent after the Closing Date and the amount of any Subordinated Shareholder Funding, in each case, which is further contributed to the Company.

“**Non-Acceptable Lender**” means a Lender under a Revolving Facility which:

- (a) is not an Acceptable Bank within the meaning of paragraphs (a) or (b) of the definition of “Acceptable Bank” (other than a Lender which each Issuing Bank has agreed is acceptable to it notwithstanding that fact); or
- (b) is a Defaulting Lender; or
- (c) has failed to make (or has notified the Agent that it will not make) a payment to be made by it under Clause 7.4 (*Indemnities related to Letters of Credit or Bank Guarantees*) or Clause 41.11 (*Lenders’ indemnity to the Agent*) or any other payment to be made by it under the Senior Finance Documents to or for the account of any other Senior Finance Party in its capacity as Lender by the due date for payment unless the failure to pay falls within the description of any of those items set out in sub-paragraphs (i) and (ii) of the definition of “Defaulting Lender”.

“**Non-Charged Property Security Interest**” has the meaning given to that term in Clause 34.1 (*Security Restriction*).

“**Non-Consenting Lender**” has the meaning given to that term in Clause 50.5 (*Replacement of Lender*).

“**Non-Extending Lender**” has the meaning given to that term in Clause 2.5 (*Extension*).

“**Notifiable Debt Purchase Transaction**” has the meaning given to that term in paragraph (b) of Clause 39.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates*).

“**Obligor**” means a Borrower or a Guarantor.

“**Obligors’ Agent**” means the Parent, appointed to act on behalf of each Obligor in relation to the Senior Finance Documents pursuant to Clause 2.7 (*Obligors’ Agent*).

“**OFAC**” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“**Offer**” means a contractual takeover offer within the meaning of Section 974 of the Companies Act made by the Company to effect the Acquisition substantially on the terms set out in the Offer Press Release, to acquire the Target Shares not already owned by the Group, as such Offer may, from time to time, be amended, added to, revised, renewed or waived as permitted in accordance with the terms of this Agreement and the terms and conditions of such Offer or otherwise with the consent of the Majority Lenders.

“**Offer Acquisition**” means the acquisition of the Target by the Company to be effected by way of:

- (a) an Offer; and
- (b) the compulsory acquisition of any Target Shares (in respect of which acceptances of such Offer have not been received from the holders of such Target Shares) made pursuant to the Squeeze-Out Procedures.

“**Offer Conversion**” means the Company procuring the withdrawal of the Scheme and the issue of an Offer Press Release in accordance with paragraph (b) of Clause 3.2 (*Conversion from Scheme to Offer*).

“**Offer Conversion Notice**” has the meaning given to that term in paragraph (b) of Clause 3.2 (*Conversion from Scheme to Offer*).

“**Offer Document**” means an offer document to be despatched to shareholders of the Target in respect of an Offer.

“**Offer Transaction Documents**” means (a) the Offer Document; (b) any Offer Press Release and (c) any other documents sent by the Borrower to the Target’s shareholders, and otherwise made available to such persons, in the manner required by Rule 24.1 of the Takeover Code.

“**Offer Press Release**” means a press announcement to be released pursuant to Rule 2.7 of the Takeover Code by the Company or any member of the Group announcing the terms and conditions of an Offer and confirming that, as at the date of such press release, the Acquisition was recommended to the Target shareholders by its board of directors.

“**Optional Currency**” means a currency (other than the Base Currency) which complies with the conditions set out in Clause 4.3 (*Conditions relating to Optional Currencies*).

“**Original Financial Statements**” means:

- (a) in relation to the Target Group, the audited consolidated financial statements for Target Group for the Financial Year ending 31 December 2018; and
- (b) in relation to any other Obligor, its audited financial statements delivered to the Agent as required by Clause 40 (*Changes to the Obligors*).

“**Original Investors**” means, collectively, the Lovell Minnick Parties.

“**Original Obligor**” means an Original Borrower or an Original Guarantor.

“**Original Revolving Facility**” means the revolving credit facility made available under this Agreement as described in sub-paragraph (a)(ii) of Clause 2.1 (*The Facilities*).

“**Original Revolving Facility Borrower**” means the Company and any wholly-owned member of the Target Group which accedes as an Additional Borrower under the Original Revolving Facility in accordance with Clause 40 (*Changes to the Obligors*) unless it has ceased to be an Original Revolving Facility Borrower in accordance with Clause 40 (*Changes to the Obligors*).

“**Original Revolving Facility Commitment**” means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading “Original Revolving Facility Commitment” in Part 2 of Schedule 1 (*The Original Parties*) and the amount of any other Original Revolving Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*); and
- (b) in relation to any other Lender, the amount in the Base Currency of any Original Revolving Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*),

to the extent:

- (i) not cancelled, reduced or transferred by it under this Agreement; and

- (ii) not deemed to be zero pursuant to Clause 39.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates*).

“Original Revolving Facility Lender” means any lender who makes available an Original Revolving Facility Commitment or an Original Revolving Facility Loan.

“Original Revolving Facility Loan” means a loan made or to be made under the Original Revolving Facility or the principal amount outstanding for the time being of that loan.

“Original Revolving Facility Utilisation” means an Original Revolving Facility Loan or a Letter of Credit or a Bank Guarantee issued under the Original Revolving Facility.

“Other Intercreditor Agreement” means an intercreditor agreement in form and substance reasonably satisfactory to the Parent and the Security Agent and which may provide for, amongst other things, intercreditor terms in respect of junior lien or unsecured notes or credit facilities that differ (including in respect of the identity of any issuer, borrower or guarantor of such debt) from those prescribed in the Intercreditor Agreement with respect to Second Lien Liabilities and Unsecured Note Liabilities (as defined in the Intercreditor Agreement) *provided that* such terms are consistent with then current market terms.

“Parent Expenses” means:

- (a) costs (including all professional fees and expenses) incurred by any Parent Holdco in connection with maintaining its existence or in connection with its reporting obligations under, or in connection with compliance with, applicable laws or applicable rules of any governmental, regulatory or self-regulatory body or stock exchange, this Agreement or any other agreement or instrument relating to Indebtedness of any member of the Group, including in respect of any reports filed with respect to the U.S. Securities Act, U.S. Exchange Act or the respective rules and regulations promulgated thereunder;
- (b) customary indemnification obligations of any Parent Holdco owing to directors, officers, employees or other persons under its constitutional documents or pursuant to written agreements with or for the benefit of any such person, or obligations in respect of director and officer insurance of any Parent Holdco (including premiums therefor);
- (c) other administrative and operational expenses of any Parent Holdco incurred in the ordinary course of day to day business in an amount not to exceed the greater of £2,000,000 and 6 per cent. of Consolidated EBITDA in any financial year of the Parent; and
- (d) fees and expenses incurred by any Parent Holdco in connection with any offering of Share Capital or Indebtedness;
 - (i) which offering is not completed; or
 - (ii) where the net proceeds of such offering are intended to be received by or contributed to any member of the Group; or
 - (iii) in a *pro rated* amount of such expenses in proportion to the amount of such net proceeds intended to be so received or contributed; or

- (iv) otherwise on an interim basis prior to completion of such offering so long as any Parent Holdco shall cause the amount of such expenses to be repaid to the Group out of the proceeds of such offering promptly if completed.

“**Parent Holdco**” means any Holding Company of the Parent from time to time.

“**Parent’s Auditors**” means PricewaterhouseCoopers or any other firm appointed by the Parent to act as its statutory auditors.

“**Pari Passu Indebtedness**” means any Indebtedness of any member of the Group (whether outstanding on the Closing Date or thereafter Incurred) that ranks, or is intended to rank, *pari passu* in right of payment and security with the Initial Senior Facilities Liabilities without any preference between them.

“**Participating Member State**” means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“**Party**” means a party to this Agreement.

“**Perfection Requirements**” means any and all registrations, filings, notarisations, notices, payments of stamp, registration, notarial or other similar taxes or fees and other actions and steps required to be made in any jurisdiction in order to perfect security created by the Transaction Security Documents or in order to achieve the relevant priority for such Security.

“**Permitted Asset Disposal**” means:

- (a) a disposal to the Parent or a Restricted Subsidiary, provided that if the asset disposed of is subject to Transaction Security at the time of disposal it shall be disposed of on the basis that it shall remain subject to, or otherwise become subject to, equivalent Security under a Transaction Security Document following disposal (subject to the Agreed Security Principles) (and ignoring, where relevant for the purpose of assessing such equivalency, any hardening periods or guarantee limitations), unless the relevant asset is disposed of or transferred subject to the Transaction Security;
- (b) a disposal of assets (other than shares, businesses and undertakings) in the ordinary course of day to day business;
- (c) a disposal of Cash Equivalent Investments, Investment Grade Securities or Temporary Cash Investments;
- (d) the sale or discount (with or without recourse, and on customary or commercially reasonable terms) of accounts receivable or notes receivable (including ancillary rights pertaining thereto) arising in the ordinary course of day to day business (including in connection with any factoring agreement or similar arrangements), or the conversion or exchange of accounts receivable for notes receivable;
- (e) any Restricted Payment Transaction;
- (f) transactions permitted by Clause 35 (*Limitation on Fundamental Changes*);
- (g) any Financing Disposition;
- (h) the exchange of an asset (other than shares, businesses and undertakings) by any member of the Group for other assets or similar value on arm’s length terms over which, subject to the Agreed Security Principles, equivalent Security (and ignoring,

where relevant for the purpose of assessing such equivalency, any hardening periods or guarantee limitations) is granted in favour of the Senior Finance Parties (to the extent such assets(s) were subject to Transaction Security under the Transaction Security Documents prior to the date of exchange) and in respect of which the Agent and/or Security Agent shall, if so requested by the Agent or Security Agent, have received a legal opinion in form and substance satisfactory to it (acting reasonably);

- (i) any Sale and Leaseback Transaction that involves property with a book value that, when aggregated with all other disposals in respect of Sale and Leaseback Transactions pursuant to this paragraph (i), does not exceed the greater of £5,000,000 and 14 per cent. of Consolidated EBITDA during the term of this Agreement;
- (j) (x) any disposal arising from foreclosure, condemnation, compulsory purchase, enforcement or similar action with respect to any property or other assets which individually or together, would not result in an Event of Default described in Clause 37.10 (*Expropriation*), or (y) the exercise of termination rights under any lease, license, concession or other agreement in the ordinary course of business, or necessary or advisable (as determined by the Parent in good faith) in order to consummate any acquisition of any person, business or assets, or pursuant to buy/sell arrangements under any joint venture or similar agreement or arrangement;
- (k) any issuance or sale of Share Capital in, or Indebtedness or other securities of, an Unrestricted Subsidiary or any disposal of Share Capital, Indebtedness or other securities of an Unrestricted Subsidiary;
- (l) a disposal or issuance of Share Capital of a Restricted Subsidiary (other than the Company or the Target) pursuant to an agreement or other obligation with or to a person (other than a member of the Group) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), entered into in connection with such acquisition and in each case comprising all or a portion of the consideration in respect of such disposal or acquisition;
- (m) the lapse or other disposal of Intellectual Property that is, in the reasonable judgment of the Parent, no longer economically practicable to maintain or useful in the conduct of the business of the Group taken as a whole;
- (n) any ordinary course license, sublicense or other grant of rights in or to any Intellectual Property; or
- (o) an issuance of Share Capital by the Company to the Parent or by a Restricted Subsidiary (other than the Company) to another Restricted Subsidiary or as part of or pursuant to an equity incentive or compensation plan approved by the Board of Directors of the Parent.

“Permitted Borrower Jurisdiction” means the United Kingdom.

“Permitted Existing Indebtedness and Security” means the existing financial indebtedness and Security Interests of the Target Group as set out in Schedule 20 (*Permitted Existing Indebtedness and Security*).

“Permitted Hedging Transactions” means:

- (a) the Treasury Transactions documented by the Hedging Agreements; and

- (b) any other non-speculative Treasury Transactions that are entered into for non-speculative, *bona fide* hedging purposes.

“**Permitted Investment**” means an Investment by any member of the Group in, or consisting of, any of the following:

- (a) any member of the Group or a person that is engaged in a Related Business that will, upon the making of such Investment, become a Restricted Subsidiary (and any Investment held by such person that was not acquired by such person in contemplation of so becoming a Restricted Subsidiary) provided that (i) such person is not incorporated in a Sanctioned Country and (ii) no Event of Default is continuing at the time a commitment or definitive agreement to make such investment is entered into;
- (b) another person engaged in a Related Business if as a result of such Investment such other person is merged or consolidated with or into, or transfers or conveys all or substantially all its assets to, or is liquidated into, any member of the Group (and, in each case, any Investment held by such other person that was not acquired by such person in contemplation of such merger, consolidation or transfer) provided that (i) such person is not incorporated in a Sanctioned Country and (ii) no Event of Default is continuing at the time a commitment or definitive agreement to make such investment is entered into;
- (c) Temporary Cash Investments, Investment Grade Securities or Cash Equivalent Investments;
- (d) receivables owing to any member of the Group, if created or acquired in the ordinary course of day-to-day business;
- (e) any securities or other Investments received as consideration in, or retained in connection with, sales or other dispositions of property or assets, including Disposals made in compliance with Clause 32 (*Limitation on Sales of Assets and Shares*);
- (f) securities or other Investments received in settlement of debts created in the ordinary course of day-to-day business and owing to, or of other claims asserted by, any member of the Group, or as a result of foreclosure, perfection or enforcement of any Security Interest, or in satisfaction of judgments, including in connection with any insolvency proceeding or reorganization of another person;
- (g) Investments in existence or made pursuant to legally binding written commitments in existence on the Closing Date and details of which are set out in Schedule 18 (*Existing Investments*) and, in each case, any extension, modification, replacement, reinvestment or renewal thereof, provided that the amount of any such Investment may be increased in such extension, modification, replacement, reinvestment or renewal only (i) as required by the terms of such Investment or binding commitment as in existence on the Closing Date (including as a result of the accrual or accretion of interest or original issue discount or the issuance of pay-in-kind securities) or (ii) as otherwise permitted by this Agreement;
- (h) Permitted Hedging Transactions;
- (i) pledges or deposits (x) with respect to leases or utilities provided to third parties in the ordinary course of day-to-day business or (y) otherwise described in the definition of “Permitted Security” or made in connection with Security permitted under Clause 34 (*Limitation on Security*);

- (j) bonds secured by assets leased to and operated by any member of the Group that were issued in connection with the financing of such assets so long as the applicable member of the Group may obtain title to such assets at any time by paying a nominal fee, cancelling such bonds and terminating the transaction;
- (k) any Investment to the extent made using Share Capital (or the proceeds of an issuance thereof) of the Parent (other than Disqualified Share Capital), the proceeds of Subordinated Shareholder Funding as consideration;
- (l) Management Advances;
- (m) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with the provisions of Clause 33.2 (*Permitted Affiliate Transactions*) (except transactions described in paragraphs (a), (b)(iv), (c), (e), or (i) thereof), including any Investment pursuant to any transaction described in paragraph (b) of Clause 33.2 (*Permitted Affiliate Transactions*) (whether or not any person party thereto is at any time an Affiliate of the Parent);
- (n) other Investments provided such Investments are in Related Businesses and are in an aggregate amount outstanding at any time not to exceed an amount equal to the greater of ~~£20,000,000~~£17,500,000 and 5750 per cent. of Consolidated EBITDA;
- (o) Investments in notes receivables in connection with a transaction described in paragraph (d) of the definition of “Permitted Asset Disposal”;
- (p) Investments made pursuant to the terms of a Special Purpose Financing in or by any Special Purpose Subsidiary by, to, in or in favour of any Special Purpose Entity (i) for the purposes of providing customary credit enhancement or (ii) to the extent customary and necessary to effect such Special Purpose Financing;
- (q) any payment or other incentive to a franchisee, licensee or lessee in the ordinary course of trading and customary for the purposes of establishing the franchise, licence or letting arrangements with such franchisee, licensee or lessee;
- (r) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers’ compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business or consistent with past practice; and
- (s) Investments that comprise contributions to any Group pensions scheme or arrangement.

If any Investment pursuant to paragraph (n) above, or paragraph (f) of Clause 30.2 (*Permitted Payments*), as applicable, is made in any person that is not a Restricted Subsidiary and such person thereafter (A) becomes a Restricted Subsidiary or (B) is merged or consolidated into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, any member of the Group, then such Investment shall thereafter be deemed to have been made pursuant to paragraph (a) or (b) above, respectively, and not paragraph (n) above, or paragraph (f) of Clause 30.2 (*Permitted Payments*), as applicable.

“**Permitted Payment**” means each of the payments permitted by Clause 30.2 (*Permitted Payments*).

“**Permitted Security**” means:

- (a) Security for taxes, assessments or other governmental charges not yet in default or the non-payment of which in the aggregate would not reasonably be expected to have a Material Adverse Effect on the Group or that are being contested in good faith and by appropriate proceedings if adequate reserves with respect thereto are maintained on the books of the relevant member of the Group, in accordance with the Accounting Principles;
- (b) Security with respect to outstanding motor vehicle fines and carriers', warehousemen's, mechanics', landlords', materialmen's, repairmen's or other similar Security Interests arising in the ordinary course of day to day business in respect of obligations that are not overdue for a period of more than 60 days or that are bonded or collateralised or that are being contested in good faith and by appropriate proceedings;
- (c) pledges, deposits or Security in connection with workers' compensation, professional liability insurance, insurance programs, unemployment insurance and other social security and other similar legislation or other insurance-related obligations (including pledges or deposits securing liability to insurance carriers under insurance or self-insurance arrangements);
- (d) pledges, deposits or Security to secure the performance of bids, tenders, trade, government or other contracts (other than for borrowed money), obligations for utilities, leases, licenses, statutory obligations, completion guarantees, surety, judgment, appeal or performance bonds, other similar bonds, instruments or obligations, and other obligations of a like nature incurred in the ordinary course of day to day business;
- (e) easements (including reciprocal easement agreements), rights-of-way, building, restrictions on the use of property, utility agreements, covenants, reservations, restrictions, encroachments, rent charges or other charges, and other similar encumbrances or title defects incurred, or leases or subleases granted to others, or security over rent deposits entered into from time to time by a member of the Group in the ordinary course of day to day business, which do not in the aggregate materially interfere with the ordinary conduct of the business of the Group, taken as a whole;
- (f) Security existing on, or provided for under written arrangements existing on, the Closing Date details of which are set out in Schedule 20 (*Permitted Existing Indebtedness and Security*), or (in the case of any such Security securing Indebtedness of the Group existing or arising under written arrangements existing on the Closing Date) securing any Refinancing Indebtedness in respect of such Indebtedness (other than Indebtedness Incurred under paragraph (a) of Clause 29.2 (*Other Permitted Indebtedness*) and secured under paragraph (k)(i) of this definition), so long as the Security securing such Refinancing Indebtedness is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or under such written arrangements could secure) the original Indebtedness;
- (g) mortgages, liens, security interests, restrictions, or other encumbrances that have been placed by any developer, landlord or other third party on property over which any member of the Group has easement rights or on any leased property and subordination or similar agreements relating thereto; and any condemnation or compulsory purchase rights affecting any real property;

- (h) Security securing Indebtedness (including Security securing any liabilities in respect thereof) consisting of Permitted Hedging Transactions, Bank Products Obligations, Ancillary Outstandings, Purchase Money Obligations or Capitalised Lease Obligations Incurred in compliance with Clause 29 (*Limitation on Indebtedness*);
- (i) Security arising out of judgments, decrees, orders or awards in respect of which the relevant member of the Group shall in good faith be prosecuting an appeal or proceedings for review, which appeal or proceedings shall not have been finally terminated, or if the period within which such appeal or proceedings may be initiated shall not have expired;
- (j) leases, sub-leases, licenses or sub-licenses to or from third parties;
- (k) Security securing Indebtedness (including Security securing any obligations in respect thereof) consisting of:
 - (i) Indebtedness Incurred in compliance with paragraph (a) of Clause 29.2 (*Other Permitted Indebtedness*) pursuant to (A) this Agreement and the other Senior Finance Documents, (B) any Rollover Indebtedness (and any Refinancing Indebtedness in respect thereof), (C) any Additional Obligations (and any Refinancing Indebtedness in respect thereof) and (D) Letter of Credit Facilities (and any Refinancing Indebtedness in respect thereof); *provided, that* any Security in respect of the Charged Property pursuant to sub-paragraphs (B), (C) or (D) of this paragraph (k)(i) shall be subject to the Intercreditor Agreement or an Other Intercreditor Agreement, as applicable;
 - (ii) Indebtedness Incurred in compliance with any of paragraphs (c) (but only to the extent such Indebtedness benefited from Security prior to the Closing Date), (d), (e), (f), (h) or (i) of Clause 29.2 (*Other Permitted Indebtedness*) (other than Refinancing Indebtedness Incurred in respect of Indebtedness described in Clause 29.1 (*Ratio Debt*));
 - (iii) any Indebtedness Incurred in compliance with paragraph (l) or (m) of Clause 29.2 (*Other Permitted Indebtedness*);
 - (iv) (A) Acquisition Indebtedness Incurred in compliance with paragraph (j) of Clause 29.2 (*Other Permitted Indebtedness*); *provided that* (x) such Security is limited to all or part of the same property or assets, including Share Capital (plus improvements, accessions, proceeds or dividends or distributions in respect thereof, or replacements of any thereof) acquired, or of any person acquired or merged or consolidated with or into the Parent or any Restricted Subsidiary, in any transaction to which such Acquisition Indebtedness relates, (y) on the date of the Incurrence of such Indebtedness after giving effect to such Incurrence, the Consolidated Senior Secured Leverage Ratio would equal or be less than the Consolidated Senior Secured Leverage Ratio immediately prior to giving effect thereto and the Consolidated Total Leverage Ratio would equal or be less than the Consolidated Total Leverage Ratio immediately prior to giving effect thereto or (z) such Security ranks junior to the Security securing the Initial Senior Facilities Liabilities and shall be subject to the Intercreditor Agreement, or an Other Intercreditor Agreement, as applicable, or (B) any Refinancing Indebtedness Incurred in respect thereof;

- (v) Indebtedness of any Restricted Subsidiary that is not a Guarantor (limited, in the case of this paragraph (k)(v), to Security on any of the property and assets of any Restricted Subsidiary that is not a Guarantor); or
- (vi) obligations in respect of Management Advances or Management Guarantees, in each case under (i) to (vi) above including Security securing any Guarantee of any thereof;
- (l) Security existing on property or assets of a person at the time such person becomes a Subsidiary of the Parent (or at the time a member of the Group acquires such property or assets, including any acquisition by means of a merger or consolidation with or into a member of the Group) *provided that* such Security is not created in connection with, or in contemplation of, such other person becoming such a Subsidiary (or such acquisition of such property or assets), and that such Security is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which such Security arose, could secure) the obligations to which such Security relates; *provided further that* for purposes of this paragraph (l), if a person other than the Parent is the Successor Obligor with respect thereto, any Subsidiary thereof shall be deemed to become a Subsidiary of the Parent, and any property or assets of such person or any such Subsidiary shall be deemed acquired by the relevant member of the Group when such person becomes such Successor Obligor;
- (m) Security on Share Capital, Indebtedness or other securities of an Unrestricted Subsidiary that secure Indebtedness or other obligations of such Unrestricted Subsidiary;
- (n) any encumbrance or restriction (including, but not limited to, pursuant to put and call agreements or buy/sell arrangements) with respect to Share Capital of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;
- (o) Security securing Indebtedness (including Security securing any liabilities in respect thereof) consisting of Refinancing Indebtedness Incurred in respect of any Indebtedness (other than any Indebtedness described in paragraph (k)(i) above) secured by, or securing any refinancing, refunding, extension, renewal or replacement (in whole or in part) of any other obligation secured by, any other Permitted Security, *provided that* any such new Security is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Security arose, could secure) the obligations being refinanced, refunded, extended, renewed or replaced;
- (p) Security:
 - (i) arising by operation of law (or by agreement to the same effect) in the ordinary course of day to day business;
 - (ii) on property or assets under construction (and related rights) in favour of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets;
 - (iii) (x) on accounts receivable or notes receivable (including any ancillary rights relating thereto) purported to be sold in connection with any factoring agreement or any similar arrangements to secure obligations owed under such

- factoring agreement or any similar arrangements, and (y) any bank accounts used by any member of the Group in connection with any factoring agreement or any similar arrangements;
- (iv) on cash set aside at the time of the Incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent that such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose;
 - (v) securing or arising by reason of any netting or set-off arrangement entered into in the ordinary course of banking or other trading activities (including in connection with purchase orders and other agreements with customers) or arising under the general business conditions of a bank or financial institution in respect of normal banking arrangements of a member of the Group;
 - (vi) in favour of any member of the Group (other than Security on property or assets of an Obligor in favour of any Subsidiary that is not an Obligor);
 - (vii) arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of day to day business;
 - (viii) on inventory or other goods and proceeds securing obligations in respect of bankers' acceptances issued or created to facilitate the purchase, shipment or storage of such inventory or other goods;
 - (ix) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft, cash pooling or similar obligations incurred in the ordinary course of business;
 - (x) attaching to commodity trading or other brokerage accounts incurred in the ordinary course of day to day business;
 - (xi) arising in connection with repurchase agreements permitted under Clause 29 (*Limitation on Indebtedness*) on assets that are the subject of such repurchase agreements; or
 - (xii) in relation to any amounts (including the proceeds of the applicable Indebtedness and any Cash, Cash Equivalent Investments and Temporary Cash Investments deposited to cover interest and premium in respect of such Indebtedness) held by a trustee or escrow agent under any indenture or other debt agreement governing Indebtedness issued in escrow pursuant to customary escrow arrangements (as determined by the Parent in good faith, which determination shall be conclusive) pending the release thereof, or on the proceeds deposited to discharge, redeem or defease Indebtedness under any indenture or other debt agreement pursuant to customary discharge, redemption or defeasance provisions (as determined by the Parent in good faith, which determination shall be conclusive), pending such discharge, redemption or defeasance;
 - (xiii) required by law or regulation or any regulatory body in relation to any pension scheme or arrangement of any member of the Group;
- (q) other Security securing Indebtedness or other obligations that in the aggregate do not exceed an amount equal to the greater of £3,750,000 and 10 per cent. of

Consolidated EBITDA at the time of Incurrence of such Indebtedness or other obligations *provided that*, any Security under this paragraph (q) in respect of the Charged Property shall be regulated by the Intercreditor Agreement or an Other Intercreditor Agreement, as applicable.

- (r) [Not used].
- (s) Security over the Charged Property, if such Security ranks junior to or subordinated to the Transaction Security and the priorities in relation to such Security are regulated by the Intercreditor Agreement or an Other Intercreditor Agreement;
- (t) in connection with any Special Purpose Financing, any:
 - (i) Security granted over Receivables or over the shares in a Special Purpose Subsidiary;
 - (ii) Security granted by a Special Purpose Subsidiary over any of its assets;
 - (iii) customary netting or set-off arrangement entered into by a Special Purpose Subsidiary or any other member of the Group; or
 - (iv) Security granted by any member of the Group over (and security power of attorney in respect of) any accounts to which collections of Receivables are credited;
- (u) any Security mandatorily required under applicable law to be granted in favour of creditors as a consequence of (i) any consolidation or merger of any member of the Group with or into any other member of the Group or (ii) the termination of a domination and/or profit and loss pooling agreement; and
- (v) any escrow arrangements not prohibited under any Senior Finance Document and entered into in relation to:
 - (i) the sale of an asset that constitutes a Permitted Asset Disposal; or
 - (ii) the acquisition of an asset that is not prohibited under any Senior Finance Document,

provided that the Parent shall not, and shall not permit, any member of the Group to create or permit to exist any Non-Charged Property Security Interest created pursuant to paragraph (k)(iv)(A)(y) or (k)(iv)(A)(z) above unless, in the case of such Non-Charged Property Security Interests, the Initial Senior Facilities Liabilities and the Hedging Liabilities are, subject to the Agreed Security Principles, equally and rateably secured with (or on a senior basis to, in the case such Non-Charged Property Security Interest secures any Subordinated Indebtedness or Junior Secured Indebtedness) the obligations secured by such Non-Charged Property Security Interest for so long as such obligations are so secured.

For purposes of determining compliance with this definition:

- (a) a Security Interest need not be incurred solely by reference to one category of Permitted Security described in this definition but may be incurred under any combination of such categories (including in part under one such category and in part under any other such category);
- (b) the principal amount of Indebtedness secured by security outstanding under any category of Permitted Security shall be determined after giving effect to the

application of proceeds of any such Indebtedness to refinance any such other Indebtedness;

- (c) in the event that a Security Interest (or any portion thereof) meets the criteria of one or more of such categories of Permitted Security, the Parent shall, in its sole discretion, classify or reclassify such Security Interest (or any portion thereof) in any manner that complies with this definition;
- (d) any security securing Indebtedness that was permitted to secure such Indebtedness at the time of the incurrence of such Indebtedness shall also be permitted to secure any increase in the amount of such Indebtedness in connection with the accrual of interest, the accretion of accreted value, the payment of interest in the form of additional Indebtedness and the payment of dividends on share capital constituting Indebtedness in the form of additional shares of the same class of share capital;

~~(e) in the event that a portion of Indebtedness secured by a Security Interest could be classified as secured in part pursuant to paragraph (k)(i) above in respect of Indebtedness Incurred pursuant to proviso (y) to paragraph (a) of Clause 29.2 (Other Permitted Indebtedness) and paragraph (a) of the definition of “Incremental Facilities Amount” (giving effect to the Incurrence of such portion of such Indebtedness), the Parent, in its sole discretion, may classify such portion of such Indebtedness (and any liabilities in respect thereof) as having been secured pursuant to paragraph (k)(i) above in respect of Indebtedness Incurred pursuant to proviso (y) to paragraph (a) of Clause 29.2 (Other Permitted Indebtedness) and paragraph (a) of the definition of “Incremental Facilities Amount” and the remainder of the Indebtedness as having been secured pursuant to one or more of the other paragraphs of this definition;~~

(e) [Not used];

- (f) if any Security securing Indebtedness is Incurred to refinance Security securing Indebtedness initially Incurred in reliance on a basket measured by reference to a percentage of Consolidated EBITDA at the time of Incurrence, and such refinancing would cause the percentage of Consolidated EBITDA restriction to be exceeded if calculated based on the Consolidated EBITDA on the date of such refinancing, such percentage of Consolidated EBITDA restriction shall not be deemed to be exceeded so long as the principal amount of such Indebtedness secured by such Security does not exceed the principal amount of such Indebtedness secured by such Security being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing; and
- (g) if any Indebtedness or other obligation is secured by any security outstanding under any category of Permitted Security measured by reference to a sterling amount, and is refinanced by any Indebtedness or other obligation secured by any security incurred by reference to such category of Permitted Security, and such refinancing (or any subsequent refinancing) would cause such sterling amount to be exceeded, such sterling amount shall not be deemed to be exceeded (and such refinancing security shall be deemed permitted) so long as the principal amount of such Refinancing Indebtedness or other obligation does not exceed an amount equal to the principal amount of such Indebtedness being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) incurred or payable in connection with such refinancing.

“Permitted Tax Consolidation Arrangement Transactions” means any transactions made pursuant to a tax consolidation agreement or pursuant to any arrangement in respect of any

consolidated, combined, affiliated or unitary tax group or any surrender of group relief (including any arrangements by which the losses of a member of the Group are transferred to or otherwise used by another member of the Group) or payment in respect thereof, or any group contributions, in each case to the extent that such agreements or arrangements are commercially reasonable and that such transactions are made for the purpose of paying or discharging (or optimising the payment or discharge of) Taxes of any Parent Holdco (other than, in the case of Taxes payable by any Parent Holdco, Taxes attributable to its owning shares or other ownership interests (directly or indirectly) of a person that is not a Parent Holdco or a member of the Group) or member of the Group, and are permitted by applicable Tax laws or regulations.

“Preferred Share Capital” means, in relation to the Share Capital of any corporation or company, Share Capital of any class or classes (however designated) that by its terms is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such corporation or company, over Share Capital of any other class of such corporation or company.

“Proportion” means in relation to a Lender in respect of any Letter of Credit or Bank Guarantee, the proportion (expressed as a percentage) borne by that Lender’s Available Commitment to the relevant Available Facility immediately prior to the issue of that Letter of Credit or Bank Guarantee, adjusted to reflect any assignment or transfer under this Agreement to or by that Lender.

“Purchase Money Obligations” means any Indebtedness Incurred to finance or refinance the acquisition, leasing, construction or improvement of property (real or personal) or assets, and whether acquired through the direct acquisition of such property or assets or the acquisition of the Share Capital of any person owning such property or assets, or otherwise.

“Qualifying Lender” has the meaning given to that term in Clause 18 (*Tax Gross Up and Indemnities*).

“Qualifying Listing” means any Listing which does not constitute a Change of Control after which the Consolidated Senior Secured Leverage Ratio immediately following such Listing, after giving effect to the application of the Listing Proceeds in accordance with Clause 12.4 (*Listing*), is less than 3.00:1.00 *provided that*, if an Event of Default is outstanding at the time such Listing occurs, it shall not be a Qualifying Listing until such time as that Event of Default is remedied or waived.

“Qualifying Ratings Event” means the long term corporate credit rating of the Group or the Parent is rated at least Baa3 (or equivalent) or better, respectively, by at least two of S&P, Fitch Ratings Ltd and Moody’s *provided that*, if an Event of Default is outstanding at the time such ratings event occurs, it shall not be a Qualifying Ratings Event until such time as that Event of Default is remedied or waived.

“Quarter Date” means the last day of each quarterly accounting period of the Group.

“Quotation Day” means, in relation to any period for which an interest rate is to be determined:

- (a) (if the currency is sterling) the first day of that period;
- (b) (if the currency is euro) two TARGET Days before the first day of that period; or
- (c) (for any other currency) two Business Days before the first day of that period,

unless market practice differs in the Relevant Market for a currency, in which case the Quotation Day for that currency will be determined by the Agent in accordance with market practice in the Relevant Market (and if quotations would normally be given by leading banks in the Relevant Market on more than one day, the Quotation Day will be the last of those days).

“**Rating Agency**” means Moody’s or S&P or, if Moody’s or S&P or both shall not make a rating on the applicable security or instrument publicly available, a nationally recognised statistical rating agency or agencies, as the case may be, selected by the Parent which shall be substituted for Moody’s or S&P or both, as the case may be.

“**Real Property**” means:

- (a) any freehold, leasehold or immovable property; and
- (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that freehold, leasehold or immovable property.

“**Receivables**” means a right to receive payment pursuant to an arrangement with trade debtors arising from business relations pursuant to which such trade debtor is obligated to pay, as determined in accordance with the Accounting Principles.

“**Receiver**” means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

“**Receiving Bankers**” means such person or persons appointed in their capacity as receiving bankers to the Scheme.

“**Receiving Bank Account**” means an account held by the Company with the Receiving Bankers.

“**Receiving Bankers' Agreements**” means the agreements to be entered into between the Parent and/or the Company and the Receiving Bankers prior to the occurrence of an Offer Conversion identifying the scope and duties of the Receiving Bankers.

“**Receiving Bankers' Certificate**” means a certificate confirming that payment for a specified number of the Target Shares acquired pursuant to the Scheme is to be made on a specified date and confirming the amount required to be paid.

“**Receiving Bankers' Undertaking**” means an undertaking from the Receiving Bankers to the Security Agent to hold any Target Shares that it receives on behalf of the Security Agent on and after the Unconditional Date and throughout the period of the Squeeze-Out Procedures.

“**Recovery Claim**” has the meaning given to that term in Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*).

“**Recovery Proceeds**” has the meaning given to that term in Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*).

“**Reference Bank Quotation**” means any quotation supplied to the Agent by a Reference Bank.

“**Reference Bank Rate**” means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks:

- (a) in relation to LIBOR:

- (i) (other than where paragraph (ii) below applies) as the rate at which the relevant Reference Bank could borrow funds in the London interbank market in the relevant currency and for the relevant period were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period; or
 - (ii) if different, as the rate (if any and applied to the relevant Reference Bank and the relevant currency and period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator; or
- (b) in relation to EURIBOR:
- (i) (other than where sub-paragraph (ii) below applies) as the rate at which the relevant Reference Bank believes one prime bank is quoting to another prime bank for interbank term deposits in euro within the Participating Member States for the relevant period; or
 - (ii) if different, as the rate (if any and applied to the relevant Reference Bank and the relevant period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator.

“**Reference Banks**” means the principal London offices of three or more banks (which have consented to being Reference Banks) as may be appointed from time to time by the Agent with the consent of the Company (such consent not to be unreasonably withheld or delayed).

“**refinance**” means refinance, refund, replace, renew, repay, modify, restate, defer, substitute, supplement, reissue, resell or extend (including pursuant to any defeasance or discharge mechanism); and the terms “**refinances**,” “**refinanced**” and “**refinancing**” as used for any purpose in this Agreement shall have a correlative meaning.

“**Refinancing Agreement**” has the meaning given to that term in paragraph (c) of Clause 31.2 (*Permitted Restrictions*);

“**Refinancing Indebtedness**” means Indebtedness that is Incurred to refinance Indebtedness Incurred pursuant to or refinance unutilised commitments in respect of Indebtedness under, the Senior Finance Documents or any other Indebtedness (or unutilised commitment in respect of Indebtedness) existing on the Closing Date details of which are set out in Schedule 20 (*Permitted Existing Indebtedness and Security*) or Incurred in compliance with this Agreement (including Indebtedness of a member of the Group that refinances Indebtedness of another member of the Group) including Indebtedness that refinances Refinancing Indebtedness, and Indebtedness Incurred pursuant to a commitment that refinances any Indebtedness or unutilised commitment,

provided that:

- (a) if the Indebtedness being refinanced is Subordinated Indebtedness, Junior Secured Indebtedness or Indebtedness that is unsecured, the Refinancing Indebtedness:
 - (i) has a final maturity date at the time such Refinancing Indebtedness is Incurred that is equal to or later than the final maturity date of the Indebtedness being refinanced (or, if shorter, the Termination Date in respect of the original Facility B Loans);
 - (ii) has a weighted average life to maturity at the time such Refinancing Indebtedness is Incurred that is equal to or longer than the remaining weighted average life to maturity of the Indebtedness being refinanced (or, if

shorter, the remaining weighted average life to maturity of the original Facility B Loans); and

- (iii) is subordinated in right of payment and security (in the case of Subordinated Indebtedness) or in right of security (in the case of Junior Secured Indebtedness) to the Initial Senior Facilities Liabilities and the Hedging Liabilities to the same extent as the Indebtedness being refinanced or is unsecured (in the case of Indebtedness that is unsecured);
- (b) if the Indebtedness being refinanced is not Subordinated Indebtedness, Junior Secured Indebtedness or Indebtedness that is unsecured, the Refinancing Indebtedness has a final maturity date at the time such Refinancing Indebtedness is Incurred that is equal to or later than the final maturity date of the Indebtedness being refinanced;
- (c) such Refinancing Indebtedness is Incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of (x) the aggregate principal amount then outstanding of the Indebtedness being refinanced, plus (y) an amount equal to any unutilised commitment relating to the Indebtedness being refinanced or otherwise then outstanding under the financing arrangement being refinanced to the extent the unutilised commitment being refinanced could be drawn in compliance with Clause 29 (*Limitation on Indebtedness*) immediately prior to such refinancing (and such corresponding commitment is also cancelled), plus (z) fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing;
- (d) Refinancing Indebtedness shall not include Indebtedness of a member of the Group that refinances Indebtedness of an Unrestricted Subsidiary.
- (e) if the Indebtedness being refinanced constitutes Additional Obligations, Rollover Indebtedness or Initial Senior Facilities Liabilities Incurred pursuant to paragraph (a) of Clause 29.2 (*Other Permitted Indebtedness*) (or Refinancing Indebtedness in respect of such Indebtedness):
 - (i) the Refinancing Indebtedness complies with the requirements of the definition of “Additional Obligations”;
 - (ii) if the Indebtedness being refinanced is unsecured, the Refinancing Indebtedness is unsecured;
 - (iii) if the Indebtedness being refinanced is secured by the Transaction Security on the basis that it ranks junior to the Initial Senior Facilities Liabilities and the Hedging Liabilities the Refinancing Indebtedness is unsecured or secured by the Transaction Security on the basis that it ranks junior to the Initial Senior Facilities Liabilities and the Hedging Liabilities; and
- (f) no Event of Default has occurred and is continuing or would arise as a result of the incurrence of such Refinancing Indebtedness.

“**Refunding Share Capital**” has the meaning given to that term in paragraph (a)(i) of Clause 30.2 (*Permitted Payments*).

“**Related Business**” means any business in which any member of the Group is engaged on the Closing Date, or that is similar, related, complementary, incidental or ancillary thereto or extensions, developments or expansions thereof.

“Related Fund” in relation to a fund (the **“first fund”**), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

“Related Person” of any specified person means any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For the purposes of this definition only, “control” (including, with correlative meanings, the terms “controlling”, “controlled by” and “under common control with”), as used with respect to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by agreement or otherwise.

“Related Taxes” means:

- (a) any taxes, charges or assessments, including but not limited to sales, use, transfer, rental, ad valorem, value added, stamp, property, consumption, franchise, license, capital, net worth, gross receipts, excise, occupancy, intangibles or similar taxes, charges or assessments (other than taxes measured by income and withholding tax imposed by any government or other taxing authority on payments made by any Parent Holdco), required to be paid by any Parent Holdco by virtue of its being incorporated or having Share Capital outstanding or having made a loan (but not by virtue of owning shares or other equity interests or loan receivables of any corporation or other entity other than the Parent or any Parent Holdco), or being a holding company parent of the Parent, any of its Subsidiaries or any Parent Holdco or receiving dividends from or other distributions in respect of the Share Capital of the Parent, any of its Subsidiaries or any Parent Holdco, or having guaranteed any obligations of the Parent or any Subsidiary thereof, or having made any payment in respect of any of the items for which the Parent or any of its Subsidiaries is permitted to make payments to any Parent Holdco pursuant to Clause 30 (*Limitation on Restricted Payments*);
- (b) any taxes attributable to any taxable period (or portion thereof) ending on or prior to the Closing Date, or to the consummation of the Transactions, or to any Parent Holdco’s receipt of (or entitlement to) any payment in connection with the Transactions, including any payment received after the Closing Date pursuant to any Transaction Document; and
- (c) any taxes measured by income for which any Parent Holdco is liable up to an amount not to exceed the amount of any such taxes that the Parent and its Subsidiaries would have been required to pay on a separate company basis, or on a consolidated basis as if the Parent had filed a consolidated return on behalf of an affiliated group of which it were the common parent, or the amount of any such taxes that the Parent and its subsidiaries would have been required to pay on a separate company basis, or on a consolidated, combined, unitary or affiliated basis as if the Parent had filed a consolidated, combined, unitary or affiliated return on behalf of an affiliated group consisting only of the Parent and its Subsidiaries, *provided that* amounts in respect of an Unrestricted Subsidiary shall be permitted only to the extent that cash dividends, distributions or reductions in share capital were made by such Unrestricted Subsidiary to the Parent or any of its Restricted Subsidiaries for such purpose. Taxes include all interest, penalties and additions relating thereto.

“Relevant Holders” means:

- (a) the Original Investors;
- (b) Management;
- (c) the Management Investors; and
- (d) any other person approved by all the Lenders.

“Relevant Jurisdiction” means, in relation to an Obligor:

- (a) its jurisdiction of incorporation;
- (b) any jurisdiction where any material assets subject to or intended to be subject to the Transaction Security to be created by it are situated;
- (c) any jurisdiction where it conducts a material part of its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

“Relevant Market” means in relation to euro, the European interbank market and, in relation to any other currency, the London interbank market.

“Relevant Material Debt” means:

- (a) any Indebtedness which constitutes, is intended to constitute or otherwise has the equivalent ranking in right of repayment and security as the Credit Facility Lender Liabilities, Senior Secured Notes Liabilities, Second Lien Liabilities and any Unsecured Note Liabilities (each as defined in the Intercreditor Agreement);
- (b) any Junior Secured Indebtedness;
- (c) any Subordinated Indebtedness;
- (d) any other categories of Indebtedness which are customarily regulated by intercreditor agreements in the European loan market (taking into account their amount, tenor and ranking in right of security and payment); and
- (e) any individual item of Indebtedness not listed in paragraphs (a) to (d) above to the extent that the principal amount of such item of Indebtedness exceeds the greater of £7,500,000 and 20 per cent. of Consolidated EBITDA.

“Relevant Nominating Body” means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

“Relevant Period” means each period of 12 months ending on or about the last day of the Financial Year and each period ending on or about the last day of each Financial Quarter.

“Reliance Parties” means the Agent, the Arrangers, any Issuing Bank as at the date the relevant reliance letter in respect of a Report is provided, each Hedge Counterparty as at the date the relevant reliance letter in respect of a Report is provided, each Ancillary Lender as at the date the relevant reliance letter in respect of a Report is provided, each Original Lender and each other person which may be agreed by the Parent, the Agent and each of the Report Providers.

“Renewal Request” means a written notice delivered to the Agent in accordance with Clause 6.6 (*Renewal of a Letter of Credit or Bank Guarantee*).

“Repeating Representations” means each of the representations set out in Clause 24.2 (*Status*) to Clause 24.6 (*No Material Proceedings*), paragraphs (b) and (c) of Clause 24.7 (*Financial Statements*), Clause 24.8 (*No Material Adverse Change*) to Clause 24.10 (*Claims pari passu*), paragraph (e) of Clause 24.13 (*Information Memorandum*), Clause 24.17 (*Security and Indebtedness*), Clause 24.23 (*Shares*), Clause 24.29(a) (*Centre of main interests and establishments*), Clause 24.32 (*Sanctions*) and Clause 24.33 (*Anti-corruption laws and anti-money laundering laws*).

“Replacement Benchmark” means a benchmark rate which is:

- (a) formally designated, nominated or recommended as the replacement for a Screen Rate by:
 - (i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or
 - (ii) any Relevant Nominating Body,and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Benchmark" will be the replacement under paragraph (ii) above;
- (b) in the opinion of the Majority Lenders and the Obligors' Agent, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to a Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Obligors' Agent, an appropriate successor to a Screen Rate.

“Report Providers” means the persons preparing the Reports.

“Reports” means each of the reports listed in paragraph 5(c) (*Conditions Precedent to be satisfied before the issue of the Scheme Press Release*) of Schedule 2 (*Conditions Precedent*).

“Representative” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

“Required Release Lenders” means, at any time:

- (a) a Lender or Lenders whose Commitments aggregate 80 per cent. or more of the Total Commitments (and for this purpose the amount of an Ancillary Lender's Revolving Facility Commitments shall not be reduced by the amount of its Ancillary Commitment); and
- (b) if the Total Commitments have been reduced to zero, a Lender or Lenders whose Commitments aggregated to 80 per cent. or more of the Total Commitments immediately prior to that reduction.

“Resignation Letter” means a letter substantially in the form set out in Schedule 7 (*Form of Resignation Letter*).

“Resolution Authority” means any body which has authority to exercise any Write-down and Conversion Powers.

“Responsible Officer” means, in relation to any person, any of the following:

- (a) the CEO, the CFO or the treasurer of such person;
- (b) any director; or
- (c) any other person who has been appointed to act as a Responsible Officer pursuant to a resolution of the Board of Directors of such person.

“Restricted Payment” has the meaning given to that term in Clause 30.1 (*Limitation on payments and investments*).

“Restricted Payment Transaction” means any Restricted Payment permitted pursuant to Clause 30.1 (*Limitation on payments and investments*), any Permitted Payment, any Permitted Investment, or any transaction specifically excluded from the definition of the term **“Restricted Payment”** (including pursuant to the exception contained in paragraph (a) of such definition and the parenthetical exclusions set out in paragraph (b), (c) and (d) of such definition).

“Restricted Subsidiary” means any Subsidiary of the Parent other than an Unrestricted Subsidiary.

“Revolving Facility” means the Original Revolving Facility, any Extended Revolving Facility Tranche, any revolving Incremental Facility and any revolving Senior Loan Refinancing Facility.

“Revolving Facility Commitments” means the Original Revolving Facility Commitments, any Extended Revolving Facility Tranche Commitments, any revolving Incremental Facility Commitments and any revolving Senior Loan Refinancing Facility Commitments.

“Revolving Facility Lender” means any Lender who makes available a Revolving Facility Commitment or Revolving Facility Loan.

“Revolving Facility Loan” means an Original Revolving Facility Loan, any Extended Revolving Facility Loan, any revolving Incremental Facility Loan or any revolving Senior Loan Refinancing Facility Loan.

“Revolving Facility Utilisation” means a Utilisation under a Revolving Facility.

“Rollover Indebtedness” means Indebtedness of a Borrower or a Guarantor issued to any Lender in substitution for that Lender’s *pro rata* portion of any repayment of Utilisations made pursuant to Clause 11.4 (*Voluntary prepayment of Term Loans*) and Clause 11.5 (*Voluntary prepayment of Original Revolving Facility Utilisations and Revolving Facility Loans*).

“Rollover Loan” means one or more Revolving Facility Loans:

- (a) made or to be made on the same day that:
 - (i) a maturing Revolving Facility Loan is due to be repaid; or
 - (ii) a demand by the Agent pursuant to a drawing in respect of a Letter of Credit or Bank Guarantee is due to be met;

- (b) the aggregate amount of which is equal to or less than the amount of the maturing Revolving Facility Loan or the relevant claim in respect of that Letter of Credit or Bank Guarantee;
- (c) in the same currency as the maturing Revolving Facility Loan (unless it arose as a result of the operation of Clause 8.2 (*Unavailability of a currency*)) or the relevant claim in respect of that Letter of Credit or Bank Guarantee; and
- (d) made or to be made to the same Borrower for the purpose of:
 - (i) refinancing that maturing Revolving Facility Loan; or
 - (ii) satisfying the relevant claim in respect of that Letter of Credit or Bank Guarantee.

“**Sale**” has the meaning given to that term in Clause 26.2 (*Financial definitions*).

“**Sale and Leaseback Transaction**” means any arrangement with any person providing for the leasing by any member of the Group of real or personal property that has been or is to be sold or transferred by any such member of the Group to such person or to any other person to whom funds have been or are to be advanced by such person on the security of such property or rental obligations of the Parent or such member of the Group.

“**Sale of Whole**” means a sale of all or substantially all of the business and/or assets of the Group (whether in a single transaction or a series of transactions).

“**Sanctions**” means all economic or financial sanctions or trade embargoes or similar restrictive measures imposed, enacted, administered or enforced from time to time by: (a) the United States of America, (b) the United Nations Security Council, (c) the European Union, (d) the United Kingdom and (e) the respective governmental institutions of any of the foregoing which administer Sanctions, including OFAC, the US State Department and the US Department of the Treasury.

“**Sanctioned Country**” means a country, region, or territory that is, or whose government is, the subject ~~of~~ target of any Sanctions broadly prohibiting dealings with such government, country or territory. As of the date of this Agreement, the Parties agree that the only Sanctioned Countries in the world are the Crimea region of Ukraine (as defined and constituted in the applicable Sanctions laws and regulations), Cuba, Iran, North Korea, ~~Sudan~~ and Syria.

“**Sanctioned Country Person**” has the meaning given to that term in Clause 24.32 (*Sanctions*).

“**Sanctioned Person**” has the meaning given to that term in Clause 24.32 (*Sanctions*).

~~“**Sanctions**” means any economic or trade sanction laws or regulations or restrictive measures (including embargoes) enacted, administered, imposed or enforced by the United States government and/or the United Nations and/or the European Union and/or any Member State and/or the United Kingdom and/or the Swiss Confederation or the respective governmental institutions and agencies of any of the foregoing, including without limitation, OFAC, the United States Department of State and/or the United Nations Security Council and/or Her Majesty’s Treasury or other relevant sanctions authority of the United States, the United Nations, the European Union, the United Kingdom or the French Republic (or any of their agencies) which administers legally binding economic or trade sanctions.~~

“Sanctions Authorities” means the respective governmental institutions and agencies of the United States government, the United Nations, the United Kingdom, the Swiss Confederation, the European Union and its Member States and includes, without limitation, OFAC, the United States Department of State, the United Nations Security Council and/or Her Majesty’s Treasury.

“Scheme” or **“Scheme Acquisition”** means a scheme of arrangement under Part 26 of the Companies Act to be proposed by the Target to its shareholders in connection with the Acquisition substantially on the terms set out in the Scheme Press Release and in accordance with the other Scheme Documents, as such scheme may from time to time be amended, added to, revised, renewed or waived as permitted in accordance with the terms of this Agreement.

“Scheme Circular” means a circular (including any supplementary circular) to be issued by the Target to its shareholders setting out the resolutions and proposals for and the terms of the Scheme pursuant to Part 26 of the Companies Act.

“Scheme Documents” means each of the Scheme Press Release, the Scheme Circular, the Scheme Resolutions, the Scheme Court Order and any other document designated as a **“Scheme Document”** by each of (i) the Agent and (ii) the Company.

“Scheme Court Order” means an order of the Court sanctioning the Scheme pursuant to section 899 of the Companies Act.

“Scheme Press Release” means a press announcement to be released pursuant to Rule 2.7 of the Takeover Code by the Company or any member of the Group announcing the terms and conditions of the Scheme and confirming that, as at the date of such press release, the Acquisition was recommended to the Target shareholders by its board of directors.

“Scheme Resolutions” means the resolutions of the holders of the Target Shares which are required to implement the Scheme referred to and in the form set out in the Scheme Circular and which are to be proposed at the General Meeting.

“Screen Rate” means:

- (a) in relation to LIBOR, the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed on pages LIBOR01 or LIBOR02 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate); and
- (b) in relation to EURIBOR, the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate),

or, in each case, on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Parent.

“Screen Rate Replacement Event” means, in relation to a Screen Rate:

- (a) the methodology, formula or other means of determining that Screen Rate has, in the opinion of the Majority Lenders, and the Obligors’ Agent materially changed;

- (b)
- (i)
- (A) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
- (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent,
- provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;
- (ii) the administrator of that Screen Rate publicly announces that it has ceased or will cease, to provide that Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate;
- (iii) the supervisor of the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued; or
- (iv) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used; or
- (c) in the opinion of the Majority Lenders and the Obligors' Agent, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

“**Secured Parties**” means each Senior Finance Party from time to time party to this Agreement and any Receiver or Delegate.

“**Security**” and “**Security Interest**” mean a mortgage, charge, standard security, assignment in security, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

“**Selection Notice**” means a notice substantially in the form set out in Part 2 (*Selection Notice*) of Schedule 3 (*Requests and Notices*) given in accordance with Clause 15 (*Interest Periods*) in relation to a Term Facility.

“**Senior Finance Document**” means this Agreement, ~~any~~ [the Amendment and Restatement Deed](#), [any](#) Accession Deed, any Ancillary Document, any Compliance Certificate, any Fee Letter, any Hedging Agreement, the Intercreditor Agreement, any Other Intercreditor Agreement, any Resignation Letter, any Selection Notice, any Transaction Security Document, any Utilisation Request, any Extension Notice with respect to an Extended Tranche that is deemed Utilised, any Incremental Facility Notice, any Senior Loan Refinancing Facility Notice and any other document designated as a “Senior Finance Document” by the Agent and the Parent *provided that* where the term “Senior Finance Document” is used in, and construed for the purposes of, this Agreement, the Intercreditor Agreement or, if applicable, any Other Intercreditor Agreement, a Hedging Agreement shall be a Senior Finance Document only for the purposes of:

- (a) the definition of “Material Adverse Effect”;
- (b) the definition of “Transaction Documents”;
- (c) the definition of “Transaction Security Documents”;
- (d) sub-paragraph (a)(iv) of Clause 1.2 (*Construction*); and
- (e) the Agreed Security Principles.

“**Senior Finance Party**” means the Agent, the Arrangers, the Security Agent, a Lender, an Issuing Bank, a Hedge Counterparty or any Ancillary Lender *provided that* where the term “Senior Finance Party” is used in, and construed for the purposes of, this Agreement, or the Intercreditor Agreement or, if applicable, any Other Intercreditor Agreement, a Hedge Counterparty shall be a Senior Finance Party only for the purposes of:

- (a) the definition of “Secured Parties”;
- (b) sub-paragraph (a)(i) of Clause 1.2 (*Construction*);
- (c) paragraph (c) of the definition of “Material Adverse Effect”; and
- (d) Clause 42 (*Conduct of Business by the Senior Finance Parties*).

“**Senior Loan Refinancing Facility**” means any uncommitted facility which may be granted to a Senior Loan Refinancing Facility Borrower as described in sub-paragraph (a)(iv) of Clause 2.1 (*The Facilities*).

“**Senior Loan Refinancing Facility Accession Certificate**” means a document substantially in the form set out in Part 2 (*Senior Loan Refinancing Facility Accession Certificate*) of Schedule 21 (*Permitted Form of Senior Loan Refinancing Facility Notice and Senior Loan Refinancing Facility Accession Certificate*).

“**Senior Loan Refinancing Facility Borrower**” means each member of the Group (other than the Parent) identified in the applicable Senior Loan Refinancing Facility Notice as a Borrower in respect of the applicable Senior Loan Refinancing Facility (*provided that* if any such member of the Group is not already a Borrower it shall accede as an Additional Borrower in respect of the Senior Loan Refinancing Facility in accordance with Clause 40 (*Changes to the Obligors*)) unless it has ceased to be a Borrower in accordance with Clause 40 (*Changes to the Obligors*).

“**Senior Loan Refinancing Facility Commitments**” means, in relation to any Senior Loan Refinancing Facility Commitment identified in a Senior Loan Refinancing Facility Notice:

- (a) in relation to any Senior Loan Refinancing Facility Lender, the amount identified in that Senior Loan Refinancing Facility Notice and the amount of any of those Senior Loan Refinancing Facility Commitments transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any of those Senior Loan Refinancing Facility Commitments transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“**Senior Loan Refinancing Facility Indebtedness**” means Indebtedness incurred under a Senior Loan Refinancing Facility.

“**Senior Loan Refinancing Facility Lender**” means any Lender under the Senior Loan Refinancing Facility.

“**Senior Loan Refinancing Facility Loan**” means, in respect of any Senior Loan Refinancing Facility Commitments, a Loan made by the Senior Loan Refinancing Facility Lenders in respect of those Senior Loan Refinancing Facility Commitments.

“**Senior Loan Refinancing Facility Notice**” means a notice substantially in the form set out in Part 1 (*Senior Loan Refinancing Facility Notice*) of Schedule 21 (*Permitted Form of Senior Loan Refinancing Facility Notice and Senior Loan Refinancing Facility Accession Certificate*) delivered by the Parent to the Agent in accordance with Clause 2.4 (*Senior Loan Refinancing Facility*).

“**Separate Loans**” has the meaning given to that term in Clause 10.5 (*Repayment of Revolving Facility Loans*).

“**Share Capital**” means, in relation to any person, any and all shares or units of, rights to purchase, warrants or options for, or other equivalents of or interests in (however designated) equity of such person, including any Preferred Share Capital, but excluding any debt securities convertible into such equity.

“**Special Purpose Entity**” means:

- (a) any Special Purpose Subsidiary; or
- (b) any other person that is engaged in the business of:
 - (i) acquiring, selling, collecting, financing or refinancing Receivables, accounts (as defined in the UCC as in effect in any jurisdiction from time to time), other accounts and/or other receivables, and/or related assets; and/or
 - (ii) financing or refinancing in respect of Share Capital of any Special Purpose Subsidiary.

“**Special Purpose Financing**” means any financing or refinancing of Receivables of the Parent or any Restricted Subsidiary that have been transferred to a Special Purpose Entity or is subject to a Financing Disposition (including any financing or refinancing in respect of Share Capital of a Special Purpose Subsidiary held by another Special Purpose Subsidiary) that meets the following conditions:

- (a) the Board of Directors of the Parent shall have determined in good faith that such Special Purpose Financing (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Parent and the Special Purpose Subsidiary; and
- (b) the financing terms, covenants, termination events and other provisions thereof shall be on market terms (as determined in good faith by the Board of Directors of the Parent and *provided that*, for the avoidance of doubt, such terms may include Special Purpose Financing Undertakings).

“**Special Purpose Financing Expense**” means for any period:

- (a) the aggregate interest expense for such period on any Indebtedness of any Special Purpose Subsidiary that is a Restricted Subsidiary, which Indebtedness is not

recourse to the Parent or any Restricted Subsidiary that is not a Special Purpose Subsidiary (other than with respect to Special Purpose Financing Undertakings); and

- (b) Special Purpose Financing Fees.

“**Special Purpose Financing Fees**” means distributions or payments made directly or by means of discounts with respect to any participation interest issued or sold in connection with, and other fees paid to a person that is not a Restricted Subsidiary in connection with, any Special Purpose Financing.

“**Special Purpose Financing Liabilities**” means collectively, any and all claims, obligations, liabilities, causes of action, actions, suits, proceedings, investigations, judgments, decrees, losses, damages, fees, costs and expenses (including interest, penalties and fees and disbursements of attorneys, accountants, investment bankers and other professional advisers), in each case whether incurred, arising or existing with respect to third parties or otherwise at any time or from time to time.

“**Special Purpose Financing Undertakings**” means, in each case subject to paragraph (b) below, representations, warranties, covenants, indemnities, guarantees of performance and other agreements and undertakings entered into or provided by the Parent or any of its Restricted Subsidiaries that the Parent determines in good faith (which determination shall be conclusive) are customary or otherwise necessary or advisable in connection with a Special Purpose Financing or a Financing Disposition; *provided that* it is understood that,

- (a) Special Purpose Financing Undertakings may consist of or include:
- (i) reimbursement and other obligations in respect of notes, letters of credit, surety bonds and similar instruments provided for credit enhancement purposes;
 - (ii) Hedging Obligations or other obligations relating to Interest Rate Agreements, Currency Agreements or Commodities Agreements entered into by the Parent or any Restricted Subsidiary, in respect of any Special Purpose Financing or Financing Disposition; or
 - (iii) any Guarantee in respect of customary recourse obligations (as determined in good faith by the Parent, which determination shall be conclusive) in connection with any Special Purpose Financing or Financing Disposition, including in respect of Special Purpose Financing Liabilities in the event of any involuntary case commenced with the collusion of any Special Purpose Subsidiary or any Affiliate thereof, or any voluntary case commenced by any Special Purpose Subsidiary, under any applicable bankruptcy law, and
- (b) subject to paragraph (a), any such other agreements and undertakings shall not include any guarantee of Indebtedness of a Special Purpose Subsidiary by the Parent or a Restricted Subsidiary that is not a Special Purpose Subsidiary.

“**Special Purpose Subsidiary**” means any Subsidiary of the Parent that is designated as a Special Purpose Subsidiary by the Parent and that is engaged solely in:

- (a) the business of (i) acquiring, selling, collecting, financing or refinancing Receivables, accounts (as defined in the UCC as in effect in any jurisdiction from time to time) and other accounts and receivables (including any thereof constituting or evidenced by chattel paper, instruments or general intangibles), all proceeds thereof and all rights (contractual and other), collateral and other assets relating thereto, and/or (ii)

owning or holding Share Capital of any Special Purpose Subsidiary and/or engaging in any financing or refinancing in respect thereof; and

(b) any business or activities incidental or related to the business described in (a) above,

provided that the Subsidiary to be so designated does not hold shares in any other Subsidiary of the Parent (other than another Special Purpose Subsidiary).

“Specified Time” means a time determined in accordance with Schedule 10 (*Timetables*).

“Sponsor Affiliate” means each Lovell Minnick Party and, each of its Affiliates, any trust of which any of such persons is a trustee, any partnership of which any of such persons is a partner and any trust, fund or other entity which is managed by, or is under the control of, any such persons, *provided that* (a) any such trust, fund or other entity which has been established solely for the purpose of making, purchasing or investing in loans or debt securities and which is managed or controlled independently from all other trusts, funds or other entities managed or controlled by an Investor or any of its Affiliates which have been established for the primary or main purpose of investing in the share capital of companies, (b) any member of the Group, (c) any other trust, fund or other entity which has been established for the purpose of making, purchasing or investing in loans or debt securities and which is managed by, or is under the control of, any of the Lovell Minnick Parties or any of its Affiliates, in each case, shall not constitute a Sponsor Affiliate. For the avoidance of doubt, the term "Sponsor Affiliate" shall include (i) all parties actually acting in concert with a Lovell Minnick Parties or any other shareholder (direct or indirect) of the Parent from time to time and (ii) all shareholders (direct or indirect) of the Parent from time to time.

“Squeeze-Out Account” has the meaning given to it in Clause 5.2 (*Completion of a Utilisation Request for Loans*).

“Squeeze-Out Date” means, upon becoming entitled to exercise the “Squeeze Out Procedure”, the first date on which all shares in the Target are acquired by the Company pursuant to exercise of such procedure.

“Squeeze-Out Loan” means the aggregate principal amount of any Loan made or to be made available to the Original Borrower for the purpose of satisfying the consideration payable for the acquisition of the Target Shares pursuant to the operation of the Squeeze-Out Procedures, or the principal amount outstanding for the time being of that Loan;

“Squeeze-Out Procedures” means, if the Company becomes entitled to give notice under section 979 of the Companies Act, the procedure to be implemented following the date on which the Offer is declared or becomes unconditional in all respects under section 979 of the Companies Act to acquire all of the outstanding shares in the Target which the Company has not acquired, contracted to acquire or in respect of which it has not received valid acceptances.

“Structural Loans” means any loan (other than any Loan) made to the Company by the Parent.

“Structure Memorandum” means the tax structure memorandum paper entitled Project Jewel Tax strawman outline (as amended and/or updated from time to time prior to the Closing Date) prepared by Ernst & Young LLP, in the agreed form and addressed to, and/or capable of being relied upon by, the Reliance Parties.

“Subordinated Indebtedness” means any Indebtedness of any member of the Group (whether outstanding on the Closing Date or thereafter Incurred) that ranks, or is intended to rank, junior to and/or is subordinated to (in right of payment and security) the Initial Senior

Facilities Liabilities and the Hedging Liabilities pursuant to the Intercreditor Agreement or otherwise on terms satisfactory to the Agent (acting reasonably).

“Subordinated Shareholder Funding” means, any funds provided to the Parent (which is further contributed to the Company) by the Parent’s immediate holding company or any Parent Holdco, or any Affiliate of any Parent Holdco, in exchange for or pursuant to any security, instrument or agreement other than Share Capital, together with any such security, instrument or agreement and any other security or instrument other than Share Capital issued in payment of any obligation under any Subordinated Shareholder Funding, *provided that* such Subordinated Shareholder Funding:

- (a) does not mature or require any amortisation or other payment of principal prior to the first anniversary of the Termination Date in respect of the original Facility B Loan (other than through conversion or exchange of any such security or instrument for Share Capital (other than Disqualified Share Capital) or for any other security or instrument meeting the requirements of this definition);
- (b) does not require the payment of cash interest prior to the first anniversary of the Termination Date in respect of the original Facility B Loan;
- (c) does not accelerate and has no right to declare a default or event of default (other than a default or event of default, the remedy for which is limited to a change to the members of the board of directors or a change of management) or take any enforcement action, in each case prior to the first anniversary of the Termination Date in respect of the original Facility B Loan;
- (d) is not secured or guaranteed by any asset of any member of the Group;
- (e) does not contain any covenant that requires the maintenance of financial ratios, or include tests, in each case relating to the financial performance or condition of any member of the Group; and
- (f) is subordinated in right of payment to the prior payment in full of the Initial Senior Facilities Liabilities and the Hedging Liabilities in accordance with the term of the Intercreditor Agreement or an Other Intercreditor Agreement or otherwise on terms satisfactory to the Agent (acting reasonably).

“Subsidiary” means in relation to any person, any entity which is controlled directly or indirectly by that person and any entity (whether or not so controlled) treated as a subsidiary in the latest financial statements of that person from time to time, and “control” for this purpose means the direct or indirect ownership of the majority of the voting share capital of such entity or the right or ability to determine the composition of a majority of the board of directors (or like board) of such entity, in each case whether by virtue of ownership or share capital, contract or otherwise.

“Substitute Affiliate Lender” has the meaning given to that term in paragraph (a)(ii) of Clause 5.7 (*Lender Affiliates and Facility Office*).

“Substitute Affiliate Lender Designation Notice” means a notice substantially in the form set out in Schedule 22 (*Form of Substitute Affiliate Lender Designation Notice*).

“Substitute Facility Office” has the meaning given to that term in paragraph (a)(i) of Clause 5.7 (*Lender Affiliates and Facility Office*).

“**Successor Obligor**” has the meaning given to that term in Clause 35.1 (*Restriction on Merger*).

“**Syndication Closing Date**” means the date on which the Arranger communicates to prospective Lenders the allocation of the Commitments under Facility B.

“**S&P**” means Standard & Poor’s Ratings Services.

“**Takeover Code**” means the UK City Code on Takeovers and Mergers, as administered by the Takeover Panel, as may be amended from time to time.

“**Takeover Panel**” means the UK Panel on Takeovers and Mergers.

“**Target**” means Charles Taylor Plc a company incorporated under the laws of England and Wales with company registration number 3194476.

“**Target Group**” means the Target and its Subsidiaries.

“**Target Shares**” means all of the shares in the capital of the Target.

“**TARGET2**” means the Trans-European Automated Real time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

“**TARGET Day**” means any day on which TARGET2 is open for the settlement of payments in euro.

“**Tax**” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

“**Temporary Cash Investments**” means:

- (a) any investment in:
 - (i) direct obligations of the United States of America, Canada, the United Kingdom, a member state of the European Union or any country in whose currency funds are being held pending their application in the making of an investment or capital expenditure by any member of the Group in that country or with such funds, or any agency of any thereof, or obligations Guaranteed by the United States of America, the United Kingdom or a member state of the European Union or any country in whose currency funds are being held pending their application in the making of an investment or capital expenditure by any member of the Group in that country or with such funds, or any agency of any of the foregoing, or obligations guaranteed by any of the foregoing; or
 - (ii) direct obligations of any country recognised by the United Kingdom rated at least “A” by S&P or “A-1” by Moody’s (or, in either case, the equivalent of such rating by such organisation or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognised rating organisation);
- (b) overnight bank deposits, and investments in time deposit accounts, certificates of deposit, bankers’ acceptances and money market deposits (or, with respect to foreign

banks, similar instruments) maturing not more than one year after the date of acquisition thereof issued by:

- (i) any bank or other institutional lender that is a Lender under this Agreement or any Affiliate thereof; or
- (ii) a bank or trust company that is organised under the laws of the United States of America, any state thereof or any country recognised by the United States of America having capital and surplus aggregating in excess of \$250,000,000 (or the relevant local currency equivalent thereof) and whose long term debt is rated at least “A” by S&P or “A-1” by Moody’s (or, in either case, the equivalent of such rating by such organisation or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognised rating organisation) at the time such Investment is made;
- (c) repurchase obligations with a term of not more than 30 days for underlying securities or instruments of the types described in paragraph (a) or (b) above entered into with a bank meeting the qualifications described in paragraph (b) above;
- (d) Investments in commercial paper, maturing not more than 270 days after the date of acquisition, issued by a person (other than that of any member of the Group), with a rating at the time at which any Investment therein is made of “P-2” (or higher) according to Moody’s or “A-2” (or higher) according to S&P (or, in either case, the equivalent of such rating by such organisation or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognised rating organisation);
- (e) Investments in securities maturing not more than one year after the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least “A” by S&P or “A2” by Moody’s (or, in either case, the equivalent of such rating by such organisation or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognised rating organisation);
- (f) Indebtedness or Preferred Share Capital (other than of any member of the Group) having a rating of “A” or higher by S&P or “A2” or higher by Moody’s (or, in either case, the equivalent of such rating by such organisation or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any nationally recognised rating organisation);
- (g) investment funds investing 95.0 per cent. of their assets in securities of the type described in paragraphs (a) to (f) above (which funds may also hold reasonable amounts of cash pending investment and/or distribution); and
- (h) any money market deposit accounts issued or offered by a domestic commercial bank or a commercial bank organised and located in a country recognised by the United Kingdom, in each case, having capital and surplus in excess of \$250,000,000 (or the relevant local currency equivalent thereof).

“**Term**” means each period determined under this Agreement for which an Issuing Bank is under a liability under a Letter of Credit or Bank Guarantee.

“**Term Facility**” means Facility B, any Extended Term Tranche, any term Incremental Facility or any term Senior Loan Refinancing Facility.

“**Term Loan**” means a Facility B Loan, an Extended Term Loan, a term Incremental Facility Loan or a term Senior Loan Refinancing Facility Loan.

“**Termination Date**” means:

- (a) in respect of the Original Revolving Facility, the date falling six years after the Closing Date;
- (b) in respect of Facility B, the date falling seven years after the Closing Date;
- (c) in respect of any Extended Tranche, the date specified in the relevant Extension Notice in accordance with Clause 2.5 (*Extension*);
- (d) in respect of an Incremental Facility, the date specified in the relevant Incremental Facility Notice in accordance with Clause 2.3 (*Incremental Facility*); and
- (e) in respect of a Senior Loan Refinancing Facility, the date specified in the relevant Senior Loan Refinancing Facility Notice in accordance with Clause 2.4 (*Senior Loan Refinancing Facility*).

“**Third Party Disposal**” has the meaning given to that term in Clause 40.3 (*Resignation of a Borrower*).

“**Total Commitments**” means the aggregate of the Total Facility B Commitments, the Total Original Revolving Facility Commitments, any Extended Tranche Commitments, any Incremental Facility Commitments and any Senior Loan Refinancing Facility Commitments, being £~~170,000,000~~180,000,000 at the date of this Agreement.

“**Total Facility B Commitments**” means the aggregate of the Facility B Commitments, being £150,000,000 at the date of this Agreement.

“**Total Original Revolving Facility Commitments**” means the aggregate of the Original Revolving Facility Commitments, being £~~20,000,000~~30,000,000 at the date of this Agreement.

“**Total Revolving Facility Commitments**” means the aggregate of the Revolving Facility Commitments, being £~~20,000,000~~30,000,000 at the date of this Agreement.

“**Trade Payables**” means, in relation to any person, any accounts payable or any indebtedness or monetary obligation to trade creditors created, assumed or guaranteed by such person arising in the ordinary course of day to day business in connection with the acquisition of goods or services.

“**Transaction Documents**” means the Senior Finance Documents, the Acquisition Documents, the Receiving Bankers’ Agreements and the Constitutional Documents.

“**Transaction Security**” means the Security created or expressed to be created in favour of the Security Agent and/or the Secured Parties pursuant to the Transaction Security Documents.

“**Transaction Security Documents**” means each of the documents referred to as Transaction Security Documents in Schedule 2 (*Conditions Precedent*), the Receiving Bankers’ Undertaking and any other document entered into by any Obligor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of

the Obligors under any of the Senior Finance Documents or designated by the Agent and the Parent to be a Transaction Security Document.

“**Transactions**” means the transactions contemplated by the Transaction Documents, the Funds Flow Statement and the Structure Memorandum (other than any exit steps set out therein).

“**Transfer**” has the meaning given to that term in Clause 38.2 (*Conditions of assignment or transfer*).

“**Transfer Certificate**” means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Parent.

“**Transfer Date**” means, in relation to an assignment or a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
- (b) the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

“**Treasury Shares**” has the meaning given to that term in paragraph (a)(i) of Clause 30.2 (*Permitted Payments*).

“**Treasury Transactions**” means any currency, interest or commodity purchase, cap or collar agreement, forward or spot rate agreement, interest rate or currency future or option contract, futures contract or option on futures, foreign exchange or currency or commodity forward purchase or sale agreement, interest rate swap, currency swap, commodity swap or combined interest rate and currency swap agreement or any other derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.

“**UCC**” means the Uniform Commercial Code as in effect in the State of New York from time to time.

“**Unacceptable Lender**” means a fund (or an Affiliate of a fund) that primarily engages in investment strategies that include the purchase of loans or other debt securities with a view to owning the equity or gaining control of a business (directly or indirectly) (other than an Affiliate of such a fund, a material part of whose activities do not include engaging in such investment strategies).

“**Unconditional Date**” means the date on which the Offer is declared or becomes unconditional in all respects.

“**Underwriting Fee Letter**” means the underwriting fee letter dated on or about the date of this Agreement.

“**Unpaid Sum**” means any sum due and payable but unpaid by an Obligor under the Senior Finance Documents.

“**Unrestricted Subsidiary**” means:

- (a) any Subsidiary of the Parent that at the time of determination is an Unrestricted Subsidiary, as designated by the Parent in the manner provided below; and
- (b) any Subsidiary of an Unrestricted Subsidiary.

The Parent may designate any Subsidiary which is not a Borrower (including any newly acquired or newly formed Subsidiary of the Parent) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Share Capital or Indebtedness of, or owns or holds any Security Interest on any property of, the Parent or any other Restricted Subsidiary of the Parent that is not a Subsidiary of the Subsidiary to be so designated *provided that*:

- (i) such designation was made at or prior to the Closing Date; or
- (ii) such designation would be permitted under Clause 30 (*Limitation on Restricted Payments*); or
- (iii) such Subsidiary shall be a Special Purpose Subsidiary with no Indebtedness outstanding other than Indebtedness that can be Incurred (and upon such designation shall be deemed to be Incurred and outstanding) pursuant to Clause 29.2 (*Other Permitted Indebtedness*); and
- (iv) no Event of Default has occurred and is continuing (or would occur immediately after giving effect to such designation).

The Parent may designate any Unrestricted Subsidiary to be a Restricted Subsidiary *provided that*:

- (v) immediately after giving effect to such designation the Parent could Incur at least £1.00 of additional Indebtedness under paragraph (a) of Clause 29.1 (*Ratio Debt*); ~~and~~
- (vi) no Event of Default has occurred and is continuing (or would occur immediately after giving effect to such designation); ~~and~~
- (vii) any Indebtedness Incurred by that Unrestricted Subsidiary which is outstanding at the time of designation will be treated as having been Incurred at such time.

Any such designation shall be evidenced to the Agent by promptly providing the Agent with a copy of the resolution of the Board of Directors of the Parent giving effect to such designation and a certificate of the Parent signed by the CEO or the CFO certifying that such designation complied with the foregoing provisions.

“US” means the United States of America.

“Utilisation” means a Loan, a Letter of Credit or a Bank Guarantee.

“Utilisation Date” means the date of a Utilisation, being the date on which the relevant Loan is to be made or the relevant Letter of Credit or Bank Guarantee is to be issued.

“Utilisation Request” means a notice substantially in the relevant form set out in Parts 1 and 2 of Schedule 3 (*Requests and Notices*).

“VAT” means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and

- (b) any other Tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

“**Waived Amount**” has the meaning given to that term in paragraph (c) of Clause 12.9 (*Right to refuse prepayment*).

“**Withdrawal Event**” means the withdrawal of any Participating Member State from the single currency of the Participating Member States and/or the redenomination of the euro into any other currency by the government of any current or former Participating Member State and/or the withdrawal (or any vote or referendum electing to withdraw) of any member state from the European Union. In each case, the expression “Withdrawal Event” is limited to the mere fact of the relevant withdrawal or redenomination and does not include the consequences (economic or otherwise) of that withdrawal or redenomination.

“**Write-down and Conversion Powers**” means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and
- (b) in relation to any other applicable Bail-In Legislation:
 - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
 - (ii) any similar or analogous powers under that Bail-In Legislation.

1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:
 - (i) the “**Agent**”, any “**Arranger**”, any “**Senior Finance Party**”, any “**Hedge Counterparty**”, any “**Issuing Bank**”, any “**Lender**”, any “**Obligor**”, any “**Party**”, any “**Secured Party**”, the “**Security Agent**”, any “**Unrestricted Subsidiary**” or any other person shall be construed so as to include its successors in interest, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Senior Finance Documents;
 - (ii) a document in “**agreed form**” is a document which is previously agreed in writing by or on behalf of the Parent and the Agent;
 - (iii) “**assets**” includes present and future properties, revenues and rights of every description;

- (iv) a “**Senior Finance Document**”, or a “**Transaction Document**” or any other agreement or instrument is a reference to that Senior Finance Document, or Transaction Document, or other agreement or instrument as amended, novated, supplemented, extended or restated (however fundamentally);
 - (v) “**guarantee**” means (other than in Clause 23 (*Guarantee and Indemnity*)) any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
 - (vi) “**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;
 - (vii) the “**Interest Period**” of a Letter of Credit or Bank Guarantee shall be construed as a reference to the Term of that Letter of Credit or Bank Guarantee;
 - (viii) a Lender’s “**participation**” in relation to a Letter of Credit or Bank Guarantee, shall be construed as a reference to the relevant amount that is or may be payable by a Lender in relation to that Letter of Credit or Bank Guarantee;
 - (ix) a “**person**” includes any individual, firm, company, corporation, Governmental Authority, association, trust, joint venture, consortium, partnership or other entity of whatever nature (whether or not having separate legal personality);
 - (x) a “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (xi) a Utilisation made or to be made to a Borrower includes a Letter of Credit or Bank Guarantee issued on its behalf;
 - (xii) a provision of law is a reference to that provision as amended or re-enacted; and
 - (xiii) a time of day is a reference to London time.
- (b) The determination of the extent to which a rate is “**for a period equal in length**” to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement
 - (c) Section, Clause and Schedule headings are for ease of reference only.
 - (d) Unless a contrary indication appears, a term used in any other Senior Finance Document or in any notice given under or in connection with any Senior Finance Document has the same meaning in that Senior Finance Document or notice as in this Agreement.

- (e) A Borrower providing “**cash cover**” for a Letter of Credit, a Bank Guarantee, an Ancillary Facility or a prepayment of any Loan means a Borrower paying an amount in the currency of the Letter of Credit, Bank Guarantee, Ancillary Facility or Loan, as the case may be, to an interest-bearing account in the name of the Borrower and the following conditions being met:
- (i) the account is with the Issuing Bank, Ancillary Lender or Lender (or any Affiliate thereof) for which that cash cover is to be provided (or any other bank or financial institution acceptable to the relevant Borrower and such Issuing Bank, Ancillary Lender or Lender);
 - (ii) subject to paragraph (b) of Clause 7.6 (*Cash cover by Borrower*), until no amount is or may be outstanding under that Letter of Credit, Bank Guarantee, Ancillary Facility or Loan, withdrawals from the account may only be made to pay a Senior Finance Party amounts due and payable to it under this Agreement in respect of that Letter of Credit, Bank Guarantee, Ancillary Facility or Loan *provided that* if the Agent, Issuing Bank, Ancillary Lender or Lender (as the case may be) determines that the amount standing to the credit of that account exceeds the amount outstanding under that Letter of Credit, Bank Guarantee, the relevant Ancillary Outstandings or Loan then amounts equal to that excess may be withdrawn from that account; and
 - (iii) the Borrower has executed a security document over that account, in form and substance reasonably satisfactory to the Security Agent or the Issuing Bank, Ancillary Lender or Lender with which that account is held, creating a first ranking security interest over that account.
- (f) A Default is “**continuing**” if it has not been remedied or waived.
- (g) A Borrower “**repaying**” or “**prepaying**” a Letter of Credit, Bank Guarantee or Ancillary Outstandings means:
- (i) that Borrower providing cash cover for that Letter of Credit, Bank Guarantee or in respect of the Ancillary Outstandings;
 - (ii) the maximum amount payable under the Letter of Credit, Bank Guarantee or Ancillary Facility being reduced or cancelled in accordance with its terms; or
 - (iii) the Issuing Bank or Ancillary Lender being satisfied (acting reasonably) that it has no further liability under that Letter of Credit, Bank Guarantee or Ancillary Facility,
- and the amount by which a Letter of Credit, or Bank Guarantee is, or Ancillary Outstandings are, repaid or prepaid under sub-paragraphs (g)(i) and (g)(ii) above is the amount of the relevant cash cover or reduction.
- (h) An amount borrowed includes any amount utilised by way of Letter of Credit, Bank Guarantee or under an Ancillary Facility.
- (i) A Lender funding its participation in a Utilisation includes a Lender participating in a Letter of Credit or Bank Guarantee.

- (j) An outstanding amount of a Letter of Credit or Bank Guarantee at any time is the maximum amount that is or may be payable by the relevant Borrower in respect of that Letter of Credit or Bank Guarantee at that time.
- (k) A Borrower's obligation on Utilisations becoming "due and payable" includes the Borrower repaying any Letter of Credit or Bank Guarantee in accordance with paragraph (g) above.
- (l) In connection with any action being taken in connection with a Limited Condition Acquisition, for purposes of:
 - (i) determining compliance with any provision of this Agreement which requires the calculation of the Consolidated Senior Secured Leverage Ratio or the Consolidated Total Leverage Ratio; or
 - (ii) testing baskets set forth in this Agreement (including baskets measured as a percentage of Consolidated EBITDA);

in each case, at the option of the Parent (the Parent's election to exercise such option in connection with any Limited Condition Acquisition, an "**LCA Election**"), the date of determination of whether any such action is permitted hereunder, shall be deemed to be the date the definitive agreements for such Limited Condition Acquisition are entered into (the "**LCA Test Date**"), and if, after giving *pro forma* effect to the Limited Condition Acquisition and the other transactions to be entered into in connection therewith (including any Incurrence of Indebtedness and the use of proceeds thereof) as if they had occurred at the beginning of the most recent Relevant Period ending prior to the LCA Test Date for which consolidated financial statements of the Parent are available, the Parent could have taken such action on the relevant LCA Test Date in compliance with such ratio or basket, such ratio or basket shall be deemed to have been complied with. For the avoidance of doubt, if the Parent has made an LCA Election and any of the ratios or baskets for which compliance was determined or tested as of the LCA Test Date are exceeded as a result of fluctuations in any such ratio or basket, including due to fluctuations in Consolidated EBITDA of the Parent or the person subject to such Limited Condition Acquisition, at or prior to the consummation of the relevant transaction or action, such baskets or ratios will not be deemed to have been exceeded as a result of such fluctuations. If the Parent has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any ratio or basket availability with respect to the Incurrence of Indebtedness or Security, or the making of Restricted Payments, Disposals, mergers, the conveyance, lease or other transfer of all or substantially all of the assets of the Parent or the designation of an Unrestricted Subsidiary on or following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Condition Acquisition is consummated or the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, any such ratio or basket shall be calculated on a *pro forma* basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any Incurrence of Indebtedness and the use of proceeds thereof) have been consummated.

- (m) Subject to Clause 29.4 (*Currency Conversion*), when determining compliance with any basket, threshold, ratio or other amounts under the Senior Finance Documents, the Base Currency Equivalent shall be calculated as at the date of the Incurrence or making of the relevant disposition, acquisition, investment, Indebtedness, Restricted

Payment or taking other relevant action or, if the Parent makes an LCA Election, on the LCA Test Date, *provided that*:

- (i) no Default or Event of Default or breach of any covenant or representation or warranty shall arise merely as a result of a change in the Base Currency Equivalent of any relevant amount due to fluctuations in exchange rates; and
- (ii) the Base Currency Equivalent principal or face amount of any Indebtedness or Investment outstanding on the Closing Date shall be calculated based on the relevant currency exchange rate in effect on the Closing Date.

For the purposes of calculating the Consolidated Senior Secured Leverage Ratio and the Consolidated Total Leverage Ratio any determination of (x) Consolidated Total Indebtedness and (y) any other item determined on the basis of amounts specified in the consolidated balance sheet, amounts in any currency other than the Base Currency shall be translated into the Base Currency at the currency exchange rates used in the Relevant Period for determining the contribution to Consolidated Net Income or Consolidated EBITDA of any items not originally denominated in the Base Currency in preparing the annual, quarterly or monthly financial statements required to be delivered pursuant to Clause 25.1 (*Financial statements*), or, if such financials have not yet been required to be delivered, the Original Financial Statements.

- (n) A reference to set-off shall, with respect to an Obligor incorporated or organised under the laws of Scotland, include a reference to any right of retention, claim for compensation or right to balance accounts on insolvency.

(o) [References to “Consolidated EBITDA” in Clause 2.3 \(Incremental Facility\), Clause 12.2\(o\), Clause 12.5\(b\), Clause 29.2 \(Other Permitted Indebtedness\), Clause 29.5\(d\), Clause 30.2\(f\), Clause 32.1\(Restriction on Disposals\) and Clause 33.1 \(Affiliate Transaction Restriction\) shall be deemed to be Consolidated EBITDA for the most recently ended Relevant Period for which financial statements are available.](#)

1.3 Third party rights

- (a) Unless expressly provided to the contrary in a Senior Finance Document, a person who is not a Party (other than an Indemnified Person for the purposes of paragraph (b) of Clause 20.2 (*Other indemnities*)) has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or enjoy the benefit of any term of any Senior Finance Document.
- (b) Subject to paragraph (f) of Clause 50.3 (*Exceptions*) but otherwise notwithstanding any term of any Senior Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

1.4 Currency symbols and definitions

- (a) “\$” and “dollars” denote the lawful currency of the United States of America, “£”, “GBP” and “sterling” denote the lawful currency of the United Kingdom and “EUR” and “€” and “euro” mean the single currency unit of the Participating Member States.
- (b) In ascertaining the Majority Lenders, the Required Release Lenders or whether any given percentage of the Total Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Senior Finance Documents or for the purpose of the allocation of any repayment or prepayment or for the purposes of taking any step, decision, direction or exercise of discretion which is

calculated by reference to drawn amounts, any Commitments or drawn amounts not denominated in sterling (a “**Non-Sterling Commitment**”) shall be deemed to be converted into sterling at the rate specified in paragraph (c) of Clause 29.4 (*Currency Conversion*) or if no such rate was specified, the Agent’s Spot Rate of Exchange on the date on which that Non-Sterling Commitment was provided under this Agreement.

1.5 Dutch terms

In each Senior Finance Document a reference to:

- (a) a necessary action to authorise, where applicable, includes, without limitation, any action required to comply with the Dutch Works Council Act (*Wet op de ondernemingsraden*) including, where relevant, obtaining an unconditional and positive advice (*advise*) from each competent works council;
- (b) a winding-up, administration or dissolution includes a Dutch entity being:
 - (i) declared bankrupt (*failliet verklaard*); or
 - (ii) dissolved (*ontbonden*);
- (c) a moratorium includes *surseance van betaling* and a moratorium declared includes *surseance verleend*;
- (d) other procedure or step taken in connection with the winding-up, administration, dissolution or moratorium includes a Dutch entity having filed a notice under or in connection with section 36 of the Dutch Tax Collection Act (*Invorderingswet*);
- (e) a trustee in bankruptcy includes a curator;
- (f) administrator includes *bewindvoerder*; and
- (g) an attachment includes a *beslag*.

1.6 Intercreditor Agreement

This Agreement is subject to, and has the benefit of, the Intercreditor Agreement. In the event of any inconsistency between this Agreement and the Intercreditor Agreement, the Intercreditor Agreement shall prevail (except, until the expiry of the Certain Funds Period, for any matter or provision related to (or related to the provision of) a Certain Funds Utilisation, in which case this Agreement shall prevail).

SECTION 2 THE FACILITIES

2. THE FACILITIES

2.1 The Facilities

- (a) Subject to the terms of this Agreement:
- (i) the Facility B Lenders make available a Base Currency term loan facility in an aggregate amount equal to the Total Facility B Commitments;
 - (ii) the Original Revolving Facility Lenders make available a multicurrency revolving credit facility in an aggregate amount the Base Currency Amount of which is equal to the Total Original Revolving Facility Commitments;
 - (iii) if an Incremental Facility Notice has been duly executed and delivered to the Agent, the Incremental Facility Lenders make available to the Incremental Facility Borrowers a loan facility in such currency, maximum amount and on such terms as are specified in the relevant Incremental Facility Notice; and
 - (iv) if a Senior Loan Refinancing Facility Notice has been duly executed and delivered to the Agent, the Senior Loan Refinancing Facility Lenders make available to the Senior Loan Refinancing Facility Borrowers a loan facility in such currency, maximum amount and on such terms as are specified in the relevant Senior Loan Refinancing Facility Notice.
- (b) Facility B will be made available to the Company. The Original Revolving Facility will be made available to the Original Revolving Facility Borrowers or, in the case of any Certain Funds Utilisation of the Original Revolving Facility, to the Company.
- (c) Subject to the terms of this Agreement and the Ancillary Documents, an Ancillary Lender may make available an Ancillary Facility to any of the Borrowers in place of all or part of its Commitment under a Revolving Facility.

2.2 Increase

- (a) The Parent may by giving prior notice to the Agent by no later than 9.30 a.m. (London time) on the date falling ten Business Days after the effective date of a cancellation of:
- (i) the Available Commitments of a Defaulting Lender in accordance with Clause 11.7 (*Right of cancellation in relation to a Defaulting Lender*); or
 - (ii) the Commitments of a Lender in accordance with Clause 11.1 (*Illegality*),

request that the Commitments relating to any Facility be increased (and the Commitments relating to that Facility shall be so increased) in an aggregate amount in the Base Currency, as applicable, of up to the amount of the Available Commitments or Commitments so cancelled as follows:

- (iii) the increased Commitments will be assumed by one or more Lenders or other banks, financial institutions, trusts, funds or other entities (each an “**Increase Lender**”) selected by the Parent (each of which shall not be a member of the Group and which is further acceptable to the Agent (acting reasonably)) and

- each of which confirms its willingness to assume and does assume all the obligations of a Lender corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Lender;
- (iv) each of the Obligors and any Increase Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and the Increase Lender would have assumed and/or acquired had the Increase Lender been an Original Lender;
 - (v) each Increase Lender shall become a Party as a “Lender” and any Increase Lender and each of the other Senior Finance Parties shall assume obligations towards one another and acquire rights against one another as that Increase Lender and those Senior Finance Parties would have assumed and/or acquired had the Increase Lender been an Original Lender;
 - (vi) the Commitments of the other Lenders shall continue in full force and effect; and
 - (vii) any increase in the Commitments relating to a Facility shall take effect on the date specified by the Parent in the notice referred to above or any later date on which the conditions set out in paragraph (b) below are satisfied (*provided that* the notice referred to above has not been revoked in writing by the Parent prior to such date).
- (b) An increase in the Commitments relating to a Facility will only be effective on:
- (i) the execution by the Agent of an Increase Confirmation from the relevant Increase Lender;
 - (ii) in relation to an Increase Lender which is not a Lender immediately prior to the relevant increase:
 - (A) the Increase Lender entering into the documentation required for it to accede as a party to the Intercreditor Agreement and, if applicable, any Other Intercreditor Agreement; and
 - (B) the performance by the Agent and Security Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Lender, the completion of which the Agent and Security Agent shall respectively promptly notify to the Parent, the Increase Lender and each Issuing Bank; and
 - (iii) in the case of an increase in the Total Original Revolving Facility Commitments, the Issuing Bank (if appointed) consenting to that increase.
- (c) Each Increase Lender, by executing the Increase Confirmation, confirms (for the avoidance of doubt) that (i) until the date on which the increase becomes effective it shall not be entitled to vote on any matter merely as a result of it being an Increase Lender, (ii) the increased Commitment shall not be used for the purposes of calculating Lender voting percentages until the date on which the increase becomes effective and (iii) the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the increase becomes effective.

- (d) Unless the Agent otherwise agrees or the increased Commitment is assumed by an existing Lender, the Parent shall, on the date upon which the increase takes effect, pay to the Agent (for its own account) (or procure payment of) a fee of £2,500 and the Parent shall promptly on demand pay the Agent and the Security Agent (or procure payment of) the amount of all costs and expenses (including legal fees) reasonably incurred by either of them and, in the case of the Security Agent, by any Receiver or Delegate in connection with any increase in Commitments under this Clause 2.2.
- (e) The Parent may pay to the Increase Lender (or procure payment of) a fee in the amount and at the times agreed between the Parent and the Increase Lender in a Fee Letter.
- (f) Clause 38.5 (*Limitation of responsibility of Existing Lenders*) shall apply *mutatis mutandis* in this Clause 2.2 in relation to an Increase Lender as if references in that Clause to:
 - (i) an “**Existing Lender**” were references to all the Lenders immediately prior to the relevant increase;
 - (ii) the “**New Lender**” were references to that “**Increase Lender**”; and
 - (iii) a “**re-transfer**” and “**re-assignment**” were references to respectively a “**transfer**” and “**assignment**”.

2.3 Incremental Facility

- (a) Subject to this Clause 2.3, the Parent may, at any time and from time to time following the Closing Date up to and including the Termination Date for Facility B confirm that one or more Lenders or any other person or persons has agreed to commit Incremental Facility Commitments by delivery to the Agent of an Incremental Facility Notice.
- (b) An Incremental Facility may comprise:
 - (i) the introduction of an additional term loan facility into the Senior Finance Documents;
 - (ii) an increase in, or addition to, the commitments in respect of a Term Facility or an extension of the availability of any undrawn commitments in respect of a Term Facility;
 - (iii) the introduction of an additional revolving credit facility (which may be made available as Loans, Letters of Credit, Bank Guarantees and/or Ancillary Facilities) into the Senior Finance Documents; or
 - (iv) an increase in, or addition to, the commitments in respect of a Revolving Facility or an extension of the availability of any commitments in respect of a Revolving Facility.
- (c) Each Incremental Facility Notice shall be irrevocable and will not be regarded as being duly completed unless it specifies in relation to the proposed Incremental Facility:

- (i) the type or types of facility to comprise the Incremental Facility which must comply with paragraph (b) above;
 - (ii) the Availability Period;
 - (iii) the purpose of the Incremental Facility Commitments;
 - (iv) the identities of the Borrowers in respect of the Incremental Facility Commitments;
 - (v) the currency and principal amount of that Incremental Facility;
 - (vi) the proposed margin (and any applicable margin ratchet) and commitment fee and any other fees payable in respect of that Incremental Facility which are relevant for the purpose of sub-paragraph (vi) of paragraph (d) below;
 - (vii) the Termination Date;
 - (viii) the maximum number of Utilisation Requests that may be delivered in respect of that Incremental Facility;
 - (ix) the date on which the Incremental Facility is proposed to be utilised; and
 - (x) such other information which the Agent may reasonably require in relation to such Incremental Facility.
- (d) The Agent shall accept an Incremental Facility Notice and notify the Parent and the Lenders of its acceptance if the following conditions are fulfilled:
- (i) no Event of Default is continuing or, in the determination of the Parent (acting reasonably) would be reasonably likely to result from the incurrence of Indebtedness under the proposed Incremental Facility or the application of the proceeds thereof;
 - (ii) the Incremental Facility Notice has been executed by the Parent, the relevant Incremental Facility Borrower and each of the relevant Incremental Facility Lenders;
 - (iii) in relation to an Incremental Facility Lender which is not already a Lender:
 - (A) the Incremental Facility Lender acceding as a party to this Agreement, the Intercreditor Agreement and, if applicable, any Other Intercreditor Agreement by delivery of an Incremental Facility Accession Certificate; and
 - (B) the performance by the Agent and satisfaction of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the provision of Incremental Facility Commitments by that Incremental Facility Lender, the completion of which the Agent shall promptly notify to the Parent and the Incremental Facility Lender;
 - (iv) the amount of the Incremental Facility shall not exceed the amount of Indebtedness permitted to be incurred pursuant to paragraph (a) of Clause 29.2 (*Other Permitted Indebtedness*);

- (v) the Termination Date of any term Incremental Facility Commitments shall not be earlier than the Termination Date applicable to Facility B and the weighted average life to the Termination Date of any term Incremental Facility Loans shall be no shorter than the remaining average life to maturity of Facility B (other than in respect of bridge financings which, subject to customary conditions, would either be automatically converted into or required to be exchanged for permanent financing which does not provide for an earlier maturity date or a shorter weighted average life to maturity than, or the remaining weighted average life to maturity of, Facility B); and
- (vi) the Margin applicable to any term Incremental Facility Loan in respect of which the Incremental Facility Notice is delivered on or before the date falling six Months after the Closing Date shall not exceed the Margin applicable to Facility B by more than 1.00 per cent. per annum or, in the event that the Margin applicable to any such term Incremental Facility Loan is more than 1.00 per cent. per annum higher than the applicable Margin for Facility B, then the Margin for Facility B shall automatically be increased to an amount equal to the Margin specified for such Incremental Facility Loan less 1.00 per cent. per annum; *provided that* this paragraph (d)(vi) shall not apply if:
- (A) the Termination Date in respect of the relevant Incremental Facility Loan is equal to or more than six months after the Termination Date applicable to Facility B unless the principal amount of the relevant Incremental Facility Loan (aggregated with all other Incremental Facility Loans of the same series or made for the same purposes) exceeds 100 per cent. of Consolidated EBITDA;
 - (B) the currency of the relevant Incremental Facility as specified in paragraph (c)(v) of this Clause 2.3 is different to the currency of Facility B unless the principal amount of the relevant Incremental Facility Loan (aggregated with all other Incremental Facility Loans of the same series or made for the same purposes) exceeds 100 per cent. of Consolidated EBITDA; or
 - (C) the relevant Incremental Facility is subject to a fixed interest rate unless the principal amount of the relevant Incremental Facility Loan (aggregated with all other Incremental Facility Loans of the same series or made for the same purposes) exceeds 100 per cent. of Consolidated EBITDA; and
- (vii)
- (A) if the Borrower wishes to establish a term Incremental Facility Loan in respect of which an Incremental Facility Notice is delivered, the Borrower will send an invitation to each Facility B Lender setting out the proposed terms of the Incremental Facility Loan (including, but not limited to, amount, pricing, fees, maturity) and inviting each Facility B Lender (whether individually or together, or through its Affiliates) to make a bona fide committed offer to provide the full amount of such Incremental Facility Loan within 5 Business Days of receipt of that invitation. If such Facility B Lenders provide such a committed offer to provide the full amount of such Incremental Facility Loan within that timeframe, the parties will negotiate in good

faith to agree all relevant documents required to establish that Incremental Facility Loan with such Facility B Lenders;

(B) if:

(I) no Facility B Lender provides a committed offer to provide such Incremental Facility Loan within the timeframe set out in paragraph (A) above;

(II) the offer or offers from the Facility B Lenders are in an aggregate amount of less than the full amount of the Incremental Facility Loan requested by the Borrower;

(III) the offer or offers from the Facility B Lenders are less favourable than the terms of any other offer or offers received by the Borrower (including, but not limited to, amount, pricing, fees, maturity); or

(IV) such term Incremental Facility Loan is not established within 5 Business Days (or such shorter period as may be mutually agreed) of the date of any commitment made by one or more Facility B Lenders under this paragraph (vii) (other than as a result of any delay caused by the Borrower acting in bad faith).

the Borrower may establish such term Incremental Facility Loan with any other bank, financial institution, fund, entity or other person selected by it in its sole discretion;

(C) if offers from the Facility B Lenders are in an aggregate amount which is greater than the full amount of the term Incremental Facility Loan requested by the Borrower, each Facility B Lender that provides a committed offer to provide and/or participate in such Incremental Facility Loan within the timeframes and parameters set out in this paragraph (vii), shall be allocated a participation in such Incremental Facility Loan in proportion to its existing respective Facility B Commitments; and

(viii) subject to the Agreed Security Principles, all Incremental Facility Loans shall rank *pari passu* with the other Loans in right of repayment and security and, subject to the Agreed Security Principles, the Transaction Security granted over any assets purchased with the proceeds of any Incremental Facility Loans is shared *pari passu* by the Senior Finance Parties (to the extent lawful) and any guarantees granted by any member of the Group in respect of such Incremental Facility Loans are also provided for the benefit of the other Senior Finance Parties.

(e) By signing an Incremental Facility Notice as an Incremental Facility Lender, each such entity agrees to commit the Incremental Facility Commitments set out against its name in that notice.

(f) Each Obligor confirms:

(i) the authority of the Parent to agree, implement and establish Incremental Facility Commitments in accordance with this Agreement; and

- (ii) that its guarantee and indemnity recorded in Clause 23 (*Guarantee and Indemnity*) (or any applicable Accession Deed or other Senior Finance Document), and all Transaction Security granted by it will, subject only to the Agreed Security Principles and any applicable limitations on such guarantee and indemnity referred to in Clause 23 (*Guarantee and Indemnity*) or any Accession Deed pursuant to which it became an Obligor, extend to include the Incremental Facility Loans and any other obligations arising under or in respect of the Incremental Facility Commitments.
- (g) Each Senior Finance Party agrees and empowers the Agent and the Security Agent to (and the relevant Obligor shall promptly upon reasonable request by the Agent or the Security Agent in accordance with the Agreed Security Principles) execute any necessary amendments to the Transaction Security Documents as may be required in order to ensure that, subject to the Agreed Security Principles, any Incremental Facility Loans rank *pari passu* with the other Facilities and that, subject to the Agreed Security Principles, the Transaction Security granted over any assets purchased with the proceeds of any Incremental Facility Loans is shared *pari passu* by the Senior Finance Parties (to the extent lawful).
- (h) Each Senior Finance Party agrees and empowers the Agent and the Security Agent to execute any necessary amendments to the Senior Finance Documents as may be required (and agreed with the Parent) in order to incorporate the appropriate provisions for any Incremental Facility Loans in such Senior Finance Document. If the Incremental Facility Loans are revolving Incremental Facility Loans to be utilised as Letters of Credit or Bank Guarantees in respect of which an Issuing Bank will be the issuing bank, any amendments which relate to the rights or obligations of the Issuing Bank shall also require the consent of the Issuing Bank.
- (i) In relation to any Incremental Facility Commitments:
 - (i) except as agreed to the contrary by the Parent and the relevant Incremental Facility Lenders in accordance with this Clause 2.3, each of the Obligors and any Incremental Facility Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and the Incremental Facility Lender would have assumed and/or acquired had the Incremental Facility Lender been an Original Lender; and
 - (ii) each Incremental Facility Lender shall become a Party as a “Lender” and any Incremental Facility Lender and each of the other Senior Finance Parties shall assume obligations towards one another and acquire rights against one another as that Incremental Facility Lender and those Senior Finance Parties would have assumed and/or acquired had the Incremental Facility Lender been an Original Lender.
- (j) Clause 38.5 (*Limitation of responsibility of Existing Lenders*) shall apply *mutatis mutandis* to this Clause 2.3 in relation to an Incremental Facility Lender as if references in that Clause to:
 - (i) an Existing Lender were references to all the Lenders immediately prior to the relevant Incremental Facility; and
 - (ii) the New Lender were references to that Incremental Facility Lender.

- (k) The Parent may pay (or procure the payment) to the Incremental Facility Lender a fee in the amount and at the times agreed between the Parent and the Incremental Facility Lender in a Fee Letter.
- (l) Nothing in this Clause 2.3 shall oblige any Lender to provide any Incremental Facility Commitment or to extend its existing Commitments.
- (m) Unless the Agent otherwise agrees or the Incremental Facility Commitment is assumed by an existing Lender, each Incremental Facility Lender shall, on the date upon which the Incremental Facility takes effect, pay to the Agent (for its own account) a fee of £2,500 and the Parent shall promptly on demand pay the Agent and the Security Agent (or procure the payment of) the amount of all costs and expenses (including legal fees) reasonably incurred by either of them and, in the case of the Security Agent, by any Receiver or Delegate in connection with any Incremental Facility Commitments under this Clause 2.3.

2.4 Senior Loan Refinancing Facility

- (a) Subject to this Clause 2.4, the Parent may, at any time and from time to time following the Closing Date up to and including the latest Termination Date for the Facilities confirm that one or more Lenders or any other person or persons has agreed to commit Senior Loan Refinancing Facility Commitments by delivery to the Agent of a Senior Loan Refinancing Facility Notice.
- (b) A Senior Loan Refinancing Facility may comprise:
 - (i) the introduction of an additional term loan facility into the Senior Finance Documents; or
 - (ii) the introduction of an additional revolving credit facility (which may be made available as Loans, Letters of Credit, Bank Guarantees and/or Ancillary Facilities) into the Senior Finance Documents,

which, in each case, shall, at the Parent's option be (A) secured by the Transaction Security on the basis that it ranks *pari passu* with the Initial Senior Facilities Liabilities without any preference between them or (B) secured by the Transaction Security on the basis that it ranks junior to the Initial Senior Facilities Liabilities.

- (c) Each Senior Loan Refinancing Facility Notice shall be irrevocable and will not be regarded as being duly completed unless it specifies in relation to the proposed Senior Loan Refinancing Facility:
 - (i) the type of facility to comprise the Senior Loan Refinancing Facility which must comply with paragraph (b) above;
 - (ii) whether such facility is (A) to be secured by the Transaction Security on the basis that it ranks *pari passu* with the Initial Senior Facilities Liabilities without any preference between them or (B) to be secured by the Transaction Security on the basis that it ranks junior to the Initial Senior Facilities Liabilities;
 - (iii) the Availability Period;
 - (iv) the Loans and/or Commitments to be refinanced in whole or in part using the Senior Loan Refinancing Facility Commitments;

- (v) the identities of the Borrowers in respect of the Senior Loan Refinancing Facility Commitments;
 - (vi) the currency and principal amount of that Senior Loan Refinancing Facility;
 - (vii) the proposed margin (and any applicable margin ratchet) and commitment fee and any other fees payable in respect of that Senior Loan Refinancing Facility;
 - (viii) the Termination Date;
 - (ix) the maximum number of Utilisation Requests that may be delivered in respect of that Senior Loan Refinancing Facility;
 - (x) the date on which the Senior Loan Refinancing Facility is proposed to be utilised; and
 - (xi) such other information which the Agent may reasonably require in relation to such Senior Loan Refinancing Facility.
- (d) The Agent shall accept a Senior Loan Refinancing Facility Notice and notify the Parent and the Lenders of its acceptance if the following conditions are fulfilled:
- (i) no Event of Default would, in the opinion of the Parent (acting reasonably) be reasonably likely to occur, from the incurrence of Indebtedness under the proposed Senior Loan Refinancing Facility and the application of the proceeds thereof;
 - (ii) the Senior Loan Refinancing Facility Notice has been executed by the Parent, the relevant Senior Loan Refinancing Facility Borrower and each of the relevant Senior Loan Refinancing Facility Lenders;
 - (iii) in relation to a Senior Loan Refinancing Facility Lender which is not already a Lender:
 - (A) if the Senior Loan Refinancing Facility is to be secured by the Transaction Security on the basis that it ranks *pari passu* with the Initial Senior Facilities Liabilities without any preference between them, the Senior Loan Refinancing Facility Lender acceding as a party to this Agreement, the Intercreditor Agreement and, if applicable, any Other Intercreditor Agreement by delivery of a Senior Loan Refinancing Facility Accession Certificate;
 - (B) if the Senior Loan Refinancing Facility is to be secured by the Transaction Security on the basis that it ranks junior to the Initial Senior Facilities Liabilities, the Senior Loan Refinancing Facility Lender acceding to this Agreement and the Intercreditor Agreement as a Second Lien Lender (as defined in the Intercreditor Agreement) and, if applicable any Other Intercreditor Agreement; and
 - (C) the performance by the Agent and Security Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assumption of the Commitments by that Senior Loan Refinancing Facility Lender, the completion of which the Agent and Security Agent shall respectively

promptly notify to the Parent and Senior Loan Refinancing Facility Lender; and

- (iv) the Termination Date of any term Senior Loan Refinancing Facility Commitments shall not be earlier than the Term Facility being refinanced and the weighted average life to the Termination Date of any term Senior Loan Refinancing Facility Loans shall be no shorter than the remaining weighted average life to maturity of the Term Facility being refinanced (other than an earlier Termination Date and/or shorter weighted average life to maturity for customary bridge financings, which, subject to customary conditions, would either be automatically converted into or required to be exchanged for permanent financing which does not provide for an earlier maturity date or a shorter weighted average life to maturity than the Termination Date applicable to, or the remaining weighted average life to maturity of, the Term Facility being refinanced);
 - (v) the Termination Date of any revolving Senior Loan Refinancing Facility Commitments shall not be earlier than the Termination Date applicable to the Revolving Facility being refinanced as specified in the Senior Loan Refinancing Facility Notice;
 - (vi) the Net Cash Proceeds of the Senior Loan Refinancing Facility shall be applied, substantially concurrently with the incurrence thereof, to the *pro rata* prepayment of outstanding Loans (and, in the case of the Revolving Facility, *pro rata* reductions in the Revolving Facility Commitments) under the Facility or Facilities being refinanced at the option of the Parent.
- (e) By signing a Senior Loan Refinancing Facility Notice as a Senior Loan Refinancing Facility Lender, each such entity agrees to commit the Senior Loan Refinancing Facility Commitments set out against its name in that notice.
- (f) Each Obligor confirms:
- (i) the authority of the Parent to agree, implement and establish Senior Loan Refinancing Facility Commitments in accordance with this Agreement; and
 - (ii) that its guarantee and indemnity recorded in Clause 23 (*Guarantee and Indemnity*) (or any applicable Accession Deed or other Senior Finance Document), and all Transaction Security granted by it will, subject only to the Agreed Security Principles and any applicable limitations on such guarantee and indemnity referred to in Clause 23 (*Guarantee and Indemnity*) or any Accession Deed pursuant to which it became an Obligor, extend to include the Senior Loan Refinancing Facility Loans and any other obligations arising under or in respect of the Senior Loan Refinancing Facility Commitments.
- (g) Each Senior Finance Party agrees and empowers the Agent and the Security Agent to (and the relevant Obligor shall promptly upon reasonable request by the Agent or the Security Agent in accordance with the Agreed Security Principles) execute any necessary amendments to the Transaction Security Documents as may be required in order to ensure that, subject to the Agreed Security Principles, any Senior Loan Refinancing Facility Loans are, as applicable (A) secured by the Transaction Security on the basis that they rank *pari passu* with the Initial Senior Facilities Liabilities without any preference between them or (B) secured by the Transaction Security on the basis that they rank junior to the Initial Senior Facilities Liabilities.

- (h) Each Senior Finance Party agrees and empowers the Agent and the Security Agent to execute any necessary amendments to the Senior Finance Documents (including entry into any applicable Other Intercreditor Agreement) as may be required (and agreed with the Parent) in order to incorporate the appropriate provisions for any Senior Loan Refinancing Facility Loans in such Senior Finance Document. If the Senior Loan Refinancing Facility Loans are revolving Senior Loan Refinancing Facility Loans to be utilised as Letters of Credit or Bank Guarantees in respect of which an Issuing Bank will be the issuing bank, any amendments which relate to the rights or obligations of such Issuing Bank shall also require the consent of such Issuing Bank.
- (i) In relation to any Senior Loan Refinancing Facility Commitments:
 - (i) except as agreed to the contrary by the Parent and the relevant Senior Loan Refinancing Facility Lenders in accordance with this Clause 2.4, each of the Obligor and any Senior Loan Refinancing Facility Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligor and the Senior Loan Refinancing Facility Lender would have assumed and/or acquired had the Senior Loan Refinancing Facility Lender been an Original Lender; and
 - (ii) each Senior Loan Refinancing Facility Lender shall become a Party as a “Lender” and any Senior Loan Refinancing Facility Lender and each of the other Senior Finance Parties shall assume obligations towards one another and acquire rights against one another as that Senior Loan Refinancing Facility Lender and those Senior Finance Parties would have assumed and/or acquired had the Senior Loan Refinancing Facility Lender been an Original Lender.
- (j) Clause 38.5 (*Limitation of responsibility of Existing Lenders*) shall apply *mutatis mutandis* to this Clause 2.4 in relation to a Senior Loan Refinancing Facility Lender as if references in that Clause to:
 - (i) an Existing Lender were references to all the Lenders immediately prior to the relevant Senior Loan Refinancing Facility; and
 - (ii) the New Lender were references to that Senior Loan Refinancing Facility Lender.
- (k) The Parent may pay (or procure payment of) to the Senior Loan Refinancing Facility Lender a fee in the amount and at the times agreed between the Parent and the Senior Loan Refinancing Facility Lender in a Fee Letter.
- (l) Nothing in this Clause 2.4 shall oblige any Lender to provide any Senior Loan Refinancing Facility Commitment.
- (m) Unless the Agent otherwise agrees or the Senior Loan Refinancing Facility Commitment is assumed by an existing Lender, each Senior Loan Refinancing Facility Lender shall, on the date upon which the Senior Loan Refinancing Facility takes effect, pay to the Agent (for its own account) a fee of £3,000 and the Parent shall promptly on demand pay the Agent and the Security Agent (or procure the payment of) the amount of all costs and expenses (including legal fees) reasonably incurred by either of them and, in the case of the Security Agent, by any Receiver or Delegate in connection with any Senior Loan Refinancing Facility Commitments under this Clause 2.4.

2.5 Extension

- (a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (which offers may, subject to the limitations in this Clause 2.5 be on such terms and contain such conditions as the Parent shall, in its sole discretion, decide) (each, an “**Extension Offer**” and the offering document being an “**Extension Notice**”) made from time to time by the Parent to all Lenders of:
- (i) Term Facilities existing as at the date on which an Extension Notice is delivered with a Termination Date that is the same or sooner to occur than the latest Termination Date of the Term Facilities to whom the Extension Offer is made (each an “**Existing Term Facility**” and the Term Loans of such Existing Term Facilities being the “**Existing Term Loans**”); or
 - (ii) Revolving Facility Commitments existing as at the date on which the Extension Notice is delivered with a Termination Date that is the same or sooner to occur than the latest Termination Date of the Revolving Facilities to whom the Extension Offer is made (each an “**Existing Revolving Facility**” and the Revolving Facility Commitments of such Existing Revolving Facilities being the “**Existing Revolving Facility Commitments**”),

in each case:

- (A) on a *pro rata* basis (based on the aggregate outstanding principal amount of the Existing Term Loans or the outstanding Existing Revolving Facility Commitments, as applicable, on the date the Extension Offer is made);
- (B) on the same terms to each such Lender of such Existing Term Loans or Lender in respect of such Existing Revolving Facility Commitments, as applicable; and
- (C) subject to (unless waived by the Parent) the Minimum Extension Condition,

the Parent is hereby permitted to consummate from time to time transactions with individual Lenders that accept the terms contained in any such Extension Notice to extend the Termination Date of each such Lender’s Existing Term Loans and/or Existing Revolving Facility Commitments and otherwise modify the terms of such Existing Term Loans and/or Existing Revolving Facility Commitments in accordance with the terms of the relevant Extension Notice as follows:

- (I) any Term Loans which are so extended (each an “**Extended Term Loan**”) shall constitute a separate tranche (each an “**Extended Term Tranche**”) of Term Loans from the tranche of Existing Term Loans from which they were converted (each an “**Existing Term Tranche**”); and
- (II) any Revolving Facility Commitments which are so extended (the “**Extended Revolving Facility Commitments**”) shall constitute a separate tranche (each an “**Extended Revolving Facility Tranche**”) of Revolving Facility Commitments from the tranche of Revolving Facility Commitments from which

they were converted (each an “**Existing Revolving Tranche**”),

in each case, so long as the following conditions are satisfied:

- (A) no Event of Default shall have occurred and be continuing at the time the Extension Notice is delivered to the applicable Lenders;
- (B) the terms of each Extended Tranche shall be substantially similar to the Existing Term Tranche or Existing Revolving Tranche, as applicable, from which it is to be extended (the “**Specified Existing Tranche**”) except that:
 - (I) the Termination Date of any Extended Tranche shall be later to occur than the Termination Date applicable to its Specified Existing Tranche;
 - (II) the amortisation schedule of any Extended Tranche may differ from that applicable to its Specified Existing Tranche *provided that* any Extended Term Tranche shall not have a weighted average life to maturity shorter than its Specified Existing Tranche;
 - (III) the Margin and any interest rate floors and any fees in respect of any Extended Tranche may be higher or lower than those applicable to its Specified Existing Tranche and additional fees may be paid to the Lenders providing such Extended Tranche in addition to or in lieu of any increased margins or interest rate floors;
 - (IV) the Specified Existing Tranche shall benefit from provisions requiring mandatory or voluntary prepayments to be directed first to the Specified Existing Tranche prior to being applied to the Extended Tranche;
 - (V) the Specified Existing Tranche shall benefit from provisions allowing the Borrowers to direct voluntary prepayments to the Specified Existing Tranche prior to being applied to the Extended Tranche; and
 - (VI) assignments, transfers, sub-participations and sub-contracts of the Extended Tranche may be governed by the same or more restrictive provisions than those applicable to its Specified Existing Tranche;
 - (VII) there shall be no restriction on the Extended Tranche being subject to additional terms other than those referred to or contemplated by this paragraph (a)(B) *provided that* such additional terms do not become effective (whether as a result of the consent of any group of Lenders under the Extended Tranche, on the happening of a contingency or automatically upon the Specified Existing Tranche being repaid or prepaid in full) until the Specified Existing Tranche is repaid and cancelled in full; and

- (VIII) all documentation in respect of such Existing Tranche shall be consistent with the foregoing.
- (b) With respect to each extension consummated by the Parent pursuant to this Clause 2.5 (each, an “**Extension**”):
- (i) such Extension shall not constitute a voluntary or mandatory payment or prepayment or cancellation of Commitment for the purposes of Clause 11 (*Illegality, Voluntary Prepayment and Cancellation*) or Clause 12 (*Exit, Qualifying Listing or Qualifying Ratings Event and Mandatory Prepayment*) and, instead, on the date that any Specified Existing Tranche is converted pursuant to this Clause 2.5 (the “**Extension Date**”), that Specified Existing Tranche shall be deemed reduced by the aggregate principal amount of the applicable Extended Tranche;
 - (ii) any repayment dates (in so far as such schedule affects payments due to Lenders participating in an Existing Term Tranche) set forth in Clause 10 (*Repayment*) shall be adjusted to give effect to the Extension of the relevant Extended Term Tranche; and
 - (iii) no Extension Offer is required to be in any minimum amount or any minimum increment; *provided that* the Parent may at its election specify as a condition (a “**Minimum Extension Condition**”) to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in the Parent’s sole discretion and which may be waived by the Parent) of Existing Term Loans or Existing Revolving Facility Commitments (as applicable) of any or all applicable Facilities be tendered.
- (c) Subject to the requirements of this Clause 2.5 and to the requirement that an Extension Notice allow a timeframe for responses from Lenders of at least 10 Business Days (or such shorter time as may be agreed with the Agent (acting reasonably)), there shall be no requirements as to the content, conditions, conditionality, revocability or form of an Extension Notice.
- (d) An Extension Notice may specify, at the Parent’s discretion, that an Existing Lender may request a greater *pro rata* commitment under the Extended Tranche than its commitment under the applicable Specified Existing Tranche. In the event that the aggregate tendered amount of commitments of all Lenders in respect of the Extended Tranche exceeds the Commitments in respect of the applicable Specified Existing Tranche, the applicable Specified Existing Tranche shall be converted into the Extended Tranche *pro rata* based on the amounts tendered by each Lender in respect of such Extended Tranche.
- (e) If a Lender declines to participate in an Extension or does not respond to an Extension Notice prior to the deadline specified in that Extension Notice then any such Lender shall be a “**Non-Extending Lender**”. Following any Extension Date, with the written consent of the Parent, any Non-Extending Lender may elect to have all or a portion of its Existing Term Loans or Existing Revolving Facility Commitments deemed to be an Extended Term Loan or Extended Revolving Facility Commitment, as applicable, under the applicable Extended Tranche on any date (each date a “**Designation Date**”) prior to the maturity date of the Specified Existing Tranche; *provided that* such Lender shall have provided written notice to the Parent and the Agent at least ten Business Days prior to such Designation Date (or such shorter period as the Agent may agree (acting reasonably)). Following a Designation Date, the Existing Term Loans or Existing Revolving Facility, as applicable, held by

such Lender so elected to be extended will be deemed to be Extended Term Loans or Extended Revolving Facility Commitments of the applicable Extended Tranche.

- (f) No consent of any Lender or the Agent shall be required to effectuate any Extension and the transactions contemplated by this Clause 2.5 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any such Extension on such terms as may be set forth in the relevant Extension Offer), other than:
- (i) the consent of each Lender agreeing to such Extension with respect to one or more of its Existing Term Loans and/or Existing Revolving Facility Commitments (or a portion thereof); and
 - (ii) with respect to any Extension of any Original Revolving Facility Commitments (or a portion thereof), the consent of the Issuing Bank (to the extent appointed), which consent shall not be unreasonably withheld or delayed,

and the Senior Finance Parties hereby waive the requirements of any provision of this Agreement or any other Senior Finance Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Clause 2.5.

- (g) All Extended Term Loans and Extended Revolving Facility Commitments and all obligations in respect thereof shall be guaranteed on a *pari passu* basis with all other applicable obligations of the Senior Finance Parties under this Agreement and the other Senior Finance Documents and shall share rateably and on a *pari passu* basis in the Transaction Security.
- (h) By confirming its intention to participate in an Extended Tranche through execution of the Extension Notice and (if applicable) completing its tendered amount, a Lender agrees to commit to the Extended Tranche in the amount so tendered. For the avoidance of doubt, the Commitments and/or Loans of a Non-Extending Lender shall not be the subject of an Extension pursuant to this Clause 2.5 (unless otherwise elected by such Non-Extending Lender in accordance with paragraph (e) above).
- (i) Each Obligor confirms:
- (i) the authority of the Parent to agree, implement and establish each Extended Tranche; and
 - (ii) that its guarantee and indemnity recorded in Clause 23 (*Guarantee and Indemnity*) (or any applicable Accession Deed or other Senior Finance Document), and all Transaction Security granted by it will, subject only to the Agreed Security Principles and any applicable limitations on such guarantee and indemnity referred to in Clause 23 (*Guarantee and Indemnity*) or any Accession Deed pursuant to which it became an Obligor, extend to include the Extended Tranche and any other obligations arising under or in respect of the Extended Tranche.
- (j) Each Senior Finance Party agrees and empowers the Agent and the Security Agent to (and the relevant Obligor shall promptly upon reasonable request by the Agent or the Security Agent in accordance with the Agreed Security Principles) execute any necessary amendments to the Transaction Security Documents as may be required in order to ensure that, subject to the Agreed Security Principles, any Extended Tranche ranks *pari passu* with the other Facilities.

- (k) Each Senior Finance Party agrees and empowers the Agent and the Security Agent to execute any necessary amendments to the Senior Finance Documents as may be required (and agreed with the Parent) in order to incorporate the appropriate provisions for each Extended Tranche in such Senior Finance Document. If the Extended Tranche is an Extended Revolving Facility Tranche to be utilised as Letters of Credit or Bank Guarantees in respect of which the Issuing Bank will be the issuing bank, any amendments which relate to the rights or obligations of the Issuing Bank shall also require the consent of the Issuing Bank.
- (l) The Parent shall notify the Agent as soon as reasonably practicable of any Extension Offer agreed with Lenders pursuant to this Clause 2.5.
- (m) Nothing in this Clause 2.5 shall oblige any Lender to consent to any Extension Notice.

2.6 Senior Finance Parties' rights and obligations

- (a) The obligations of each Senior Finance Party under the Senior Finance Documents are several. Failure by a Senior Finance Party to perform its obligations under the Senior Finance Documents does not affect the obligations of any other Party under the Senior Finance Documents. No Senior Finance Party is responsible for the obligations of any other Senior Finance Party under the Senior Finance Documents.
- (b) The rights of each Senior Finance Party under or in connection with the Senior Finance Documents are separate and independent rights and any debt arising under the Senior Finance Documents to a Senior Finance Party from an Obligor is a separate and independent debt in respect of which a Senior Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Senior Finance Party include any debt owing to that Senior Finance Party under the Senior Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by an Obligor which relates to a Senior Finance Party's participation in a Facility or its role under a Senior Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Senior Finance Party by that Obligor.
- (c) A Senior Finance Party may, except as specifically provided in the Senior Finance Documents, separately enforce its rights under or in connection with the Senior Finance Documents.

2.7 **Redenomination**

- ~~(a) On the Redenomination Date, Facility B shall be redenominated from Sterling into Euro at the GBP/EUR Exchange Rate.~~
- ~~(b) By no later than 3:00 p.m. on the Redenomination Date, the Agent will notify each Facility B Lender and the Obligors' Agent in writing of:
 - ~~(i) the GBP/EUR Exchange Rate on that day; and~~
 - ~~(ii) the Euro amount of each Lender's redenominated Facility B Commitments.~~~~
- ~~(c) On the Closing Date subject to the other terms of this Agreement:
 - ~~(i) each Facility B Lender will make available its participation in the Facility B Loans in Euro; and~~~~

~~(ii) the Agent is irrevocably authorised and instructed by the Facility B Lenders to provide the proceeds of the Facility B Loans received by it to the Company in accordance with and pursuant to the instructions set out in the initial Utilisation Request.~~

~~(d) As soon as reasonably practicable after the Redenomination Date the Finance Parties will (and the Lenders hereby irrevocably and unconditionally instruct the Agent and the Security Agent to) enter into any amendment to this Agreement reasonably requested by the Obligors' Agent to record and document the redenomination described in this Clause 2.7 (Redenomination). For the avoidance of doubt, the entering into of any such amendment is not required to effect, and shall in no way impact, the redenomination or the utilisation of the relevant Facility B Loans in EUR.~~

~~(e) For the purposes of this Clause 2.7 (Redenomination):~~

~~(i) "Redenomination Date" means the earlier of the Business Day prior to the Syndication Closing Date and the date on which a Utilisation Request requesting first utilisation of Facility B is delivered to the Agent by the Company (or any other date that may be agreed between the Arranger and the Parent, each acting reasonably).~~

~~(ii) "GBP/EUR Exchange Rate" means the Agent's Spot Rate of Exchange for the purchase of Euro with Sterling.~~

~~2.8 Obligors' Agent~~

(a) Each Obligor (other than the Parent) by its execution of this Agreement or an Accession Deed irrevocably appoints (to the maximum extent permitted by applicable laws) the Parent to act on its behalf as its agent in relation to the Senior Finance Documents and irrevocably authorises:

(i) the Parent on its behalf to supply all information concerning itself contemplated by this Agreement to the Senior Finance Parties and to give all notices and instructions (including, in the case of a Borrower, Utilisation Requests), to execute on its behalf any Accession Deed, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and

(ii) each Senior Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Senior Finance Documents to the Parent,

and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions (including, without limitation, any Utilisation Requests) or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

(b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors' Agent or given to the Obligors' Agent under any Senior Finance Document on behalf of another Obligor or in connection with any Senior Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Senior Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other

communications of the Obligors' Agent and any other Obligor, those of the Obligors' Agent shall prevail.

3. PURPOSE

3.1 Purpose

- (a) Each Facility B Borrower shall apply all amounts borrowed by it under Facility B directly or indirectly towards:
 - (i) financing the consideration payable by the Company to the holders of the Target Shares either: (1) pursuant to the Scheme; or (2) if the Offer Conversion occurs, pursuant to the Offer and pursuant to the operation of the Squeeze-Out Procedures;
 - (ii) payment of Acquisition and Refinancing Costs; and
 - (iii) refinancing the Existing Facilities Agreement (including related fees, costs and expenses of such refinancing and the close out or termination of any related hedging).
- (b) Each Original Revolving Facility Borrower shall apply all amounts borrowed by it under the Original Revolving Facility, any Letter of Credit or any Bank Guarantee and any utilisation of any Ancillary Facility towards (i) financing permitted acquisitions, capital expenditure, restructuring costs (including refinancing or acquisition of the relevant entity's debts and payment of related transaction, acquisition or restructuring costs, fees and expenses and any Acquisition and Refinancing Costs), (ii) working capital and (iii) any other general corporate purposes of the Group including, without limitation, those purposes described in paragraph (a) above.
- (c) Each Incremental Facility Borrower shall apply all amounts utilised by it under any Incremental Facility towards the purposes described in the relevant Incremental Facility Notice.
- (d) Each Senior Loan Refinancing Facility Borrower shall apply all amounts utilised by it under any Senior Loan Refinancing Facility towards the refinancing of Loans and/or Commitments identified in the relevant Senior Loan Refinancing Facility Notice in whole or in part.

3.2 Conversion from Scheme to Offer

- (a) At any time before the Effective Date and subject to the terms of this Agreement, the Company may give written notice (an "**Offer Conversion Notice**") that it wants to withdraw the Scheme and to launch an offer instead.
- (b) Within 21 days of the date of the Offer Conversion Notice, the Company shall, to the extent that it is able to do so, procure that the Scheme is withdrawn.

3.3 Monitoring

No Senior Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

- (a) The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to any Utilisation if:
 - (i) on or before the issue of the Scheme Press Release, the Agent has received all of the documents and other evidence listed in Part 1 of Schedule 2 (*Conditions precedent to be satisfied before the issue of the Scheme Press Release*); and
 - (ii) if the Offer Conversion occurs, on or before the issue of the Offer Press Release, in addition to the documents and other evidence required to be delivered by paragraph (i) above, the Agent has received all of the documents and other evidence listed in Part 2 of Schedule 2 (*Conditions precedent to be satisfied before the issue of the Offer Press Release*); and
 - (iii) on or before the Utilisation Date for that Utilisation, the Agent has received all of the documents and other evidence listed in Part 3 of Schedule 2 (*Conditions precedent to be satisfied on or before first Utilisation*).
- (b) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (a) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

4.2 Further conditions precedent

Subject to Clause 4.1 (*Initial conditions precedent*), the Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to a Utilisation other than one to which Clause 4.5 (*Utilisations during the Certain Funds Period*) or Clause 4.6 (*Utilisations for Limited Condition Acquisitions on a Certain Funds Basis*) applies, if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) in the case of a Rollover Loan no Acceleration Event is continuing;
- (b) in the case of any other Utilisation:
 - (i) no Default is continuing or would result from the proposed Utilisation; and
 - (ii) in relation to any Utilisation on the Closing Date, all the representations and warranties in Clause 24 (*Representations*) which are made or deemed to be made or repeated on such date are true in all material respects and in relation to any other Utilisation, the Repeating Representations to be made by each Obligor are true in all material respects.

4.3 Conditions relating to Optional Currencies

- (a) A currency will constitute an Optional Currency if:
 - (i) it is readily available in the amount required and freely convertible into the Base Currency in the wholesale market for that currency on the Quotation Day and the Utilisation Date for that Utilisation; and

- (ii) it is euros or dollars or any other currency approved by the Agent (acting on the instructions of all Lenders participating in the relevant Utilisation) on or prior to receipt by the Agent of the relevant Utilisation Request for that Utilisation.
- (b) If the Agent has received a written request from the Parent for a currency to be approved under sub-paragraph (a)(ii) above, the Agent will confirm to the Company by the Specified Time:
 - (i) whether or not the Lenders have granted their approval; and
 - (ii) if approval has been granted, the minimum amount for any subsequent Utilisation in that currency.

4.4 **Maximum number of Utilisations**

- (a) A Borrower (or the Parent) may not deliver a Utilisation Request if as a result of the proposed Utilisation:
 - (i) 10 or more Facility B Loans would be outstanding; or
 - (ii) 10 or more Original Revolving Facility Utilisations would be outstanding.
- (b) A Borrower (or the Parent) may not request that a Facility B Loan be divided if, as a result of the proposed division, 10 or more Facility B Loans would be outstanding.
- (c) Any Loan made by a single Lender under Clause 8.2 (*Unavailability of a currency*) shall not be taken into account in this Clause 4.4.
- (d) Any Separate Loan shall not be taken into account in this Clause 4.4.
- (e) A Borrower (or the Parent) may not request that a Letter of Credit or Bank Guarantee be issued under the Original Revolving Facility if, as a result of the proposed Utilisation, 10 or more Letters of Credit and Bank Guarantees would be outstanding (or such other amount as agreed between the Parent and the Agent).

4.5 **Utilisations during the Certain Funds Period**

- (a) Subject to Clause 4.1 (*Initial conditions precedent*), during the Certain Funds Period, the Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to a Certain Funds Utilisation if, on the date of the Utilisation Request and on the proposed Utilisation Date:
 - (i) no Major Default is continuing or would result from the proposed Utilisation; and
 - (ii) all the Major Representations are true and correct (in all material respects unless already qualified with materiality).
- (b) During the Certain Funds Period (save in circumstances where, pursuant to paragraph (a) above, a Lender is not obliged to comply with Clause 5.4 (*Lenders' participation*) and subject as provided in Clause 11.1 (*Illegality*) and Clause 12.1 (*Exit*)), none of the Senior Finance Parties shall be entitled to:
 - (i) cancel any of its Commitments to the extent to do so would prevent or limit the making of a Certain Funds Utilisation;

- (ii) rescind, terminate or cancel this Agreement, Facility B or, in relation to any Certain Funds Utilisation of the Original Revolving Facility on the Closing Date, the Original Revolving Facility, or exercise any similar right or remedy or make or enforce any claim under the Senior Finance Documents it may have to the extent to do so would prevent or limit the making of a Certain Funds Utilisation;
- (iii) refuse to participate in the making of a Certain Funds Utilisation;
- (iv) exercise any right of set-off or counterclaim in respect of a Utilisation to the extent to do so would prevent or limit the making of a Certain Funds Utilisation; or
- (v) cancel, accelerate or cause repayment or prepayment of any amounts owing under this Agreement or under any other Senior Finance Document to the extent to do so would prevent or limit the making of a Certain Funds Utilisation,

provided that immediately upon the expiry of the Certain Funds Period all such rights, remedies and entitlements shall be available to the Senior Finance Parties notwithstanding that they may not have been used or been available for use during the Certain Funds Period.

4.6 Utilisations for Limited Condition Acquisitions on a Certain Funds Basis

- (a) During an LCA Certain Funds Period, the applicable LCA Certain Funds Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to an LCA Certain Funds Utilisation if, on the date of the Utilisation Request and on the proposed Utilisation Date:
 - (i) no Change of Control or Sale of Whole has occurred (other than the Transactions);
 - (ii) no Major Default is continuing or would result from the proposed Utilisation;
 - (iii) all the Major Representations are true and correct (in all material respects unless already qualified with materiality); and
 - (iv) it is not unlawful in any applicable jurisdiction for that Lender to fund its participation in the relevant Certain Funds Utilisation, *provided that* such unlawfulness alone will not excuse any other Lender from participating in the relevant Certain Funds Utilisation.
- (b) During an LCA Certain Funds Period (save in circumstances where, pursuant to paragraph (a) above, the applicable LCA Certain Funds Lenders are not obliged to comply with Clause 5.4 (*Lenders' participation*) and subject as provided in Clause 11.1 (*Illegality*) and Clause 12.1 (*Exit*)), none of the applicable LCA Certain Funds Lenders shall be entitled to:
 - (i) cancel any of its Commitments to the extent to do so would prevent or limit the making of an LCA Certain Funds Utilisation;
 - (ii) rescind, terminate or cancel this Agreement or a Revolving Facility or exercise any similar right or remedy or make or enforce any claim under the

Senior Finance Documents it may have to the extent to do so would prevent or limit the making of an LCA Certain Funds Utilisation;

- (iii) refuse to participate in the making of an LCA Certain Funds Utilisation;
- (iv) exercise any right of set-off or counterclaim in respect of an LCA Certain Funds Utilisation to the extent to do so would prevent or limit the making of an LCA Certain Funds Utilisation; or
- (v) cancel, accelerate or cause repayment or prepayment of any amounts owing under this Agreement or under any other Senior Finance Document to the extent to do so would prevent or limit the making of an LCA Certain Funds Utilisation,

provided that immediately upon the expiry of the LCA Certain Funds Period all such rights, remedies and entitlements shall be available to the applicable LCA Certain Funds Lenders notwithstanding that they may not have been used or been available for use during the LCA Certain Funds Period.

- (c) If a Major Default is continuing on the date on which a legally binding commitment in respect of a Limited Condition Acquisition is signed by a member of the Group, paragraphs (a) and (b) above shall not apply in relation to such Limited Condition Acquisition and the applicable LCA Certain Funds Lenders shall only be obliged to fund any Utilisation of the Facilities in relation to such Limited Condition Acquisition if they are required to do so by operation of Clause 4.2 (*Further Conditions Precedent*).

SECTION 3 UTILISATION

5. UTILISATION - LOANS

5.1 Delivery of a Utilisation Request

A Borrower (or the Parent on its behalf) may utilise a Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time (or, in relation to the initial Utilisation Date, such shorter period as may be agreed by the Original Lenders), [provided that the Utilisation Request in respect of the Facility B Loan must be provided on at least three Business Days' notice.](#)

5.2 Completion of a Utilisation Request for Loans

- (a) Each Utilisation Request for a Loan is irrevocable and will not be regarded as having been duly completed unless:
- (i) it identifies the Facility to be utilised;
 - (ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
 - (iii) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*);
 - (iv) the proposed Interest Period complies with Clause 15 (*Interest Periods*);
 - (v) in relation to each Utilisation of a Term Facility or any other Certain Funds Utilisation, other than any Utilisation in respect of: (i) Acquisition and Refinancing Costs or refinancing the Existing Facilities Agreement; or (ii) a Squeeze-Out Loan, it directs the Agent to transfer that Utilisation to the Receiving Bank Account against receipt by the Agent of the Receiving Bankers' Certificate;
 - (vi) in relation to a Squeeze-Out Loan:
 - (A) the Agent is directed to pay the full amount of that Loan into a separate account held with the Agent designated Target-Minority Shareholdings Acquisition Funds (the "**Squeeze-Out Account**");
 - (B) the Agent has received a copy of the notice the Company was required to serve under the Squeeze-Out Procedures and the Utilisation Request contains:
 - (I) confirmation from the Company that notices in that form have been served on those holders of the Target Shares who have not accepted the Offer in compliance with the Squeeze-Out Procedures and evidence that the amount of the Squeeze-Out Loan is equal to the consideration payable to such shareholders; and
 - (II) an undertaking by the Company, that on each withdrawal from the Squeeze-Out Account, it will deliver to the Agent a certificate confirming that the full amount of that withdrawal

will be paid to the holder(s) of target Shares whose details are set out in the schedule attached to that certificate, towards the satisfaction of the consideration payable for those shares in accordance with the Squeeze-Out Procedures and the constitutional documents of the Target;

- (b) Multiple Utilisations may be requested in a Utilisation Request where the proposed Utilisation Date is the Closing Date. Only one Utilisation may be requested in each subsequent Utilisation Request.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be:
 - (i) in relation to Facility B ~~but subject to Clause 2.7 (Redenomination)~~, the Base Currency;
 - (ii) in relation to any other Term Facility, the Base Currency or, if applicable to such Term Facility, an Optional Currency;
 - (iii) in relation to the Original Revolving Facility, the Base Currency or an Optional Currency; and
 - (iv) in relation to any other Revolving Facility, the Base Currency or, if applicable to such Revolving Facility, an Optional Currency.
- (b) The amount of the proposed Utilisation must be an amount whose Base Currency Amount is not more than the Available Facility in respect of the Facility to be utilised and the amount of the proposed Utilisation must be:
 - (i) for a Term Facility:
 - (A) if the currency selected is the Base Currency, a minimum of £1,000,000 or if less, the Available Facility; or
 - (B) if the currency selected is euros, a minimum of €1,000,000 or, if less, the Available Facility; or
 - (ii) for a Revolving Facility:
 - (A) if the currency selected is the Base Currency, a minimum of £1,000,000 or, if less, the Available Facility;
 - (B) if the currency selected is euros, a minimum of €1,000,000 or, if less, the Available Facility; or
 - (C) if the currency selected is dollars, a minimum of \$1,000,000 or, if less, the Available Facility;
 - (iii) for any Facility, if the currency selected is an Optional Currency other than euros or dollars, the minimum amount specified by the Agent pursuant to sub-paragraph (b)(ii) of Clause 4.3 (*Conditions relating to Optional Currencies*) or, if less, the Available Facility.

5.4 Lenders' participation

- (a) If the conditions set out in this Agreement have been met, and subject to Clause 10.5 (*Repayment of Revolving Facility Loans*), each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.
- (b) Other than as set out in paragraph (c) below, the amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.
- (c) If an Original Revolving Facility Utilisation is made to repay Ancillary Outstandings, each Lender's participation in that Utilisation will be in an amount (as determined by the Agent) which will result as nearly as possible in the aggregate amount of its participation in the Original Revolving Facility Utilisations then outstanding bearing the same proportion to the aggregate amount of the Original Revolving Facility Utilisations then outstanding as its Original Revolving Facility Commitment bears to the Total Original Revolving Facility Commitments.
- (d) The Agent shall determine the Base Currency Amount of each Revolving Facility Loan or Term Loan which is to be made in an Optional Currency and notify each Lender of the amount, currency and the Base Currency Amount of each Loan, the amount of its participation in that Loan and, if different, the amount of that participation to be made available in accordance with Clause 44.1 (*Payments to the Agent*) by the Specified Time.

5.5 **Limitations on Utilisations**

- (a) The Original Revolving Facility shall not be utilised unless Facility B has been utilised or will be utilised simultaneously.
- (b) Facility B may only be utilised on the Closing Date.
- (c) The maximum aggregate Base Currency Amount of all Letters of Credit and Bank Guarantees issued under the Original Revolving Facility shall not at any time exceed the Total Original Revolving Facility Commitments.
- (d) The maximum aggregate amount of the Ancillary Commitments committed in connection with the Original Revolving Facility of all the Original Revolving Facility Lenders shall not at any time exceed the Total Original Revolving Facility Commitments.

5.6 **Cancellation of Commitment**

- (a) The Facility B Commitments which are unutilised at the end of the Availability Period for those Facility B Commitments shall be immediately cancelled at the end of the Availability Period for those Facility B Commitments unless otherwise agreed between the Parent and all the Lenders under Facility B.
- (b) The Original Revolving Facility Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for the Original Revolving Facility unless otherwise agreed between the Parent and all the Lenders under the Original Revolving Facility.
- (c) Incremental Facility Commitments which are unutilised at the end of the Availability Period for those Incremental Facility Commitments shall be immediately cancelled at the end of the Availability Period for those Incremental Facility Commitments unless

otherwise agreed between the Parent and all the Lenders under the relevant Incremental Facility.

- (d) Senior Loan Refinancing Facility Commitments which are unutilised at the end of the Availability Period for those Senior Loan Refinancing Facility Commitments shall be immediately cancelled at the end of the Availability Period for those Senior Loan Refinancing Facility Commitments unless otherwise agreed between the Parent and all the Lenders under the relevant Senior Loan Refinancing Facility.

5.7 Lender Affiliates and Facility Office

- (a) In respect of a Loan or Loans to a particular Borrower (“**Designated Loans**”) a Lender (a “**Designating Lender**”) may at any time and from time to time in each case, following the expiry of the Certain Funds Period, designate (by written notice to the Agent and the Company):
 - (i) a substitute Facility Office from which it will make Designated Loans (a “**Substitute Facility Office**”); or
 - (ii) an Affiliate to act as the Lender of Designated Loans (a “**Substitute Affiliate Lender**”).
- (b) A notice to nominate a Substitute Affiliate Lender must be in the form set out in Schedule 22 (*Form of Substitute Affiliate Lender Designation Notice*) and be countersigned by the relevant Substitute Affiliate Lender confirming it will be bound as a Lender under this Agreement in respect of the Designated Loans in respect of which it acts as Lender.
- (c) The Designating Lender will act as the representative of any Substitute Affiliate Lender it nominates for all administrative purposes under this Agreement and shall remain liable and responsible for the performance of all obligations assumed by a Substitute Affiliate Lender on its behalf under this Clause 5.7 and non-performance of a Designating Lender’s obligations by its Substitute Affiliate Lender following a nomination under this Clause 5.7 shall not relieve such Designating Lender from its obligations under this Agreement. The Obligors, the Agent and the other Senior Finance Parties will be entitled to deal only with the Designating Lender. In particular the Commitments of the Designating Lender will not be treated as reduced by the introduction of the Substitute Affiliate Lender for the purposes of compliance with Clause 38 (*Changes to the Lenders*) and for voting purposes under this Agreement or the other Senior Finance Documents (and a Substitute Affiliate Lender shall not have any voting rights under the Senior Finance Documents).
- (d) Save as mentioned in paragraph (c) above, a Substitute Affiliate Lender will be treated as a Lender for all purposes under the Senior Finance Documents as having a Commitment equal to the principal amount of all Designated Loans in which it is participating if and for so long as it continues to be a Substitute Affiliate Lender under this Agreement. For the purposes of calculating the relevant Lender’s Available Commitment, the Lender’s Commitment shall be reduced to the extent of the Commitment of the Substitute Affiliate Lender under the Designated Loans.
- (e) A Designating Lender may revoke its designation of an Affiliate as a Substitute Affiliate Lender by notice in writing to the Agent and the Company *provided that* such notice may only take effect when there are no Designated Loans outstanding to the Substitute Affiliate Lender. Upon such Substitute Affiliate Lender ceasing to be a Substitute Affiliate Lender the Designating Lender will automatically assume (and be

deemed to assume without further action by any Party) all rights and obligations previously vested in the Substitute Affiliate Lender.

6. UTILISATION – LETTERS OF CREDIT AND BANK GUARANTEES

6.1 The Original Revolving Facility

- (a) The Original Revolving Facility may be utilised by way of Letters of Credit or Bank Guarantee.
- (b) Other than Clause 5.5 (*Limitations on Utilisations*), Clause 5 (*Utilisation - Loans*) does not apply to utilisations by way of Letters of Credit or Bank Guarantee.

6.2 Delivery of a Utilisation Request for Letters of Credit or Bank Guarantees

A Borrower (or the Parent on its behalf) may request a Letter of Credit or Bank Guarantee to be issued by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time (or in relation to a Letter of Credit or Bank Guarantee to be issued on the Closing Date, such other date that the Agent and the applicable Issuing Bank may agree).

6.3 Completion of a Utilisation Request for Letters of Credit or Bank Guarantees

Each Utilisation Request for a Letter of Credit or Bank Guarantee is irrevocable and will not be regarded as having been duly completed unless:

- (a) it specifies that it is for a Letter of Credit or Bank Guarantee;
- (b) it identifies the relevant Original Revolving Facility Borrower;
- (c) it identifies the Issuing Bank which has agreed to issue the Letter of Credit or Bank Guarantee;
- (d) the proposed Utilisation Date is a Business Day within the Availability Period applicable to the Original Revolving Facility;
- (e) the currency and amount of the Letter of Credit or Bank Guarantee comply with Clause 6.4 (*Currency and amount*);
- (f) the form of Letter of Credit or Bank Guarantee is attached;
- (g) the Expiry Date of the Letter of Credit or Bank Guarantee falls on or before the Termination Date in relation to the Original Revolving Facility;
- (h) the Term of the Letter of Credit or Bank Guarantee is 12 Months or less;
- (i) the delivery instructions for the Letter of Credit or Bank Guarantee are specified; and
- (j) the identity of the beneficiary of the Letter of Credit or Bank Guarantee is approved by the Issuing Bank (acting reasonably).

6.4 Currency and amount

- (a) The currency specified in a Utilisation Request must be the Base Currency or an Optional Currency.

- (b) The amount of the proposed Letter of Credit or Bank Guarantee must be an amount whose Base Currency Amount is not more than the Available Facility in respect of the Original Revolving Facility and which is:
 - (i) if the currency selected is the Base Currency, a minimum of £5,000 or, if less, the Available Facility; or
 - (ii) if the currency selected is euros, a minimum of €5,000 or, if less, the Available Facility; or
 - (iii) if the currency selected is dollars, a minimum of \$5,000 or, if less, the Available Facility; or
 - (iv) if the currency selected is an Optional Currency other than euros or dollars, the minimum amount specified by the Agent pursuant to paragraph (b)(ii) of Clause 4.3 (*Conditions relating to Optional Currencies*) or, if less, the Available Facility.

6.5 Issue of Letters of Credit or Bank Guarantees

- (a) If the conditions set out in this Agreement have been met, the applicable Issuing Bank shall issue the Letter of Credit or Bank Guarantee on the Utilisation Date.
- (b) Subject to Clause 4.1 (*Initial conditions precedent*), the Issuing Bank will only be obliged to comply with paragraph (a) above in relation to a Letter of Credit or Bank Guarantee other than one to which paragraph (c) below applies, if on the date of the Utilisation Request or Renewal Request and on the proposed Utilisation Date:
 - (i) in the case of a Letter of Credit or Bank Guarantee to be renewed in accordance with Clause 6.6 (*Renewal of a Letter of Credit or Bank Guarantee*), no Acceleration Event is continuing;
 - (ii) other than in the case of a Letter of Credit or Bank Guarantee to be renewed in accordance with Clause 6.6 (*Renewal of a Letter of Credit or Bank Guarantee*), no Default is continuing or would result from the proposed Utilisation; and
 - (iii) in relation to any Utilisation on the Closing Date, all the representations and warranties in Clause 24 (*Representations*) which are made or deemed to be made or repeated on such date are true in all material respects and, in relation to any other Utilisation (other than in the case of a Letter of Credit or Bank Guarantee to be renewed in accordance with Clause 6.6 (*Renewal of a Letter of Credit or Bank Guarantee*)), the Repeating Representations which are made or deemed to be made or repeated by each Obligor are true in all material respects.
- (c) Subject to Clause 4.1 (*Initial conditions precedent*), during the Certain Funds Period or any LCA Certain Funds Period, the applicable Issuing Bank will only be obliged to comply with paragraph (a) above in relation to a Letter of Credit or Bank Guarantee which is a Certain Funds Utilisation or an LCA Certain Funds Utilisation (as applicable), if on the date of the Utilisation Request and on the proposed Utilisation Date:
 - (i) no Major Default is continuing or would result from the issue of the proposed Letter of Credit or Bank Guarantee; and

- (ii) all the Major Representations are true (in all material respects unless already qualified with materiality).
- (d) During the Certain Funds Period or any LCA Certain Funds Period (save in circumstances where, pursuant to paragraph (c) above, the applicable Issuing Bank is not obliged to comply with paragraph (a) above and subject as provided in Clause 11.2 (*Illegality in relation to Issuing Bank*) and Clause 12.1 (*Exit*)), the applicable Issuing Bank shall not be entitled to:
 - (i) rescind, terminate or cancel this Agreement or the Original Revolving Facility or exercise any similar right or remedy or make or enforce any claim under the Senior Finance Documents it may have to the extent to do so would prevent or limit the issuing of a Letter of Credit or Bank Guarantee which is a Certain Funds Utilisation or an LCA Certain Funds Utilisation (as applicable);
 - (ii) refuse to issue a Letter of Credit or Bank Guarantee which is a Certain Funds Utilisation or an LCA Certain Funds Utilisation (as applicable);
 - (iii) exercise any right of set-off or counterclaim in respect of a Letter of Credit or Bank Guarantee to the extent to do so would prevent or limit the making of a Letter of Credit or Bank Guarantee which is a Certain Funds Utilisation or an LCA Certain Funds Utilisation (as applicable); or
 - (iv) cause repayment or prepayment of any amounts owing under this Agreement or under any other Senior Finance Document to the extent to do so would prevent or limit the making of a Letter of Credit or Bank Guarantee which is a Certain Funds Utilisation or an LCA Certain Funds Utilisation (as applicable),

provided that immediately upon the expiry of the Certain Funds Period or an LCA Certain Funds Period (as applicable) all such rights, remedies and entitlements shall be available to the applicable Issuing Bank notwithstanding that they may not have been used or been available for use during the Certain Funds Period or an LCA Certain Funds Period (as applicable).

- (e) If, on the date on which a legally binding commitment in respect of a Limited Condition Acquisition is signed by a member of the Group, a Major Default is continuing, paragraphs (c) and (d) shall not apply in respect of such Limited Condition Acquisition and the applicable Issuing Bank shall only be obliged to issue a Letter of Credit or Bank Guarantee in relation to such Limited Condition Acquisition if they are required to do so by operation of paragraphs (a) and (b) above.
- (f) The amount of each Lender's participation in each Letter of Credit or Bank Guarantee will be equal to its Proportion.
- (g) The Agent shall determine the Base Currency Amount of each Letter of Credit or Bank Guarantee which is to be issued in an Optional Currency and shall notify the applicable Issuing Bank and each Lender of the details of the requested Letter of Credit or Bank Guarantee and its participation in that Letter of Credit or Bank Guarantee (as applicable) by the Specified Time.
- (h) The applicable Issuing Bank has no duty to enquire of any person whether or not any of the conditions set out in paragraphs (b) or (c) above have been met. The applicable Issuing Bank may assume that those conditions have been met unless it is

expressly notified to the contrary by the Agent. The applicable Issuing Bank will have no liability to any person for issuing a Letter of Credit or Bank Guarantee based on such assumption.

- (i) The Issuing Bank is solely responsible for the form of the Letter of Credit or Bank Guarantee that it issues. The Agent has no duty to monitor the form of that document.
- (j) Subject to paragraph (h) of Clause 41.6 (*Rights and discretions*), each of the Issuing Bank and the Agent shall provide the other with any information reasonably requested by the other that relates to a Letter of Credit or Bank Guarantee and its issue.
- (k) The Issuing Bank may issue a Letter of Credit in the form of a SWIFT message or other form of communication customary in the relevant market but has no obligation to do so.

6.6 **Renewal of a Letter of Credit or Bank Guarantee**

- (a) A Borrower (or the Parent on its behalf) may request that any Letter of Credit or Bank Guarantee issued on behalf of that Borrower be renewed by delivery to the Agent of a Renewal Request in substantially similar form to a Utilisation Request for a Letter of Credit or Bank Guarantee by the Specified Time.
- (b) The Senior Finance Parties shall treat any Renewal Request in the same way as a Utilisation Request for a Letter of Credit or Bank Guarantee except that the conditions set out in paragraph (f) of Clause 6.3 (*Completion of a Utilisation Request for Letters of Credit or Bank Guarantee*) shall not apply.
- (c) The terms of each renewed Letter of Credit or Bank Guarantee shall be the same as those of the relevant Letter of Credit or Bank Guarantee immediately prior to its renewal, except that:
 - (i) its amount may be less than the amount of the Letter of Credit or Bank Guarantee immediately prior to its renewal; and
 - (ii) its Term shall start on the date which was the Expiry Date of the Letter of Credit or Bank Guarantee immediately prior to its renewal, and shall end on the proposed Expiry Date specified in the Renewal Request.
- (d) If the conditions set out in this Agreement have been met, the Issuing Bank shall amend and re-issue any Letter of Credit or Bank Guarantee pursuant to a Renewal Request.
- (e) Where a new Letter of Credit or Bank Guarantee is to be issued to replace by way of renewal an existing Letter of Credit or Bank Guarantee, the Issuing Bank is not required to issue that new Letter of Credit or Bank Guarantee until the Letter of Credit or Bank Guarantee being replaced has been returned to the Issuing Bank or the Issuing Bank is satisfied either that it will be returned to it or otherwise that no liability can arise under it.

6.7 **Reduction of a Letter of Credit or Bank Guarantee**

- (a) If, on the proposed Utilisation Date of a Letter of Credit or Bank Guarantee, any of the Lenders under the Original Revolving Facility is a Non-Acceptable Lender and:

- (i) that Lender has failed to provide cash collateral to the Issuing Bank in accordance with Clause 7.5 (*Cash collateral by Non-Acceptable Lender*); and
- (ii) either:
 - (A) the Issuing Bank has not required the relevant Borrower to provide cash cover pursuant to Clause 7.6 (*Cash cover by Borrower*); or
 - (B) the relevant Borrower has failed to provide cash cover to the Issuing Bank in accordance with Clause 7.6 (*Cash cover by Borrower*),

the Issuing Bank may reduce the amount of that Letter of Credit or Bank Guarantee by an amount equal to the amount of the participation of that Non-Acceptable Lender in respect of that Letter of Credit or Bank Guarantee and that Non-Acceptable Lender shall be deemed not to have any participation (or obligation to indemnify the Issuing Bank) in respect of that Letter of Credit or Bank Guarantee for the purposes of the Senior Finance Documents.

- (b) The Issuing Bank shall notify the Agent and the Parent of each reduction made pursuant to this Clause 6.7.
- (c) This Clause 6.7 shall not affect the participation of each other Lender in that Letter of Credit or Bank Guarantee.

6.8 Revaluation of Letters of Credit or Bank Guarantees

- (a) If any Letters of Credit or Bank Guarantees are denominated in an Optional Currency, the Agent shall at six monthly intervals after the date of this Agreement recalculate the Base Currency Amount of each Letter of Credit and each Bank Guarantee by notionally converting into the Base Currency the outstanding amount of that Letter of Credit and Bank Guarantee on the basis of the Agent's Spot Rate of Exchange on the date of calculation.
- (b) The Parent shall, if requested by the Agent within 15 days of any calculation under paragraph (a) above, ensure that within three Business Days sufficient Original Revolving Facility Utilisations are prepaid to prevent the Base Currency Amount of the Original Revolving Facility Utilisations exceeding the Total Original Revolving Facility Commitments (after deducting the total Ancillary Commitments) following any adjustment to a Base Currency Amount under paragraph (a) above.

6.9 Reduction or expiry of Letter of Credit or Bank Guarantee

If the amount of any Letter of Credit or Bank Guarantee is wholly or partially reduced or it is repaid or prepaid or it expires prior to its Expiry Date, the relevant Issuing Bank and the Borrower that requested (or on behalf of which the Parent requested) the issue of that Letter of Credit or Bank Guarantee shall promptly notify the Agent of the details upon becoming aware of them.

7. LETTERS OF CREDIT AND BANK GUARANTEES

7.1 Immediately payable

If a Letter of Credit or Bank Guarantee or any amount outstanding under a Letter of Credit or Bank Guarantee is expressed to be immediately payable, the Borrower that requested (or

on behalf of which the Parent requested) the issue of that Letter of Credit or Bank Guarantee shall repay or prepay that amount immediately.

7.2 Claims under a Letter of Credit or Bank Guarantee

- (a) Each Borrower irrevocably and unconditionally authorises the Issuing Bank to pay any claim made or purported to be made under a Letter of Credit or Bank Guarantee requested by it (or requested by the Parent on its behalf) and which appears on its face to be in order (in this Clause 7, a “**claim**”).
- (b) Each Borrower shall immediately on demand or, if such payment is being funded by a Revolving Facility Loan, shall within ten Business Days of demand, pay to the Agent for the Issuing Bank an amount equal to the amount of any claim, which amount may be satisfied under Clause 7.3 (*Letters of Credit and Bank Guarantees to become Loans*).
- (c) Each Borrower acknowledges that the Issuing Bank:
 - (i) is not obliged to carry out any investigation or seek any confirmation from any other person before paying a claim; and
 - (ii) deals in documents only and will not be concerned with the legality of a claim or any underlying transaction or any available set-off, counterclaim or other defence of any person.
- (d) The obligations of a Borrower under this Clause 7 will not be affected by:
 - (i) the sufficiency, accuracy or genuineness of any claim or any other document; or
 - (ii) any incapacity of, or limitation on the powers of, any person signing a claim or other document.

7.3 Letters of Credit and Bank Guarantees to become Loans

- (a) Any claim demanded from and paid by the Issuing Bank under a Letter of Credit or Bank Guarantee representing a drawing of the Original Revolving Facility Commitments, subject in each case to paragraph (b) below, shall, if notified by the Parent to the Agent, within five Business Days from the date that the relevant Borrower is obliged to satisfy the claim and without any requirement to give notice to the Issuing Bank, be refinanced by an Original Revolving Facility Loan made by the Original Revolving Facility Lenders to the Original Revolving Facility Borrowers severally in the same proportions as their liabilities arise with respect to such Letter of Credit or Bank Guarantee pursuant to Clause 7.4 (*Indemnities related to Letters of Credit or Bank Guarantees*), in each case to the extent that there remains a sufficient amount of the Original Revolving Facility Commitments, undrawn at the time (for this purpose the relevant utilisation by Letter of Credit or Bank Guarantee being deemed not to be outstanding to the extent of the amount demanded).
- (b) All provisions of this Agreement relating to an Original Revolving Facility Loan that is a Rollover Loan (as applicable) and the making thereof (including the provisions of paragraph (b) of Clause 4.2 (*Further conditions precedent*) and all provisions relating to the payment of interest thereon and the repayment and prepayment of principal thereof) shall apply *mutatis mutandis* to the loan under paragraph (a) above. The proceeds of such Loan shall be applied in satisfaction of the relevant

Borrower's obligations to the Issuing Bank in respect of such Letter of Credit or Bank Guarantee under this Agreement.

7.4 Indemnities related to Letters of Credit or Bank Guarantees

- (a) Each Borrower shall immediately on demand indemnify the Issuing Bank against any cost, loss or liability incurred by the Issuing Bank (otherwise than by reason of the Issuing Bank's gross negligence or wilful misconduct) in acting as the Issuing Bank under any Letter of Credit or Bank Guarantee requested by (or on behalf of) that Borrower.
- (b) Each Lender shall (according to its Proportion) immediately on demand indemnify the Issuing Bank against any cost, loss or liability incurred by the Issuing Bank (otherwise than by reason of the Issuing Bank's gross negligence or wilful misconduct) in acting as the Issuing Bank under any Letter of Credit or Bank Guarantee (unless the Issuing Bank has been reimbursed by an Obligor pursuant to a Senior Finance Document).
- (c) If any Lender is not permitted (by its constitutional documents or any applicable law) to comply with paragraph (b) above, then that Lender will not be obliged to comply with paragraph (b) above and shall instead be deemed to have taken, on the date the Letter of Credit or Bank Guarantee is issued (or if later, on the date the Lender's participation in the Letter of Credit or Bank Guarantee is transferred or assigned to the Lender in accordance with the terms of this Agreement), an undivided interest and participation in the Letter of Credit or Bank Guarantee in an amount equal to its Proportion of that Letter of Credit or Bank Guarantee. On receipt of demand from the Agent, that Lender shall pay to the Agent (for the account of the Issuing Bank) an amount equal to its Proportion of the amount demanded.
- (d) The Borrower which requested (or on behalf of which the Parent requested) a Letter of Credit or Bank Guarantee shall immediately on demand reimburse any Lender for any payment it makes to the Issuing Bank under this Clause 7.4 in respect of that Letter of Credit or Bank Guarantee.
- (e) The obligations of each Lender or Borrower under this Clause 7.4 are continuing obligations and will extend to the ultimate balance of sums payable by that Lender or Borrower in respect of any Letter of Credit or Bank Guarantee, regardless of any intermediate payment or discharge in whole or in part.
- (f) The obligations of any Lender or Borrower under this Clause 7.4 will not be affected by any act, omission, matter or thing which, but for this Clause 7.4, would reduce, release or prejudice any of its obligations under this Clause 7.4 (without limitation and whether or not known to it or any other person) including:
 - (i) any time, waiver or consent granted to, or composition with, any Obligor, any beneficiary under a Letter of Credit or Bank Guarantee or any other person;
 - (ii) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor or any member of the Group;
 - (iii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor, any beneficiary under a Letter of Credit or Bank Guarantee or other person or any non-presentation or non-observance of any

formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

- (iv) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor, any beneficiary under a Letter of Credit or Bank Guarantee or any other person;
- (v) any amendment (however fundamental) or replacement of a Senior Finance Document, any Letter of Credit or Bank Guarantee or any other document or security;
- (vi) any unenforceability, illegality or invalidity of any obligation of any person under any Senior Finance Document, any Letter of Credit or Bank Guarantee or any other document or security; or
- (vii) any insolvency or similar proceedings.

7.5 Cash collateral by Non-Acceptable Lender

- (a) If, at any time, a Lender under the Original Revolving Facility is a Non-Acceptable Lender, the Issuing Bank may, by notice to that Lender, request that Lender to pay and that Lender shall pay, on or prior to the date falling five Business Days after the request by the Issuing Bank, an amount equal to that Lender's Proportion of the outstanding amount of a Letter of Credit or Bank Guarantee and in the currency of that Letter of Credit or Bank Guarantee to an interest-bearing account held in the name of that Lender with the Issuing Bank.
- (b) The Non-Acceptable Lender to whom a request has been made in accordance with paragraph (a) above shall enter into a security document or other form of collateral arrangement over the account, in form and substance satisfactory to the Issuing Bank, as collateral for any amounts due and payable under the Senior Finance Documents by that Lender to the Issuing Bank in respect of that Letter of Credit or Bank Guarantee.
- (c) Until no amount is or may be outstanding under that Letter of Credit or Bank Guarantee, withdrawals from the account may only be made to pay to the Issuing Bank amounts due and payable to the Issuing Bank by the Non-Acceptable Lender under the Senior Finance Documents in respect of that Letter of Credit or Bank Guarantee.
- (d) Each Lender under a Revolving Facility shall notify the Agent and the Parent:
 - (i) on the date of this Agreement or on any later date on which it becomes such a Lender in accordance with Clause 2.2 (*Increase*), Clause 2.5 (*Extension*), Clause 2.4 (*Senior Loan Refinancing Facility*) or Clause 38 (*Changes to the Lenders*) whether it is a Non-Acceptable Lender; and
 - (ii) as soon as practicable upon becoming aware of the same, that it has become a Non-Acceptable Lender,

and an indication in Schedule 1 (*The Original Parties*), in a Transfer Certificate, in an Assignment Agreement, in an Increase Confirmation, in an Incremental Facility Accession Certificate or in a Senior Loan Refinancing Facility Accession Certificate to that effect will constitute a notice under sub-paragraph (d)(i) above to the Agent and, upon delivery in accordance with Clause 38.8 (*Copy of Transfer Certificate, Assignment Agreement, Accession Deed, Increase Confirmation, Incremental*

Facility Accession Certificate or Senior Loan Refinancing Facility Accession Certificate to Parent), to the Parent.

- (e) Any notice received by the Agent pursuant to paragraph (d) above shall constitute notice to the Issuing Bank of that Lender's status and the Agent shall, upon receiving each such notice, promptly notify the Issuing Bank of that Lender's status as specified in that notice.
- (f) If a Lender who has provided cash collateral in accordance with this Clause 7.5:
 - (i) ceases to be a Non-Acceptable Lender; and
 - (ii) no amount is due and payable by that Lender in respect of a Letter of Credit or Bank Guarantee,

that Lender may, at any time it is not a Non-Acceptable Lender, by notice to the Issuing Bank request that an amount equal to the amount of the cash provided by it as collateral in respect of that Letter of Credit or Bank Guarantee (together with any accrued interest) standing to the credit of the relevant account held with the Issuing Bank be returned to it and the Issuing Bank shall pay that amount to the Lender within five Business Days after the request from the Lender (and shall cooperate with the Lender in order to procure that the relevant security or collateral arrangement is released and discharged).

7.6 **Cash cover by Borrower**

- (a) If a Lender which is a Non-Acceptable Lender fails to provide cash collateral (or notifies the Issuing Bank that it will not provide cash collateral) in accordance with Clause 7.5 (*Cash collateral by Non-Acceptable Lender*) and the Issuing Bank notifies the Obligors' Agent (with a copy to the Agent) that it requires (acting reasonably) the Borrower of the relevant Letter of Credit or Bank Guarantee or proposed Letter of Credit or Bank Guarantee to provide cash cover to an account with the Issuing Bank in an amount equal to that Lender's Proportion of the outstanding amount of that Letter of Credit or Bank Guarantee and in the currency of that Letter of Credit or Bank Guarantee then that Borrower shall do so within five Business Days after the notice is given.
- (b) Notwithstanding paragraph (e) of Clause 1.2 (*Construction*), the Issuing Bank shall agree to the withdrawal of amounts up to the level of that cash cover from the account if:
 - (i) it is satisfied (acting reasonably) that the relevant Lender is no longer a Non-Acceptable Lender; or
 - (ii) the relevant Lender's obligations in respect of the relevant Letter of Credit or Bank Guarantee are transferred to a New Lender in accordance with the terms of this Agreement; or
 - (iii) an Increase Lender has agreed to undertake the obligations in respect of the relevant Lender's Proportion of the Letter of Credit or Bank Guarantee.
- (c) To the extent that a Borrower has complied with its obligations to provide cash cover in accordance with this Clause 7.6, the relevant Lender's Proportion in respect of that Letter of Credit or Bank Guarantee will remain (but that Lender's obligations in relation to that Letter of Credit or Bank Guarantee may be satisfied in accordance with sub-paragraph (e)(ii) of Clause 1.2 (*Construction*)). However, the relevant

Borrower's obligation to pay any Letter of Credit or Bank Guarantee fee in relation to the relevant Letter of Credit or Bank Guarantee to the Agent (for the account of that Lender) in accordance with paragraph (b) of Clause 17.5 (*Fees payable in respect of Letters of Credit or Bank Guarantees*) will be reduced proportionately as from the date on which it complies with that obligation to provide cash cover (and for so long as the relevant amount of cash cover continues to stand as collateral).

- (d) The relevant Issuing Bank or the Parent shall promptly notify the Agent of the extent to which a Borrower provides cash cover pursuant to this Clause 7.6 and of any change in the amount of cash cover so provided.

7.7 Rights of contribution

No Obligor will be entitled to any right of contribution or indemnity from any Senior Finance Party in respect of any payment it may make under this Clause 7.

8. OPTIONAL CURRENCIES

8.1 Selection of currency

A Borrower (or the Parent on its behalf) shall select the currency of a Utilisation under a Revolving Facility or a Term Facility (other than Facility B) that is available for utilisation in Optional Currencies in a Utilisation Request.

8.2 Unavailability of a currency

If before the Specified Time on any Quotation Day:

- (a) a Lender notifies the Agent that the Optional Currency requested is not readily available to it in the amount required; or
- (b) a Lender notifies the Agent that compliance with its obligation to participate in a Loan in the proposed Optional Currency would contravene a law or regulation applicable to it,

the Agent will give notice to the relevant Borrower to that effect by the Specified Time on that day. In this event, any Lender that gives notice pursuant to this Clause 8.2 will be required to participate in the Utilisation in the Base Currency (in an amount equal to that Lender's proportion of the Base Currency Amount, or in respect of a Rollover Loan, an amount equal to that Lender's proportion of the Base Currency Amount of the Rollover Loan that is due to be made) and its participation will be treated as a separate Loan denominated in the Base Currency during that Interest Period.

8.3 Agent's calculations

- (a) All calculations made by the Agent pursuant to this Clause 8 will take into account any repayment, prepayment, consolidation or division of Term Loans to be made on the last day of the first Interest Period.
- (b) Each Lender's participation in a Loan will, subject to paragraph (a) above, be determined in accordance with paragraph (b) of Clause 5.4 (*Lenders' participation*).

9. ANCILLARY FACILITIES

9.1 Type of Facility

An Ancillary Facility may be by way of:

- (a) an overdraft, cheque clearing, credit card, automatic payment or other current account facility;
- (b) a guarantee, bonding, documentary or stand-by letter of credit facility;
- (c) a short term loan facility;
- (d) a derivatives facility;
- (e) a foreign exchange facility; or
- (f) any other facility or accommodation required in connection with the business of the Group and which is agreed by the Parent with an Ancillary Lender.

9.2 Availability

- (a) If the Parent and a Lender agree and except as otherwise provided in this Agreement, the Lender may provide an Ancillary Facility on a bilateral basis in place of all or part of that Lender's unutilised Original Revolving Facility Commitment.
- (b) Except for the Approved Existing Ancillary Facilities which shall be made available on and from the Closing Date as Ancillary Facilities without any further notice or delivery of information (but, for the avoidance of doubt, will otherwise be subject to the terms of this Clause 9), an Ancillary Facility shall not be made available unless, not later than five Business Days prior to the Ancillary Commencement Date for an Ancillary Facility, the Agent has received from the Parent:
 - (i) a notice in writing of the establishment of an Ancillary Facility and specifying:
 - (A) the proposed Borrower(s) or Affiliate(s) of a Borrower incorporated in the same jurisdictions as an existing Borrower or Borrowers nominated pursuant to Clause 9.9 (*Affiliates of Borrowers*) which may use the Ancillary Facility;
 - (B) the proposed Ancillary Commencement Date and expiry date of the Ancillary Facility;
 - (C) the proposed type of Ancillary Facility to be provided;
 - (D) the proposed Ancillary Lender;
 - (E) the proposed Ancillary Commitment, the maximum amount of the Ancillary Facility and, in the case of a Multi-account Overdraft, its maximum gross amount (that amount being the "**Designated Gross Amount**") and its maximum net amount (that amount being the "**Designated Net Amount**"); and
 - (F) the proposed currency of the Ancillary Facility (if not denominated in the Base Currency); and

- (ii) any other information which the Agent may reasonably request in connection with the Ancillary Facility.
- (c) The Agent shall promptly notify the Parent, the Ancillary Lender and the other Lenders of the establishment of an Ancillary Facility.
- (d) No amendment or waiver of a term of any Ancillary Facility shall require the consent of any Senior Finance Party other than the relevant Ancillary Lender unless such amendment or waiver itself relates to or gives rise to a matter which would require an amendment of or under this Agreement (including, for the avoidance of doubt, under this Clause). In such a case, the provisions of this Agreement with regard to amendments and waivers will apply.
- (e) Subject to compliance with paragraph (b) above:
 - (i) the Lender concerned will become an Ancillary Lender; and
 - (ii) the Ancillary Facility will be available,
 with effect from the date agreed by the Parent and the Ancillary Lender.

9.3 Terms of Ancillary Facilities

- (a) Except as provided below, the terms of any Ancillary Facility will be those agreed by the Ancillary Lender and the Parent.
- (b) Those terms:
 - (i) must be based upon normal commercial terms at that time (except as varied by this Agreement);
 - (ii) may allow only Borrowers or Affiliates of Borrowers incorporated in a Permitted Borrower Jurisdiction or the same jurisdiction as an existing Borrower nominated pursuant to Clause 9.9 (*Affiliates of Borrowers*) to use the Ancillary Facility;
 - (iii) may not allow the Ancillary Outstandings to exceed the Ancillary Commitment;
 - (iv) may not allow the Ancillary Commitment of a Lender to exceed the Available Commitment with respect to the Original Revolving Facility of that Lender (before taking into account the effect of the Ancillary Facility on that Available Commitment); and
 - (v) must require that the Ancillary Commitment is reduced to nil, and that all Ancillary Outstandings are repaid (or cash cover provided in respect of all the Ancillary Outstandings) not later than the Termination Date for the Original Revolving Facility (or such earlier date as the Original Revolving Facility Commitment of the relevant Ancillary Lender (or its Affiliate) is reduced to zero).
- (c) If there is any inconsistency between any term of an Ancillary Facility and any term of this Agreement, this Agreement shall prevail except for (i) Clause 47.3 (*Day count convention*) which shall not prevail for the purposes of calculating fees, interest or commission relating to an Ancillary Facility; (ii) an Ancillary Facility comprising more than one account where the terms of the Ancillary Documents shall prevail to

the extent required to permit the netting of balances on those accounts; and (iii) where the relevant term of this Agreement would be contrary to, or inconsistent with, the law governing the relevant Ancillary Document, in which case that term of this Agreement shall not prevail.

- (d) Interest, commission and fees on Ancillary Facilities are dealt with in Clause 17.6 (*Interest, commission and fees on Ancillary Facilities*).

9.4 Repayment of Ancillary Facility

- (a) An Ancillary Facility shall cease to be available on the Termination Date in relation to the Original Revolving Facility or such earlier date on which its expiry date occurs or on which it is cancelled in accordance with the terms of this Agreement.
- (b) If an Ancillary Facility expires in accordance with its terms the Ancillary Commitment of the Ancillary Lender shall be reduced to zero.
- (c) No Ancillary Lender may demand repayment or prepayment of any Ancillary Outstandings prior to the expiry date of the relevant Ancillary Facility unless:
 - (i) required to reduce the Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Net Outstandings;
 - (ii) the Total Original Revolving Facility Commitments have been cancelled in full, or all outstanding Utilisations under the Original Revolving Facility have become due and payable in accordance with the terms of this Agreement, or the Agent has declared all outstanding Utilisations under the Original Revolving Facility immediately due and payable, or the expiry date of the Ancillary Facility occurs; or
 - (iii) it becomes unlawful in any applicable jurisdiction for the Ancillary Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in its Ancillary Facility; or
 - (iv) the Ancillary Outstandings (if any) under that Ancillary Facility can be refinanced by an Original Revolving Facility Utilisation and the Ancillary Lender gives sufficient notice to enable an Original Revolving Facility Utilisation to be made to refinance those Ancillary Outstandings.
- (d) For the purposes of determining whether or not the Ancillary Outstandings under an Ancillary Facility mentioned in sub-paragraph (c)(iv) above can be refinanced by a Utilisation of the Original Revolving Facility:
 - (i) the Original Revolving Facility Commitment of the Ancillary Lender will be increased by the amount of its Ancillary Commitment; and
 - (ii) the Utilisation may (so long as sub-paragraph (c)(ii) above does not apply) be made irrespective of whether a Default is outstanding or any other applicable condition precedent is not satisfied (but only to the extent that the proceeds are applied in refinancing those Ancillary Outstandings) and irrespective of whether Clause 4.4 (*Maximum number of Utilisations*) or sub-paragraph (a)(iv) of Clause 5.2 (*Completion of a Utilisation Request for Loans*) applies.

- (e) On the making of a Utilisation of the Original Revolving Facility to refinance Ancillary Outstandings:
 - (i) each Lender will participate in that Utilisation in an amount (as determined by the Agent) which will result as nearly as possible in the aggregate amount of its participation in the Original Revolving Facility Utilisations then outstanding bearing the same proportion to the aggregate amount of the Original Revolving Facility Utilisations then outstanding as its Original Revolving Facility Commitment bears to the Total Original Revolving Facility Commitments; and
 - (ii) the relevant Ancillary Facility shall be cancelled.
- (f) In relation to an Ancillary Facility which comprises an overdraft facility where a Designated Net Amount has been established, the Ancillary Lender providing that Ancillary Facility shall only be obliged to take into account for the purposes of calculating compliance with the Designated Net Amount those credit balances which it is permitted to take into account by the then current law and regulations in relation to its reporting of exposures as netted for capital adequacy purposes.

9.5 Ancillary Outstandings

Each Borrower and each Ancillary Lender agrees with and for the benefit of each Lender that:

- (a) the Ancillary Outstandings under any Ancillary Facility provided by that Ancillary Lender shall not exceed the Ancillary Commitment applicable to that Ancillary Facility and, in relation to a Multi-account Overdraft, Ancillary Outstandings under that Ancillary Facility shall not exceed the Designated Net Amount in respect of that Ancillary Facility; and
- (b) in relation to a Multi-account Overdraft, the Ancillary Outstandings (calculated on the basis that the words in brackets in paragraph (a) of the definition of that term were deleted) shall not exceed the Designated Gross Amount applicable to that Ancillary Facility.

9.6 Adjustment for Ancillary Facilities upon acceleration

In this Clause 9.6:

“**Revolving Outstandings**” means, in relation to a Lender, the aggregate of the equivalent in the Base Currency of (i) its participation in each Original Revolving Facility Utilisation then outstanding (together with the aggregate amount of all accrued interest, fees and commission owed to it as a Lender under the Original Revolving Facility), and (ii) if the Lender is also an Ancillary Lender, the Ancillary Outstandings in respect of Ancillary Facilities provided by that Ancillary Lender (together with the aggregate amount of all accrued interest, fees and commission owed to it as an Ancillary Lender in respect of the Ancillary Facility).

“**Total Revolving Outstandings**” means the aggregate of all Revolving Outstandings.

- (a) If a notice is served under Clause 37.18 (*Acceleration and Cancellation*) (other than a notice declaring Utilisations to be due on demand), each Lender and each Ancillary Lender shall promptly adjust by corresponding transfers (to the extent necessary) their claims in respect of amounts outstanding to them under the Original Revolving Facility and each Ancillary Facility to ensure that after such transfers the Revolving Outstandings of each Lender bear the same proportion to the Total Revolving

Outstandings as such Lender's Original Revolving Facility Commitment bears to the Total Original Revolving Facility Commitments, each as at the date the notice is served under Clause 37.18 (*Acceleration and Cancellation*).

- (b) If an amount outstanding under an Ancillary Facility is a contingent liability and that contingent liability becomes an actual liability or is reduced to zero after the original adjustment is made under paragraph (a) above, then each Lender and Ancillary Lender will make a further adjustment by corresponding transfers (to the extent necessary) to put themselves in the position they would have been in had the original adjustment been determined by reference to the actual liability or, as the case may be, zero liability and not the contingent liability.
- (c) Prior to the application of the provisions of paragraph (a) above, an Ancillary Lender that has provided a Multi-account Overdraft shall set-off any liabilities owing to it under such Multi-account Overdraft against credit balances on any account comprised in such a Multi-account Overdraft.
- (d) Any transfer of rights and obligations relating to Revolving Outstandings made pursuant to this Clause 9.6 shall be made for a purchase price in cash, payable at the time of transfer, in an amount equal to those Revolving Outstandings.
- (e) All calculations to be made pursuant to this Clause 9.6 shall be made by the Agent based upon information provided to it by the Lenders and Ancillary Lenders and the Agent's Spot Rate of Exchange.
- (f) This Clause 9.6 shall not oblige any Lender to accept the transfer of a claim relating to an amount outstanding under an Ancillary Facility which is not denominated (pursuant to the relevant Senior Finance Document) in either the Base Currency, a currency which has been an Optional Currency for the purpose of any Revolving Facility Utilisation or in another currency which is acceptable to that Lender.

9.7 **Information**

Each Borrower and each Ancillary Lender shall, promptly upon request by the Agent, supply the Agent with any information relating to the operation of an Ancillary Facility (including the Ancillary Outstandings) as the Agent may reasonably request from time to time. Each Borrower consents to all such information being released to the Agent and the other Senior Finance Parties.

9.8 **Affiliates of Lenders as Ancillary Lenders**

- (a) Subject to the terms of this Agreement, an Affiliate of a Lender may become an Ancillary Lender. In such case, and except for the purpose of Clause 18 (*Tax Gross Up and Indemnities*), the Lender and its Affiliate shall be treated as a single Lender whose Original Revolving Facility Commitment is the amount set out opposite the relevant Lender's name in Part 2 (*The Original Lenders*) of Schedule 1 (*The Original Parties*) and/or the amount of any Original Revolving Facility Commitment transferred to or assumed by that Lender under this Agreement, to the extent (in each case) not cancelled, reduced or transferred by it under this Agreement. For the purposes of calculating the Lender's Available Commitment with respect to the Original Revolving Facility, the Lender's Commitment shall be reduced to the extent of the aggregate of the Ancillary Commitments of its Affiliates.
- (b) The Parent shall specify any relevant Affiliate of a Lender in any notice delivered by the Parent to the Agent pursuant to sub-paragraph (b)(i) of Clause 9.2 (*Availability*).

- (c) An Affiliate of a Lender which becomes an Ancillary Lender shall accede to the Intercreditor Agreement and, if applicable, any Other Intercreditor Agreement as a Credit Facility Lender and any person which so accedes to the Intercreditor Agreement shall, at the same time, become a party to this Agreement as an Ancillary Lender in accordance with clause 24.11 (*Creditor/Creditor Representative Accession Undertaking*) of the Intercreditor Agreement.
- (d) If a Lender assigns all of its rights and benefits or transfers all of its rights and obligations to a New Lender (as defined in Clause 38 (*Changes to the Lenders*)), its Affiliate shall cease to have any obligations under this Agreement or any Ancillary Document.
- (e) Where this Agreement or any other Senior Finance Document imposes an obligation on an Ancillary Lender and the relevant Ancillary Lender is an Affiliate of a Lender which is not a party to that document, the relevant Lender shall ensure that the obligation is performed by its Affiliate.

9.9 **Affiliates of Borrowers**

- (a) Subject to the terms of this Agreement, an Affiliate of a Borrower incorporated in a Permitted Borrower Jurisdiction or in the same jurisdiction as an existing Borrower may, with the approval of the relevant Lender, become a borrower with respect to an Ancillary Facility.
- (b) The Parent shall specify any relevant Affiliate of a Borrower meeting the requirements of paragraph (a) of this Clause 9.9 in any notice delivered by the Parent to the Agent pursuant to sub-paragraph (b)(i) of Clause 9.2 (*Availability*).
- (c) If a Borrower ceases to be a Borrower under this Agreement in accordance with Clause 40.3 (*Resignation of a Borrower*), its Affiliate shall cease to have rights under this Agreement or any Ancillary Document unless that Affiliate is also an Affiliate of another Borrower.
- (d) Where this Agreement or any other Senior Finance Document imposes an obligation on a Borrower under an Ancillary Facility and the relevant Borrower is an Affiliate of a Borrower which is not a party to that document, the relevant Borrower shall ensure that the obligation is performed by its Affiliate.

9.10 **Original Revolving Facility Commitment amounts**

Notwithstanding any other term of this Agreement, each Lender shall ensure that at all times its Original Revolving Facility Commitment is not less than the aggregate of:

- (a) its Ancillary Commitment; and
- (b) the Ancillary Commitment of its Affiliate.

9.11 **Existing Ancillary Facilities**

Notwithstanding any provision of this Agreement to the contrary, a Borrower (or the Parent on its behalf) may by notice in writing to the Agent prior to the Closing Date (including in any Utilisation Request) request that any Approved Existing Ancillary Facility made available by a Lender (or an Affiliate of a Lender) be deemed to be an Ancillary Facility established under the Original Revolving Facility (and in place of corresponding unutilised commitments of the applicable Lender under the Original Revolving Facility) and with effect from the date specified in such notice (being a date falling within the Availability Period for

the Original Revolving Facility) that Approved Existing Ancillary Facility shall be an Ancillary Facility for all purposes under this Agreement, subject to the Agent having received notification in writing from the Ancillary Lender concerned (or, as the case may be, the Affiliate of the Lender concerned) (the “**Relevant Ancillary Lender**”) that it agrees to that Approved Existing Ancillary Facility being an Ancillary Facility for all purposes under this Agreement. The amount of such Approved Existing Ancillary Facility may be increased or decreased by agreement between the relevant Borrower and the relevant Ancillary Lender (any such increase or reduction to be notified in writing to the Agent prior to the Closing Date), provided that the amount of such Approved Existing Ancillary Facility shall not exceed the corresponding unutilised commitments of the applicable Lender under the Original Revolving Facility upon being designated as an Ancillary Facility under the Original Revolving Facility in accordance with this provision. By providing such a notification to the Agent, any Relevant Ancillary Lender (in its capacity as an Ancillary Lender under (and as defined in) the Existing Facilities Agreements) agrees for the benefit of the Obligors, that as at the Closing Date, it is satisfied that each Obligor has no further liability under that Ancillary Facility under (and as defined in) the Existing Facilities Agreements and therefore that, for the purposes of the Existing Facilities Agreements only, such Ancillary Facility has been repaid and/or prepaid in full.

SECTION 4
REPAYMENT, PREPAYMENT AND CANCELLATION

10. REPAYMENT

10.1 Repayment of Facility B Loans

- (a) The Facility B Borrowers shall repay the outstanding aggregate Facility B Loans on the Termination Date in respect of Facility B.
- (b) The Borrowers may not reborrow any part of Facility B which is repaid.

10.2 Repayment of Incremental Facility Loans

- (a) The Borrowers which have borrowed any term Incremental Facility Loans drawn under any term Incremental Facility shall repay the aggregate outstanding term Incremental Facility Loans in respect of such term Incremental Facility in full on the relevant Termination Date in relation to that Incremental Facility.
- (b) The Borrowers may not reborrow any part of any term Incremental Facility which has been repaid.
- (c) The Borrowers which have borrowed any revolving Incremental Facility Loans drawn under any revolving Incremental Facility shall repay that revolving Incremental Facility Loan in accordance with and to the extent required by the terms applicable to a Revolving Facility Loan under 10.5 (*Repayment of Revolving Facility Loans*).

10.3 Repayment of Senior Loan Refinancing Facility Loans

- (a) The Borrowers which have borrowed any term Senior Loan Refinancing Facility Loans drawn under any term Senior Loan Refinancing Facility shall repay the aggregate outstanding term Senior Loan Refinancing Facility Loans in respect of such term Senior Loan Refinancing Facility in full on the relevant Termination Date in relation to that Senior Loan Refinancing Facility.
- (b) The Borrowers may not reborrow any part of any term Senior Loan Refinancing Facility which has been repaid.
- (c) The Borrowers which have borrowed any revolving Senior Loan Refinancing Facility Loans drawn under any revolving Senior Loan Refinancing Facility shall repay that revolving Senior Loan Refinancing Facility Loan in accordance with and to the extent required by the terms applicable to a Revolving Facility Loan under Clause 10.5 (*Repayment of Revolving Facility Loans*).

10.4 Repayment of Extended Tranches

- (a) The Borrowers that have borrowed any Extended Term Loans drawn under any Extended Term Tranche shall repay the aggregate outstanding Extended Term Loans in respect of such Extended Term Tranche in full on the relevant Termination Date in relation to that Extended Term Tranche.
- (b) The Borrowers may not reborrow any part of any Extended Term Tranche which has been repaid.

- (c) The Borrowers which have borrowed any Extended Revolving Facility Loans drawn under any Extended Revolving Facility Tranche shall repay that Extended Revolving Facility Loan in accordance with and to the extent required by the terms applicable to a Revolving Facility Loan under Clause 10.5 (*Repayment of Revolving Facility Loans*).

10.5 Repayment of Revolving Facility Loans

- (a) Subject to paragraph (c) below, each Borrower which has drawn a Revolving Facility Loan shall repay that Loan on the last day of its Interest Period.
- (b) Without prejudice to each Borrower's obligation under paragraph (a) above, if one or more Revolving Facility Loans are to be made available to a Borrower:
 - (i) on the same day that a maturing Original Revolving Facility Loan, maturing Extended Revolving Facility Loan, maturing revolving Incremental Facility Loan or maturing revolving Senior Loan Refinancing Facility Loan (as applicable) is due to be repaid by that Borrower;
 - (ii) in the same currency as the maturing Original Revolving Facility Loan, maturing Extended Revolving Facility Loan, maturing revolving Incremental Facility Loan or maturing revolving Senior Loan Refinancing Facility Loan (as applicable) (unless it arose as a result of the operation of Clause 8.2 (*Unavailability of a currency*)); and
 - (iii) in whole or in part for the purpose of refinancing the maturing Original Revolving Facility Loan, maturing Extended Revolving Facility Loan, maturing revolving Incremental Facility Loan or maturing revolving Senior Loan Refinancing Facility Loan (as applicable);

the aggregate amount of the new Original Revolving Facility Loans, new Extended Revolving Facility Loan, new revolving Incremental Facility Loans or new revolving Senior Loan Refinancing Facility Loans shall be treated as if applied in or towards repayment of the applicable maturing Original Revolving Facility Loan, the maturing Extended Revolving Facility Loan, the maturing revolving Incremental Facility Loan or the maturing revolving Senior Loan Refinancing Facility Loan so that:

- (A) if the amount of the maturing Original Revolving Facility Loan, the maturing Extended Revolving Facility Loan, the maturing revolving Incremental Facility Loan or the maturing revolving Senior Loan Refinancing Facility Loan exceeds the aggregate amount of the applicable new Original Revolving Facility Loans, new Extended Revolving Facility Loan, new revolving Incremental Facility Loans or new revolving Senior Loan Refinancing Facility Loans (as applicable):
 - (I) the relevant Borrower will only be required to pay an amount in cash in the relevant currency equal to that excess; and
 - (II) each Lender's participation (if any) in the applicable new Original Revolving Facility Loans, new Extended Revolving Facility Loan, new revolving Incremental Facility Loans or new revolving Senior Loan Refinancing Facility Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender's participation (if any) in the applicable maturing Original

Revolving Facility Loan, maturing Extended Revolving Facility Loan, maturing revolving Incremental Facility Loan or maturing revolving Senior Loan Refinancing Facility Loan and that Lender will not be required to make its participation in the applicable new Original Revolving Facility Loans, new Extended Revolving Facility Loan, new revolving Incremental Facility Loans or new revolving Senior Loan Refinancing Facility Loans available in cash; and

- (B) if the amount of the maturing Original Revolving Facility Loan, maturing Extended Revolving Facility Loan, maturing revolving Incremental Facility Loan or maturing revolving Senior Loan Refinancing Facility Loan is equal to or less than the aggregate amount of the applicable new Original Revolving Facility Loans, new Extended Revolving Facility Loan, new revolving Incremental Facility Loans or new revolving Senior Loan Refinancing Facility Loans:
 - (I) the relevant Borrower will not be required to make any payment in cash; and
 - (II) each Lender will be required to make its participation in the applicable new Original Revolving Facility Loans, new Extended Revolving Facility Loan, new revolving Incremental Facility Loans or new revolving Senior Loan Refinancing Facility Loans available in cash only to the extent that its participation (if any) in the applicable new Original Revolving Facility Loans, new Extended Revolving Facility Loan, new revolving Incremental Facility Loans or new revolving Senior Loan Refinancing Facility Loans exceeds that Lender's participation (if any) in the applicable maturing Original Revolving Facility Loan, maturing Extended Revolving Facility Loan, maturing revolving Incremental Facility Loan or maturing revolving Senior Loan Refinancing Facility Loan and the remainder of that Lender's participation in the applicable new Original Revolving Facility Loans, new Extended Revolving Facility Loan, new revolving Incremental Facility Loans or new revolving Senior Loan Refinancing Facility Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender's participation in the applicable maturing Original Revolving Facility Loan, maturing Extended Revolving Facility Loan, maturing revolving Incremental Facility Loan or maturing revolving Senior Loan Refinancing Facility Loan.
- (c) At any time when a Lender becomes a Defaulting Lender, the maturity date of each of the participations of that Lender in the Revolving Facility Loans then outstanding will be automatically extended to the Termination Date in relation to the applicable Revolving Facility and will be treated as separate Revolving Facility Loans, (the "**Separate Loans**") denominated in the currency in which the relevant participations are outstanding.
- (d) A Borrower to whom a Separate Loan is outstanding may prepay that Loan by giving five Business Days' prior notice to the Agent (such written notice to be received by the Agent by 9:30 a.m. (London time) on the relevant Business Day). The Agent will forward a copy of a prepayment notice received in accordance with

this paragraph (d) to the Defaulting Lender concerned as soon as practicable on receipt.

- (e) Interest in respect of a Separate Loan will accrue for successive Interest Periods selected by the Borrower by the time and date specified by the Agent (acting reasonably) and will be payable by that Borrower to the Defaulting Lender on the last day of each Interest Period of that Loan.
- (f) The terms of this Agreement relating to Revolving Facility Loans generally (or relating generally to Revolving Facility Loans utilised under a particular Revolving Facility) shall continue to apply to Separate Loans (as applicable) other than to the extent inconsistent with paragraphs (c) to (e) above, in which case those paragraphs shall prevail in respect of any Separate Loan.

10.6 Other provisions relating to repayment and prepayment

- (a) If any of the Term Loans are prepaid in accordance with Clause 11.4 (*Voluntary prepayment of Term Loans*) then subject to Clause 12.9 (*Right to refuse prepayment*):
 - (i) the Parent or the relevant Borrower may freely elect to apply such prepayments against any one or more Term Facilities; and
 - (ii) if the Parent or relevant Borrower fails to make an election under subparagraph (i) above, each Term Facility will reduce *pro rata*.
- (b) If any of the Facility B Loans are prepaid or repaid in accordance with Clause 11.4 (*Voluntary prepayment of Term Loans*) or prepaid or repaid in accordance with Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*), Clause 12.4 (*Listing*) or Clause 12.5 (*Excess Cash Flow*) then:
 - (i) if there is more than one Borrower under Facility B on that date, the Parent may by giving not less than five Business Days prior notice to the Agent, select which Facility B Borrower(s) shall effect repayment of which Facility B Loan *provided that* the aggregate outstanding amount of Facility B shall be reduced *pro rata* between Facility B Lenders; and
 - (ii) if the Parent or relevant Borrower fails to make an election under subparagraph (i) above, such prepayment amount will be applied to reduce the Facility B Loans *pro rata*.

11. ILLEGALITY, VOLUNTARY PREPAYMENT AND CANCELLATION

11.1 Illegality

If the adoption of or any change in any requirement of law or in the interpretation or application thereof which occurs after the date of this Agreement shall make it unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in any Utilisation:

- (a) that Lender, shall promptly notify the Agent upon becoming aware of that event (which notice shall be withdrawn on such circumstances ceasing to exist);
- (b) upon the Agent notifying the Parent, the Commitment(s) of that Lender will be immediately cancelled; and

- (c) each Borrower shall repay that Lender's participation in the Utilisations made to that Borrower on the last day of the Interest Period for each Utilisation occurring after the Agent has notified the Parent or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law).

11.2 Illegality in relation to Issuing Bank

If the adoption of or any change in any requirement of law or in the interpretation or application thereof which occurs after the date of this Agreement shall make it unlawful for an Issuing Bank to issue or leave outstanding any Letter of Credit or Bank Guarantee, then:

- (a) that Issuing Bank shall promptly notify the Agent upon becoming aware of that event (which notice shall be withdrawn upon such circumstances ceasing to exist);
- (b) upon the Agent notifying the Parent, the Issuing Bank shall not be obliged to issue any Letter of Credit or Bank Guarantee;
- (c) the Parent shall procure that each Obligor shall use its best endeavours to procure the release of each Letter of Credit and Bank Guarantee issued by that Issuing Bank and outstanding at such time on or before the date specified by the Issuing Bank in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law); and
- (d) unless any other Lender has agreed to be an Issuing Bank pursuant to the terms of this Agreement, the Original Revolving Facility shall cease to be available for the issue of Letters of Credit or Bank Guarantees.

11.3 Voluntary cancellation

The Parent may, if it gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior written notice (such written notice to be received by the Agent by 9:30 a.m. (London time) on the relevant Business Day), cancel the whole or any part (being a minimum amount of £1,000,000 or, if less, the balance of any Available Facility) of an Available Facility during its Availability Period. Any cancellation under this Clause 11.3 shall reduce the Commitments of the Lenders rateably under that Facility.

11.4 Voluntary prepayment of Term Loans

- (a) A Borrower to which a Term Loan has been made may, if it or the Parent gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior written notice (such written notice to be received by the Agent by 9:30 a.m. (London time) on the relevant Business Day), prepay the whole or any part of that Term Loan (but, if in part, being an amount that reduces the Base Currency Amount of that Term Loan by a minimum amount of £1,000,000 or, if less the balance of that Term Loan).

(b)

- (i) [With respect to any prepayment of the Facility B Loan pursuant to this Clause 11.4 \(Voluntary Prepayment of Term Loans\) prior to the first anniversary of the Closing Date, any such prepayment shall be made together with the Applicable Premium.](#)

(ii) With respect to any prepayment of the Facility B Loan pursuant to this Clause 11.4 (Voluntary Prepayment of Term Loans) on or after the first anniversary of the Closing Date but prior to the date that falls six months after such first anniversary of the Closing Date, any such prepayment shall be made with a premium of one per cent. of the principal amount prepaid.

(iii) For the purposes of this Clause 11.4 (Voluntary Prepayment of Term Loans):

“Applicable Premium” means the amount calculated by the Parent as being:

(a) 1 per cent of the amount of the Facility B Loan being pre-paid under this Clause 11.4 (Voluntary Prepayment of Term Loans); plus

(b) all of the interest which would have been payable on the principal amount of the Facility B Loan being pre-paid (but for such prepayment) after the prepayment date until, (but excluding) the first anniversary of the Closing Date, discounted at a discount rate equal to the Gilt Rate at such prepayment date plus 50 basis points.

For the purposes of calculating the interest that would have been payable until (but excluding) the first anniversary of the Closing Date, the Parent may assume that the rate of LIBOR up to the first anniversary of the Closing Date would be the same rate of LIBOR that applied to the Facility B Loan immediately prior to the prepayment.

“Gilt Rate” means, as of any prepayment date, the yield to maturity as of such redemption date of UK Government Obligations with a fixed maturity (as compiled by the Office for National Statistics and published in the most recent Financial Statistics that have become publicly available at least two Business Days in London prior to such prepayment date (or, if such Financial Statistics are no longer published, any publicly available source of similar market data selected by the Parent in good faith)) most nearly equal to the period from such prepayment date to the first anniversary of the Closing Date provided, however, that if the period from such prepayment date to the first anniversary of the Closing Date is not equal to the fixed maturity of UK Government Obligations for which a yield is given, the Gilt Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the yields of UK Government Obligations for which such yields are given, except that if the period from such redemption date to the first anniversary of the Closing Date is less than one year, the weekly average yield on actually traded UK Government Obligations denominated in sterling adjusted to a fixed maturity of one year shall be used.

(c) A Term Loan may only be prepaid after the last day of the Availability Period (or, if earlier, the day on which the applicable Available Facility is zero).

(d) ~~(e)~~ Notwithstanding any other provision of this Clause 11 or Clause 13 (Restrictions), a Lender may, at its option, and if agreed by the Parent, in connection with any prepayment of Term Loans pursuant to this Clause 11.4, exchange such Lender’s portion of the Term Loan to be prepaid for Rollover Indebtedness, in lieu of such Lender’s *pro rata* portion of such prepayment (and any such Term Loans so exchanged shall be deemed repaid for all purposes under the Senior Finance Documents).

11.5 Voluntary prepayment of Original Revolving Facility Utilisations and Revolving Facility Loans

A Borrower to which a Utilisation under the Original Revolving Facility has been made or to which another Revolving Facility Loan has been made may, if it or the Parent gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior written notice (such written notice to be received by the Agent by 9:30 a.m. (London time) on the relevant Business Day), prepay the whole or any part of such Utilisation (but if in part, being an amount that reduces the Base Currency Amount of that Utilisation by a minimum amount of £1,000,000 or, if less, the balance of that Utilisation). Prepayment of any Letter of Credit or Bank Guarantee may also be effected by the provision of cash cover.

11.6 Right of cancellation and repayment in relation to a single Lender or Issuing Bank

- (a) If:
- (i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 18.2 (*Tax gross-up*) or required to be repaid in accordance with Clause 11.1 (*Illegality*) or Clause 11.2 (*Illegality in relation to Issuing Bank*);
 - (ii) any Lender or Issuing Bank claims indemnification from the Parent or an Obligor under Clause 18.3 (*Tax indemnity*) or Clause 19.1 (*Increased costs*);
 - (iii) any Lender is a Non-Consenting Lender; or
 - (iv) any Lender is a Non-Extending Lender,

the Parent may, in the case of paragraphs (i) and (ii) above, while the circumstances giving rise to the requirement for that increase or indemnification continue or, in the case of paragraph (iii) above, within 90 days after such Lender becoming a Non-Consenting Lender, or in the case of paragraph (iv) above, (x) at any time after the period for response in the applicable Extension Notice has expired and (y) provided no Event of Default is continuing, give the Agent notice:

- (A) (if such circumstances relate to a Lender) of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender's participation in the Utilisations; or
 - (B) (if such circumstances relate to the Issuing Bank) of repayment of any outstanding Letter of Credit or Bank Guarantee issued by it and cancellation of its appointment as an Issuing Bank under this Agreement in relation to any Letters of Credit or Bank Guarantees to be issued in the future.
- (b) On receipt of a notice referred to in paragraph (a) above in relation to a Lender, the Commitment of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Parent has given notice under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Parent in that notice), each Borrower to which a Utilisation is outstanding shall repay that Lender's participation in that Utilisation together with all interest and other amounts accrued under the Senior Finance Documents.

11.7 Right of cancellation in relation to a Defaulting Lender

- (a) If any Lender becomes a Defaulting Lender, the Parent may, at any time whilst the Lender continues to be a Defaulting Lender, give the Agent five Business Days' notice of cancellation of each Available Commitment of that Lender.
- (b) On the notice referred to in paragraph (a) above becoming effective, each Available Commitment of the Defaulting Lender shall immediately be reduced to zero.
- (c) The Agent shall as soon as practicable after receipt of a notice referred to in paragraph (a) above, notify all the Lenders.

12. EXIT, QUALIFYING LISTING OR QUALIFYING RATINGS EVENT AND MANDATORY PREPAYMENT

12.1 Exit

If a Change of Control occurs or a Sale of Whole occurs (other than the Transactions):

- (a) the Parent will promptly notify the Agent upon becoming aware of that event (and the Agent shall promptly notify the Lenders);
- (b) if a Lender so requires and notifies the Agent (a “**Cancellation Notice**”) following the occurrence of a Change of Control or a Sale of Whole (provided such Cancellation Notice is delivered within 15 Business Days of the Parent notifying the Agent and the Agent notifying the Lenders of the occurrence of such Change of Control or Sale of Whole), the Agent shall, by not less than 10 Business Days' notice to the Parent, cancel the Commitment(s) of that Lender and declare the participation of that Lender in all outstanding Utilisations and Ancillary Facilities of that Lender, together with accrued and unpaid interest on such participation, and all other amounts due to that Lender that are accrued and outstanding under the Senior Finance Documents, immediately due and payable, at which time the Commitment(s) of that Lender will be cancelled and all such outstanding amounts will become immediately due and payable; and
- (c) a Lender shall not be obliged to fund a Utilisation (other than a Rollover Loan) and an Ancillary Lender shall not be obliged to fund a utilisation of an Ancillary Facility if it has delivered a Cancellation Notice in accordance with paragraph (b) above.

12.2 Qualifying Listing or Qualifying Ratings Event

Upon the occurrence of a Qualifying Listing or a Qualifying Ratings Event which, in each case, does not constitute a Change of Control, the following amendments shall apply to this Agreement and shall remain in effect (and this Agreement shall be deemed to have been amended to give effect to such amendments):

- (a) Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*), Clause 12.4 (*Listing*) and Clause 12.5 (*Excess Cash Flow*) shall be deleted;
- (b) paragraph (b) of Clause 25.1 (*Financial statements*) shall be amended to provide that Quarterly Financial Statements are no longer required to be supplied and references to Quarterly Financial Statements in Clause 25.4 (*Requirements as to financial statements*) shall be deleted;

- (c) Clause 25 (*Information Undertakings*) shall be amended such that there shall be no requirement to provide any information or comparisons in respect of Annual Financial Statements or Quarterly Financial Statements that is not otherwise required by applicable Listing Rules;
- (d) Paragraph (b) of Clause 25.2 (*Provision and contents of Compliance Certificate*) shall be deleted;
- (e) the covenant levels set out in Clause 26.1 (*Financial Covenant*) shall be reset with an additional 10 per cent. headroom added to the covenant levels at the date of this Agreement.
- (f) Clause 29 (*Limitation on Indebtedness*), Clause 30 (*Limitation on Restricted Payments*), Clause 31 (*Limitation on Restrictive Agreements*), Clause 33 (*Limitation on Transactions with Affiliates*) and Clause 35 (*Limitation on Fundamental Changes*) shall be deleted;
- (g) Clause 27.9 (*Preservation of Assets*), Clause 27.12 (*Intellectual Property*), Clause 27.13 (*Syndication*) and Clause 27.14 (*Guarantors*) shall be deleted;
- (h) restrictions on the obligations of the Group and any Parent Holdco with respect to any loans made by a Parent Holdco to a member of the Group shall cease to apply;
- (i) at the request of the Parent, and provided that the Parent has promptly notified the Security Agent upon becoming aware of the occurrence of a Qualifying Listing or a Qualifying Ratings Event which, in each case, does not constitute a Change of Control, Clause 27.22 (*Further assurance*), Clause 24.17 (*Security and Indebtedness*), Clause 24.23 (*Shares*) and Clause 27.10 (*Security Preservation*) shall cease to apply;
- (j) the cross default threshold specified in Clause 37.5 (*Cross default*) shall be deleted and replaced with £8,000,000;
- (k) the execution or distress value threshold specified in Clause 37.8 (*Execution or Distress*) shall be deleted and replaced with £12,000,000;
- (l) Clause 37.5 (*Cross default*), Clause 37.8 (*Execution or Distress*), Clause 37.9 (*Litigation*) and Clause 37.10 (*Expropriation*) shall be amended to apply to any Obligor or any other Material Company only;
- (m) in circumstances where all Transaction Security has been released, Clause 37.17 (*Intercreditor Agreement*) shall cease to apply;
- (n) the Margin in relation to Facility B shall be reduced by 0.25 per cent per annum at each level and the Margin in relation to the Original Revolving Facility shall be reduced by 0.25 per cent per annum at each level;
- (o) the Material Company threshold shall be revised to 10 per cent. or more of the Group's Consolidated EBITDA or gross assets (calculated on the same basis as per the original definition of Material Company);
- (p) the numeric and aggregate basket levels as well as any percentage "soft cap" baskets in any remaining positive or negative undertakings and any related definitions shall be increased by 25 per cent.;

- (q) Clause 25.3 (*Budget*) and Clause 25.6 (*Annual Presentation*) shall be deleted; and
- (r) all necessary conforming changes to reflect the foregoing shall be made.

12.3 Disposal, Insurance, Recovery and Special Purpose Financing Proceeds

For the purposes of this Clause 12.3, Clause 12.6 (*Application of mandatory prepayments*) and Clause 12.7 (*Mandatory Prepayment Accounts*):

“Disposal Proceeds” means the Net Proceeds in relation to any Disposal (or series of related Disposals) made by any member of the Group except for Excluded Disposal Proceeds and Special Purpose Financing Proceeds.

“Excluded Disposal Proceeds” means the Net Proceeds of any Disposal (other than any such proceeds constituting Special Purpose Financing Proceeds):

- (a) of assets (excluding shares) made in the ordinary course of day-to-day business of the disposing entity;
- (b) to the extent falling within the definition of “Permitted Asset Disposal” (other than under paragraph (j)(x) of that definition);
- (c) which is an individual Disposal permitted under Clause 32 (*Limitation on Sales of Assets and Shares*) where the Net Proceeds from such Disposal (when aggregated with any related disposal) are in an amount less than £1,000,000 (or its equivalent in other currencies);
- (d) where the Net Proceeds of all Disposals permitted under Clause 32 (*Limitation on Sales of Assets and Shares*) (other than those referred to in sub-paragraph (a), (b) or (c) above) during the same Financial Year do not exceed £2,000,000 (or its equivalent in other currencies) (and the first £2,000,000 (or its equivalent in other currencies) of such Net Proceeds in any Financial Year shall constitute **“Excluded Disposal Proceeds”**);
- (e) of any assets, business or person the acquisition of which was financed, all or in part, with Additional Obligations and the disposal of which was contemplated by any definitive agreement in respect of such acquisition; *provided that* the Net Proceeds of such Disposal are applied to refinance such Additional Obligations; or
- (f) permitted under Clause 32 (*Limitation on Sales of Assets and Shares*) to the extent not referred to in sub-paragraphs (a), (b) or (c) above, where the Net Proceeds of such disposal are, within ~~18~~¹² Months of receipt, applied or committed by the board of directors of any member of the Group to be applied (and if so committed to be applied, are actually applied within 24 Months of receipt) in the purchase of replacement or other assets to be used in the business of the Group or to finance acquisitions permitted under the Senior Finance Documents.

“Excluded Insurance Proceeds” means Net Proceeds of any insurance claim:

- (a) which are third party liability, public liability, directors’ liability, business interruption, loss of earnings or similar claims;
- (b) where the Net Proceeds from any individual insurance claim are in an amount less than £1,000,000 (or its equivalent in other currencies);

- (c) where the Net Proceeds of all insurance claims (other than those referred to in sub-paragraph (b) above) during the same Financial Year do not exceed £2,000,000 (or its equivalent in other currencies) (and the first £2,000,000 (or its equivalent in other currencies) of such Net Proceeds in any Financial Year shall constitute “**Excluded Insurance Proceeds**”);
- (d) in respect of the loss or destruction of assets (other than an asset to which paragraph (e) below applies) and where the Net Proceeds of such insurance claim are, within ~~18~~12 Months of receipt, applied or contractually committed by the board of directors of any member of the Group to be applied (and if so committed to be applied, are actually applied within 24 Months of receipt) in the replacement, reinstatement and/or repair of the relevant asset or otherwise in amelioration of the loss or meeting a liability (other than to meeting a liability of another member of the Group) in respect of which the relevant insurance claim was made or otherwise in the purchase of replacement assets to be used in the business of the Group; or
- (e) in respect of the loss or destruction of any Real Property (whether in whole or in part) and where the board of directors of the relevant member of the Group resolves within ~~18~~12 Months of receipt that the Net Proceeds of such insurance claim are to be applied in the replacement, reinstatement and/or repair of the relevant Real Property in respect of which the relevant insurance claim was made *provided that* if the board of directors subsequently resolves that all or any part of such Net Proceeds are not to be applied for such purpose, the amount of such Net Proceeds shall cease to be Excluded Insurance Proceeds under this paragraph (e).

“**Excluded Recovery Proceeds**” means the Net Proceeds of any Recovery Claim:

- (a) where the Net Proceeds from an individual Recovery Claim are in an amount less than £1,000,000 (or its equivalent in other currencies);
- (b) where the Net Proceeds of all Recovery Claims during the same Financial Year (other than those referred to in sub-paragraph (a) above) do not exceed £1,000,000 (or its equivalent in other currencies) (and the first £1,000,000 (or its equivalent in other currencies) of such Net Proceeds in any Financial Year shall constitute “**Excluded Recovery Proceeds**”); or
- (c) which are, within ~~18~~12 Months of receipt, applied or committed by the board of directors of any member of the Group to be applied (and if so committed to be applied, are actually applied within 24 Months of receipt) to rectify the deficiency (including, without limitation, to meet any tax liability, environmental liability, litigation and working capital deficiency) giving rise to that Recovery Claim.

“**Insurance Proceeds**” means the Net Proceeds of any insurance claim under any insurance maintained by a member of the Group except for Excluded Insurance Proceeds.

“**Net Proceeds**” means the total cash proceeds (and, in respect of Disposal Proceeds, any consideration constituting Cash Equivalent Investments) received by any member of the Group for the relevant disposal or for the relevant insurance or recovery claim, but after deduction of:

- (a) all reasonable fees, costs and expenses incurred by any member of the Group and paid to persons who are not members of the Group, in connection with that disposal or claim (including, without limitation, legal fees, agents’ commission, bonus payments in connection with the disposal, auditors’ fees, out-of-pocket redundancy costs, out-of-pocket closure costs, out-of-pocket restructuring costs and out-of-pocket

reorganisation costs both preparatory to and/or in connection with the relevant disposal or claim);

- (b) the amount of all Taxes imposed and required to be paid or reserved against by any member of the Group in connection with the disposal or claim (including without limitation any Taxes incurred as a result of the transfer of any cash consideration intra-Group);
- (c) only in the case of any relevant disposal of an asset subject to any Permitted Security securing any indebtedness, any payment made or required to be made to repay such indebtedness, including payments in respect of principal or interest and prepayment premia and penalties arising as a result of such disposal; and
- (d) only in the case of any relevant disposal, any costs of closure, relocation, reorganisation, restructuring or other reasonable costs incurred in preparing the asset for such disposal to persons who are not members of the Group or any amounts reasonably reserved for the purpose of discharging contingent liabilities in connection with such disposal for the period after such disposal when such liabilities may be claimed.

“**Recovery Claim**” means any claim against the provider of any Report (in its capacity as a provider of that Report).

“**Recovery Proceeds**” means the Net Proceeds of any Recovery Claim except for Excluded Recovery Proceeds.

“**Special Purpose Financing Proceeds**” means the Net Proceeds received in connection with a Special Purpose Financing (other than, for the avoidance of doubt, any Special Purpose Financing involving any factoring agreement or similar arrangement) which exceed £5,000,000.

- (a) Subject to (c) below and paragraph (e) of Clause 12.6 (*Application of mandatory prepayments*) and unless otherwise agreed by the Majority Lenders, the Parent shall ensure that the Borrowers prepay Utilisations in the following amounts at the times and in the order of application and to the extent contemplated by Clause 12.6 (*Application of mandatory prepayments*):
 - (i) the amount of Recovery Proceeds;
 - (ii) the amount of Special Purpose Financing Proceeds; and
 - (iii) the amount of Insurance Proceeds.
- (b) Subject to paragraph (c) below and paragraph (e) of Clause 12.6 (*Application of mandatory prepayments*) and unless otherwise agreed by the Majority Lenders, the Parent shall, ensure that an amount equal to the percentage of the Disposal Proceeds received by any member of the Group, after giving *pro forma* effect to the relevant Disposal and to any Disposal Proceeds required to be applied in prepayment under this paragraph (b), is applied by the Borrowers in prepayment of Utilisations (as determined by reference to the Consolidated Senior Secured Leverage Ratio calculated on a *pro forma* basis as at the date of such Disposal or, at the Parent’s election, on the date that a legally binding commitment for such Disposal was entered into) in accordance with the table below:

<u>Consolidated Senior Secured Leverage Ratio</u>	<u>Applicable Percentage</u>
3.50:1.00 or above	50%

<u>Consolidated Senior Secured Leverage Ratio</u>	<u>Applicable Percentage</u>
Less than or 3.50:1.00 but equal to or greater than 3.00:1.00	25%
Less than 3.00:1.00	0%

- (c) The portion of Recovery Proceeds, Disposal Proceeds, Special Purpose Financing Proceeds and Insurance Proceeds to be applied (to the extent the Parent or any other member of the Group is required by the terms thereof) to prepay Pari Passu Indebtedness on no more than a *pro rata* basis with the Utilisations, shall be credited against the prepayment obligation in paragraphs (a) and (b) above on a pound for pound basis.

12.4 Listing

For the purpose of this Clause 12.4:

“**Listing Proceeds**” means the cash proceeds in relation to a Listing or an issue of shares in connection with a Listing, after deducting all reasonable fees, costs, expenses and Taxes incurred or reserved in connection with such Listing, but excluding any proceeds received by the Relevant Holders (or any other person to whom they syndicate or transfer their equity) from an offering to the market of their shares.

- (a) Upon the occurrence of a Listing (not resulting in a Change of Control) and unless otherwise agreed by the Majority Lenders the Parent will:
- (i) promptly notify the Agent upon becoming aware of that event; and
 - (ii) subject to paragraph (b) below, ensure that an amount equal to the percentage of the Listing Proceeds received by any member of the Group (or any Holding Company of the Parent) other than a Relevant Holder (or any other person to whom they syndicate or transfer their equity), after giving *pro forma* effect to any prepayment under this paragraph (a)(ii), is applied in prepayment of Utilisations (as determined by reference to the Consolidated Senior Secured Leverage Ratio as demonstrated in the then most recent Compliance Certificate delivered to the Agent) in accordance with the table below:

<u>Consolidated Senior Secured Leverage Ratio</u>	<u>Applicable Percentage</u>
3.50:1.00 or above	50%
Less than or 3.50:1.00 but equal to or greater than 3.00:1.00	25%
Less than 3.00:1.00	0%

- (b) The portion of Listing Proceeds applied or to be applied:
- (i) (to the extent the Parent or any other member of the Group is required by the terms thereof) to prepay Pari Passu Indebtedness on no more than a *pro rata* basis with the Utilisations;
 - (ii) (at the option of the Parent) to prepay Second Lien Liabilities (as defined in the Intercreditor Agreement) in accordance with paragraph (e) of Clause 30.1 (*Limitation of payments and investments*),

in each case, shall be credited against the prepayment obligation in paragraph (a)(ii) above on a pound for pound basis.

12.5 Excess Cash Flow

- (a) For the purposes of this Clause 12.5, Clause 12.6 (*Application of mandatory prepayments*) and Clause 12.7 (*Mandatory Prepayment Accounts*) “**ECF Prepayment Amount**” in respect of any Financial Year means Excess Cash Flow:
- (i) *minus* the aggregate principal amount of (A) Term Loans prepaid pursuant to Clause 11.4 (*Voluntary prepayment of Term Loans*), or repurchased or retired, (B) Revolving Facility Loans prepaid pursuant to Clause 11.5 (*Voluntary prepayment of Original Revolving Facility Utilisations and Revolving Facility Loans*) or repurchased or retired (to the extent accompanied by a corresponding permanent cancellation of Revolving Facility Commitments) and (C) Pari Passu Indebtedness (in the case of revolving Pari Passu Indebtedness, to the extent accompanied by a corresponding permanent cancellation of commitments) voluntarily prepaid, repurchased or retired during such Financial Year (excluding, in each case, any prepayment, repurchase or retirement amount which the Parent has elected to be credited against the following Financial Year for the purpose of this Clause 12.5); and
 - (ii) *minus*, at the election of the Parent, the aggregate principal amount of (A) Term Loans prepaid, pursuant to Clause 11.4 (*Voluntary prepayment of Term Loans*), or repurchased or retired, (B) Revolving Facility Loans prepaid pursuant to Clause 11.5 (*Voluntary prepayment of Original Revolving Facility Utilisations and Revolving Facility Loans*) or repurchased or retired (to the extent accompanied by a corresponding permanent cancellation of Revolving Facility Commitments) and (C) Pari Passu Indebtedness (in the case of revolving Pari Passu Indebtedness, to the extent accompanied by a corresponding permanent cancellation of commitments) voluntarily prepaid, repurchased or retired in the period from the end of such Financial Year to and including the date payment under paragraph (b) below with respect to such Financial Year is due;
 - (iii) *minus*, any amount in respect of sub-paragraph (i) above that the Parent elected not to deduct from the calculation of the ECF Prepayment Amount in respect of the payment made pursuant to this Clause 12.5 with respect to the previous Financial Year;
 - (iv) *plus*, any amount in respect of sub-paragraph (ii) that was deducted from the calculation of the ECF Prepayment Amount in respect of the payment made pursuant to this Clause 12.5 with respect to the previous Financial Year.
- (b) The Parent shall ensure, unless otherwise agreed by the Majority Lenders and subject to paragraph (c) below that as soon as reasonably practicable, and in any event within 15 days of the delivery of the Annual Financial Statements and Compliance Certificate for each Financial Year (commencing with the Financial Year ending on the Accounting Reference Date for 2020), an amount (if positive) is applied in prepayment of Utilisations equal to the applicable percentage set out in the table below of the ECF Prepayment Amount for such Financial Year after deducting the greater of £7 million and 20 per cent. of Consolidated EBITDA for such Financial Year from such amount.

<u>Consolidated Senior Secured Leverage Ratio</u>	<u>Percentage of Excess Cash Flow</u>
3.50:1.00 or above	50%
Less than or 3.50:1.00 but equal to or greater than 3.00:1.00	25%
Less than 3.00:1.00	0%

- (c) The portion of the ECF Prepayment Amount to be applied (to the extent the Parent or any other member of the Group is required by the terms thereof) to prepay *Pari Passu* Indebtedness on no more than a *pro rata* basis with the Utilisations shall be credited against the prepayment obligation in paragraph (b) above on a pound for pound basis.

12.6 Application of mandatory prepayments

- (a) A prepayment made under Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*), Clause 12.4 (*Listing*) and/or paragraph (c) of Clause 12.5 (*Excess Cash Flow*) shall be applied in the following order:
- (i) *first*, in prepayment of each Term Facility as contemplated in paragraphs (b) and (d) to (f) inclusive below;
 - (ii) *secondly*, in cancellation of Available Commitments under each Revolving Facility, *pro-rata* (and the Available Commitment of the Lenders under each Revolving Facility will be cancelled rateably);
 - (iii) *thirdly*, in prepayment of Original Revolving Facility Utilisations and other Revolving Facility Loans (such that outstanding Revolving Facility Loans shall be prepaid before outstanding Letters of Credit or Bank Guarantees under the Revolving Facilities) *pro rata* as contemplated in paragraphs (c) to (f) inclusive below and cancellation of Revolving Facility Commitments; and
 - (iv) then, in repayment and cancellation of the Ancillary Outstandings, Ancillary Commitments and corresponding Original Revolving Facility Commitments *pro rata*.
- (b) A prepayment which is to be applied to prepay the Term Loans under sub-paragraph (a)(i) above shall, subject to paragraph (d) below and Clause 12.9 (*Right to refuse prepayment*) below, be applied in amounts which reduce Loans under each Term Facility by the same proportion and, as within each Term Facility, *pro rata* to each Term Loan in that Term Facility.
- (c) A prepayment which is to be applied to prepay the Original Revolving Facility Utilisations and other Revolving Facility Loans under sub-paragraph (a)(iii) above shall, subject to paragraph (d) below, be applied in amounts which reduce each Original Revolving Facility Utilisation and other Revolving Facility Loan by the same proportion and, as within each Original Revolving Facility Utilisation and other Revolving Facility Loan, *pro rata* to each Original Revolving Facility Utilisation or other Revolving Facility Loan.
- (d) The Parent and each other Obligor shall use all reasonable endeavours to ensure that any transaction giving rise to a prepayment obligation or obligation to provide cash cover is structured in such a way that it will not be unlawful for the Obligors to move the relevant proceeds received between members of the Group to enable a mandatory prepayment to be lawfully made, cash cover lawfully provided and the

proceeds lawfully applied as provided under this Clause 12, and/or to minimise the costs of making such mandatory prepayment (including using all reasonable endeavours to fund such payment from surplus cash in the Group). If, however, the cost of making (or moving the funds to make) such mandatory prepayment would exceed 3 per cent. of the amount of such payment at that time or after the Parent and each such Obligor has used all such reasonable endeavours and taken such reasonable steps, it will still:

- (i) be unlawful (including, without limitation, by reason of financial assistance, corporate benefit restrictions on upstreaming cash intra-group and the fiduciary and statutory duties of the directors of any member of the Group), or there is a material risk of such unlawfulness, for such a prepayment to be made and/or cash cover to be provided and the proceeds so applied;
- (ii) be unlawful (including, without limitation, by reason of financial assistance, corporate benefit restrictions on upstreaming cash intra-group and the fiduciary and statutory duties of the directors of any member of the Group), or there is a material risk of such unlawfulness, to make funds available to a member of the Group that could make such a prepayment and/or provide such cash cover,

then such prepayment and/or provision of cash cover shall not be required to be made *provided always that* if the restriction preventing such payment/provision of cash cover or giving rise to such liability is subsequently removed, any relevant proceeds will promptly be applied in prepayment and/or the provision of cash cover in accordance with this Clause 12 at the end of the relevant Interest Period(s) to the extent that such payment has not otherwise been made.

- (e) The obligation to make a mandatory prepayment under Clause 12.1 (*Exit*) shall not be subject to any limitation set out under paragraph (d) above. Subject to paragraph (f) below, the Parent may elect that any prepayment under Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*), Clause 12.4 (*Listing*) or Clause 12.5 (*Excess Cash Flow*), be applied in prepayment of a Loan on the last day of the Interest Period relating to that Loan. If the Parent makes that election then a proportion of the Loan equal to the amount of the relevant prepayment will be due and payable on the last day of its Interest Period.
- (f) If the Parent has made an election under paragraph (e) above but an Event of Default has occurred and is continuing, that election shall no longer apply and a proportion of the Loan in respect of which the election was made equal to the amount of the relevant prepayment shall be immediately due and payable (unless the Majority Lenders otherwise agree in writing).

12.7 Mandatory Prepayment Accounts

- (a) The Parent shall ensure that Disposal Proceeds, Special Purpose Financing Proceeds, Insurance Proceeds, Recovery Proceeds, Listing Proceeds and Excess Cash Flow required to be applied in prepayment in accordance with this Clause 12 in respect of which the Parent has made an election under paragraph (e) of Clause 12.6 (*Application of mandatory prepayments*) are paid into a Mandatory Prepayment Account as soon as reasonably practicable after receipt by a member of the Group. Any amounts not applied in mandatory prepayment as a consequence of paragraph (d) of Clause 12.6 (*Application of mandatory prepayments*) above will not, for the avoidance of doubt, be required to be held in a Mandatory Prepayment

Account but shall be available for working capital and general corporate purposes of the Group including but not limited to acquisitions.

- (b) The Parent and each Borrower irrevocably authorise the Agent to apply amounts credited to the Mandatory Prepayment Account and to pay amounts due and payable under Clause 12.6 (*Application of mandatory prepayments*) in accordance with the terms of Clause 12.6 (*Application of mandatory prepayments*).
- (c) A Lender or Agent with which a Mandatory Prepayment Account is held acknowledges and agrees that (i) interest shall accrue at normal commercial rates on amounts credited to those accounts and that the account holder shall be entitled to receive such interest (which shall be paid in accordance with the mandate relating to such account) unless an Event of Default is continuing and (ii) each such account is subject to the Transaction Security.

12.8 Excluded proceeds

- (a) Where Excluded Recovery Proceeds, Excluded Disposal Proceeds and Excluded Insurance Proceeds (other than those falling within paragraph (e) of such definition) include amounts which are intended to be used for a specific purpose within a specified period (as set out in the relevant definition of “Excluded Recovery Proceeds”, “Excluded Disposal Proceeds” or “Excluded Insurance Proceeds”), the Parent shall ensure that those amounts are used for that purpose and if requested to do so by the Agent, shall promptly deliver a certificate to the Agent at the time of such application and at the end of such period confirming the amount (if any) which has been so applied within the requisite time periods provided for in the relevant definition;
- (b) Where any Excluded Insurance Proceeds falling within paragraph (e) of such definition include amounts which are intended to be used for a specific purpose (as set out in the definition of “Excluded Insurance Proceeds”), the Parent shall ensure that those amounts are used for that purpose and shall if requested to do so by the Agent, promptly deliver a certificate to the Agent at the time of the board approval referred to in paragraph (e) confirming that it is making commercially reasonable efforts to procure the replacement, reinstatement and/or repair of the relevant Real Property and if requested to do so by the Agent, shall promptly deliver a certificate to the Agent at the time of such application confirming the amount (if any) which has been so applied.

12.9 Right to refuse prepayment

- (a) The Agent shall notify the Lenders as soon as practicable of any proposed prepayment of Term Loans under Clause 11.4 (*Voluntary prepayment of Term Loans*), Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*), Clause 12.4 (*Listing*) or Clause 12.5 (*Excess Cash Flow*).
- (b) At the option of the Parent, each Lender (a “**Non-Accepting Lender**”) to which the proposed payment would otherwise be made may, by giving not less than three Business Days’ (or such shorter period as the Majority Lenders may agree) notice to the Agent prior to the date of the relevant prepayment, waive its right to prepayment (in whole or in part) (such waiver to be received by the Agent by 9:30 a.m. (London time) on the relevant Business Day) other than in relation to a prepayment arising pursuant to Clause 11.1 (*Illegality*), Clause 11.2 (*Illegality in relation to Issuing Bank*), Clause 11.6 (*Right of cancellation and repayment in relation to a single Lender or Issuing Bank*) or Clause 50.5 (*Replacement of Lender*).

- (c) If any Non-Accepting Lender delivers any notice under paragraph (b) above, the amount in respect of which that Non-Accepting Lender has waived its right to prepayment (the “**Waived Amount**”) shall, at the Parent’s option be either:
- (i) offered to the other Lenders that have not declined prepayment, *pro rata* to their respective Commitments; or
 - (ii) retained by the Group and shall be available for working capital and general corporate purposes including but not limited to acquisitions.

13. RESTRICTIONS

13.1 Notices of Cancellation or Prepayment

- (a) Any notice of cancellation, prepayment, authorisation or other election given by any Party under Clause 11 (*Illegality, Voluntary Prepayment and Cancellation*), paragraph (e) of Clause 12.6 (*Application of mandatory prepayments*), Clause 12.7 (*Mandatory Prepayment Accounts*) or Clause 12.9 (*Right to refuse prepayment*) shall (subject to the terms of those Clauses and to paragraph (b) below) be irrevocable, the Parent shall reimburse (or cause to be reimbursed) the relevant Lenders for any Break Costs actually incurred by those Lenders, and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any such irrevocable notice of cancellation or prepayment referred to in paragraph (a) above may be conditional *provided that* if any relevant condition is not satisfied resulting in the relevant cancellation or prepayment not being made, then the Parent shall reimburse (or cause to be reimbursed) the relevant Lenders for any Break Costs actually incurred by those Lenders.

13.2 Interest and other amounts

- (a) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs and to the provisions of Clause 11.4, without premium or penalty although a Borrower may provide cash cover in order to avoid any Break Costs.
- (b) On any date on which a prepayment is to be made under this Agreement, the relevant Borrower may discharge its payment obligation by providing cash cover in an amount equal to the amount to be prepaid.

13.3 No reborrowing of Term Facilities

No Borrower may reborrow any part of a Term Facility which is prepaid.

13.4 Reborrowing of Revolving Facility

Unless a contrary indication appears in this Agreement, any part of a Revolving Facility which is prepaid or repaid may be reborrowed in accordance with the terms of this Agreement.

13.5 Prepayment in accordance with Agreement

No Borrower shall repay or prepay all or any part of the Utilisations or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

13.6 No reinstatement of Commitments

Subject to Clause 2.2 (*Increase*), no amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

13.7 Agent's receipt of Notices

If the Agent receives a notice under Clause 11 (*Illegality, Voluntary Prepayment and Cancellation*) or an election under paragraph (e) of Clause 12.6 (*Application of mandatory prepayments*), it shall promptly forward a copy of that notice or election to either the Parent or the affected Lender, as appropriate.

13.8 Effect of Repayment and Prepayment on Commitments

If all or part of a Utilisation under a Facility is repaid or prepaid and is not available for redrawing (other than by operation of Clause 4.2 (*Further conditions precedent*)), an amount of the Commitments (equal to the Base Currency Amount of the amount of the Utilisation which is repaid or prepaid) in respect of that Facility will be deemed to be cancelled on the date of repayment or prepayment. Unless otherwise provided in this Agreement, any cancellation under this Clause 13.8 shall reduce the Commitments of the Lenders rateably under that Facility.

SECTION 5 COSTS OF UTILISATION

14. INTEREST

14.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

- (a) Margin; and
- (b) LIBOR or, in relation to any Loan in euro, EURIBOR.

14.2 Payment of interest

- (a) The Borrower to which a Loan has been made shall pay accrued interest on that Loan on the last day of each Interest Period (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of the Interest Period).
- (b) Subject to paragraph (d) below, if the annual audited financial statements of the Group and related Compliance Certificate received by the Agent show that a higher Margin should have applied for the Financial Quarter ending on the last day of a Financial Year (other than solely as a result of the use of average exchange rates for the conversion of currencies), then the Parent shall (or shall ensure the relevant Borrower shall) promptly pay to the Agent any amounts necessary to put the Agent and the Lenders in the position they would have been in had the appropriate rate of the Margin applied during such period.

- (c) Subject to paragraph (d) below, if the annual audited financial statements of the Group and related Compliance Certificate received by the Agent show that a lower Margin should have applied for the Financial Quarter ending on the last day of a Financial Year (other than solely as a result of the use of average exchange rates for the conversion of currencies) then the amount of interest due as at the last day of the immediately following Interest Period shall be reduced by such amount as is necessary to put the relevant Borrowers and Lenders in the position they would have been in had the appropriate rate of the Margin applied during such period.
- (d) Payments to a Lender will only be increased or reduced in accordance with paragraphs (b) and (c) above to the extent the relevant Lender was a Lender with respect to the relevant Commitment during the period when a higher or lower rate should have applied.

14.3 **Default interest**

- (a) If an Obligor fails to pay any amount payable by it under a Senior Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is one per cent. higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 14.3 shall be immediately payable by the Obligor on demand by the Agent.
- (b) If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:
 - (i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
 - (ii) the rate of interest applying to the overdue amount during that first Interest Period shall be one per cent. higher than the rate which would have applied if the overdue amount had not become due.
- (c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount in the case of any Obligor, but will remain immediately due and payable.

14.4 **Notification of rates of interest**

- (a) The Agent shall promptly notify the relevant Lenders and the relevant Borrower (or the Parent) of the determination of a rate of interest under this Agreement.
- (b) The Agent shall promptly notify the relevant Borrower (or the Parent) of each Funding Rate relating to a Loan.

15. **INTEREST PERIODS**

15.1 **Selection of Interest Periods and Terms**

- (a) A Borrower (or the Parent on behalf of a Borrower) may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan is a Term Loan and has already been borrowed) in a Selection Notice.
- (b) Each Selection Notice for a Term Loan is irrevocable and must be delivered to the Agent by the Borrower (or the Parent on behalf of the Borrower) to which that Term Loan was made not later than the Specified Time.
- (c) If a Borrower (or the Parent) fails to deliver a Selection Notice to the Agent in accordance with paragraph (b) above, the relevant Interest Period will be one Month.
- (d) Subject to this Clause 15, a Borrower (or the Parent) may select an Interest Period of one, three or six Months or less than one Month if necessary in order to comply with paragraph (f) below or to facilitate scheduled repayments of the Term Facilities or, if agreed by the Parent, the Agent and all the Lenders participating in the relevant Loan any other period between one and six Months or any longer period.
- (e) A Borrower (or the Parent) may select an Interest Period of any duration as agreed between the Parent and the Agent (acting on the instructions of all the Lenders participating in the relevant Loan) in order to facilitate the implementation of Hedging Agreements.
- (f) An Interest Period for a Loan shall not extend beyond the Termination Date applicable to its Facility.
- (g) Each Interest Period for a Term Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.
- (h) A Revolving Facility Loan has one Interest Period only.
- (i) If requested by the Arrangers and required for the purposes of primary syndication of the Facilities, Interest Periods shall be one Month or such other period as the Agent (acting on the instructions of any Arranger that is holding the relevant Commitments) and the Parent may agree.

15.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

15.3 Consolidation and division

- (a) If two or more Interest Periods:
 - (i) relate to Loans under the same Facility made to the same Borrower;
 - (ii) end on the same date; and
 - (iii) are in the same currency,

those Loans will, unless that Borrower (or the Parent on its behalf) specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Loan on the last day of the Interest Period.

- (b) Subject to Clause 4.4 (*Maximum number of Utilisations*) and Clause 5.3 (*Currency and amount*) if a Borrower (or the Parent on its behalf) requests in a Selection

Notice that a Facility B Loan be divided into two or more Facility B Loans, that Loan will, on the last day of its Interest Period, be so divided with Base Currency Amounts specified in that Selection Notice, having an aggregate Base Currency Amount equal to the Base Currency Amount of the Loan immediately before its division.

16. CHANGES TO THE CALCULATION OF INTEREST

16.1 Unavailability of Screen Rate

- (a) *Interpolated Screen Rate*: If no Screen Rate is available for LIBOR or, if applicable, EURIBOR for the Interest Period of a Loan, the applicable LIBOR or EURIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.
- (b) *Reference Bank Rate*: Subject to Clause 50.4 (*Replacement of Screen Rate*), if no Screen Rate is available for LIBOR or, if applicable, EURIBOR for:
 - (i) the currency of a Loan; or
 - (ii) the Interest Period of a Loan and it is not possible to calculate the Interpolated Screen Rate,

the applicable LIBOR or EURIBOR shall be the Reference Bank Rate as of the Specified Time for the currency of that Loan and for a period equal in length to the Interest Period of that Loan.

- (c) *Cost of funds*: If paragraph (b) above applies but no Reference Bank Rate is available for the relevant currency or Interest Period there shall be no LIBOR or EURIBOR for that Loan and Clause 16.4 (*Cost of funds*) shall apply to that Loan for that Interest Period.

16.2 Calculation of Reference Bank Rate

- (a) Subject to paragraph (b) below, if LIBOR or EURIBOR is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.
- (b) If at or about noon on the Quotation Day, none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period.

16.3 Market disruption

If before close of business in London on the Quotation Day for the relevant Interest Period the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 35 per cent. of that Loan) that the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of LIBOR or, if applicable, EURIBOR then Clause 16.4 (*Cost of funds*) shall apply to that Loan for the relevant Interest Period.

16.4 Cost of funds

- (a) If this Clause 16.4 applies, the rate of interest on each Lender's share of the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
- (i) the Margin; and
 - (ii) the rate notified to the Agent by that Lender as soon as practicable and in any event within five Business Days of the first day of that Interest Period (or, if earlier, on the date falling five Business Days before the date on which interest is due to be paid in respect of that Interest Period) to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in that Loan from whatever source it may reasonably select.
- (b) If this Clause 16.4 applies and the Agent or the Parent so requires, the Agent and the Parent shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.
- (c) Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Parent, be binding on all Parties.
- (d) If this Clause 16.4 applies but a Lender does not supply a quotation by the time specified in sub-paragraph (a)(ii) above, the rate of interest shall be calculated on the basis of the quotations of the remaining Lenders.

16.5 Notification to Parent

If Clause 16.4 (*Cost of funds*) applies or if LIBOR or, if applicable, EURIBOR is to be determined on the basis of a Reference Bank Rate the Agent shall, as soon as is practicable, notify the Parent.

16.6 Break Costs

- (a) Each Borrower shall, within five Business Days of demand by a Senior Finance Party, pay to that Senior Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.
- (b) Each Lender shall, together with its demand, provide a certificate confirming the amount and basis of calculation of its Break Costs for any Interest Period in which they accrue.

17. FEES

17.1 Commitment fee

- (a) The Parent shall pay to the Agent (or procure payment of) (for the account of each Lender) a fee in the Base Currency computed at the rate of:
 - (i) in respect of any Incremental Facility Commitments, the rate specified in the Incremental Facility Notice delivered by the Parent in accordance with Clause 2.3 (*Incremental Facility*), on that Lender's Available Commitment in respect of those Incremental Facility Commitments for the Availability Period as set out in such Incremental Facility Notice;

- (ii) in respect of any Senior Loan Refinancing Facility Commitments, the rate specified in the Senior Loan Refinancing Facility Notice delivered by the Parent in accordance with Clause 2.4 (*Senior Loan Refinancing Facility*), on that Lender's Available Commitment in respect of those Senior Loan Refinancing Facility Commitments for the Availability Period as set out in such Senior Loan Refinancing Facility Notice; and
 - (iii) in respect of any Original Revolving Facility Commitments, 35 per cent. of the applicable Margin on that Lender's Available Commitment under the Original Revolving Facility for the period commencing on the Closing Date and ending on the last day of the Availability Period applicable to the Original Revolving Facility.
- (b) The accrued commitment fee is payable on the last day of each successive period of three Months which ends during the relevant Availability Period, on the last day of the relevant Availability Period and on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.
- (c) No commitment fee is payable to the Agent (for the account of a Lender) on any Available Commitment of that Lender for any day on which that Lender is a Defaulting Lender.

17.2 Underwriting fee

The Parent shall pay to the Arrangers (or procure payment of) an underwriting fee in the amount and at the times agreed in a Fee Letter.

17.3 Agency fee

The Parent shall pay to the Agent (or procure payment of) (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

17.4 Security Agent fee

The Parent shall pay to the Security Agent (or procure payment of) (for its own account) a security agent fee in the amount and at the times agreed in a Fee Letter.

17.5 Fees payable in respect of Letters of Credit or Bank Guarantees

- (a) The Parent or the relevant Borrower shall pay to the Issuing Bank (or procure payment of) a fronting fee at the rate of 0.125 per cent. per annum on the outstanding amount which is counter-indemnified by the other Lenders of each Letter of Credit or Bank Guarantee that are not Affiliates of the Issuing Bank requested by it for the period from the issue of that Letter of Credit or Bank Guarantee until its Expiry Date *provided that* no fee shall be payable in respect of any such outstanding amount in respect of which cash cover has been provided.
- (b) The Parent or the relevant Borrower shall pay to the Agent (or procure payment of) (for the account of each Original Revolving Facility Lender) a Letter of Credit or Bank Guarantee fee in the currency of such Letter of Credit or Bank Guarantee (computed at the rate equal to the Margin applicable to an Original Revolving Facility Loan) on the outstanding amount of each Letter of Credit or Bank Guarantee requested by it for the period from the issue of that Letter of Credit or Bank Guarantee until its Expiry Date, provided that no fee shall be payable in respect of any such outstanding amount in respect of which cash cover has been provided. This

fee shall be distributed according to each Original Revolving Facility Lender's Proportion of that Letter of Credit or Bank Guarantee.

- (c) The accrued fronting fee and Letter of Credit or Bank Guarantee fee on a Letter of Credit or Bank Guarantee shall be payable on the last day of each successive period of three Months (or such shorter period as shall end on the Expiry Date for that Letter of Credit or Bank Guarantee) starting on the date of this Agreement. The accrued fronting fee and Letter of Credit or Bank Guarantee fee is also payable to the Agent on the cancelled amount of any Lender's Facility Commitment at the time the cancellation is effective if that Commitment is cancelled in full and the Letter of Credit or Bank Guarantee is prepaid or repaid in full.
- (d) The Parent or the relevant Borrower shall pay to the Issuing Bank (or procure payment of) (for its own account) an issuance/administration fee in the amount, if any, and at the times specified in a Fee Letter. For the avoidance of doubt, the reasonable expenses (including any fees relating to issuance, renewal, extension, notification, confirmation and payment) of the Issuing Bank and of all local correspondents in relation to any Letter of Credit or Bank Guarantee shall be for the account of the relevant Borrower.

17.6 Interest, commission and fees on Ancillary Facilities

The rate and time of payment of interest, commission, fees and any other remuneration in respect of each Ancillary Facility shall be determined by agreement between the relevant Ancillary Lender and the Borrower of that Ancillary Facility based upon normal market rates and terms.

17.7 Prepayment Fee

- (a) If on or prior to the date which falls six months after the Closing Date, a Borrower prepays, refinances, substitutes or otherwise replaces a Facility B Loan pursuant to a Repricing Transaction, that Borrower shall pay to the Agent, for the account of each relevant Facility B Lender *pro rata* to its participation in such Facility B Loan at the time of the prepayment, refinancing, substitution or replacement, as applicable, a prepayment fee of 1.0 per cent. of the aggregate principal amount of the Facility B Loans being prepaid, refinanced, substituted or otherwise replaced.
- (b) If, on or prior to the date which falls six months after the Closing Date, any Facility B Lender is prepaid or replaced pursuant to Clause 11.6 (*Right of cancellation and repayment in relation to a single Lender or Issuing Bank*) or Clause 50.5 (*Replacement of Lender*) (as applicable) as a result of it becoming a Non-Extending Lender or a Non-Consenting Lender in connection with a Repricing Transaction, such Lender shall receive a fee equal to 1.0 per cent. of the principal amount of the Facility B Loans of such Lender prepaid pursuant to Clause 11.6 (*Right of cancellation and repayment in relation to a single Lender or Issuing Bank*) or transferred to a Replacement Lender pursuant to Clause 50.5 (*Replacement of Lender*).
- (c) In this Clause 17.7, "**Repricing Transaction**" means the prepayment, refinancing, substitution or replacement of all or part of the Facility B Loans (including, without limitation, as may be effected through any amendment, waiver or modification to this Agreement relating to the interest rate for, or weighted average yield of, the Facility B Loans) if:
 - (i) the primary purpose and effect of such prepayment, refinancing, substitution, replacement, amendment, waiver or modification is (as reasonably determined

by the Agent in good faith) to refinance the Facility B Loans at a lower “effective yield” (taking into account, among other factors, margin, upfront or similar fees or original issue discount shared with all providers of such financing, but excluding the effect of any arrangement, commitment, underwriting, structuring, syndication or other fees payable in connection therewith that are not shared with all providers of such financing and disregarding the effects of any and all interest rate floors); and

- (ii) such prepayment, refinancing, substitution, replacement, amendment, waiver or modification is effected by the incurrence of new Indebtedness by any member of the Group that is loan financing secured by a Security Interest on property or assets of any member of the Group (other than Indebtedness secured by a Security Interest ranking junior to or subordinated to the Security Interests securing the Initial Senior Facilities Liabilities).

17.8 **No Closing Date**

No fees or other amounts (save, subject to Clause 22.4 (*Breach of confidentiality*), for reasonable legal fees and disbursements of a single counsel in each relevant jurisdiction acting for the Agent and the Lenders incurred in connection with the Senior Finance Documents) shall be payable by the Parent or any other member of the Group pursuant to this Clause 17 if the Closing Date does not occur.

**SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS**

18. TAX GROSS UP AND INDEMNITIES

18.1 Definitions

In this Agreement:

“Borrower DTTP Filing” means an HM Revenue & Customs’ Form DTTP2 duly completed and filed by the relevant Borrower, which:

- (a) where it relates to a Treaty Lender that is an Original Lender, contains the scheme reference number and jurisdiction of tax residence stated opposite that Lender’s name in Part 2 (*The Original Lenders*) of Schedule 1 (*The Original Parties*), and
 - (i) where the Borrower is an Original Borrower, is filed with HM Revenue & Customs within 30 days of the date of this Agreement; or
 - (ii) where the Borrower is an Additional Borrower, is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower; or
- (b) where it relates to a Treaty Lender that is a New Lender, an Incremental Facility Lender, a Senior Loan Refinancing Facility Lender, an Increase Lender or Substitute Affiliate Lender, contains the scheme reference number and jurisdiction of tax residence stated in respect of that Lender in the relevant Transfer Certificate, Assignment Agreement, Incremental Facility Accession Certificate, Senior Loan Refinancing Facility Accession Certificate, Increase Confirmation or Substitute Affiliate Lender Designation Notice, and
 - (i) where the Borrower is a Borrower as at the relevant Transfer Date or Increase Date or date on which the Incremental Facility Commitments or Senior Loan Refinancing Facility Commitments take effect, or a Substitute Affiliate Lender is designated in accordance with Clause 5.7 (*Lender Affiliates and Facility Office*), is filed with HM Revenue & Customs within 30 days of that Transfer Date or Increase Date or date on which the Incremental Facility Commitments or Senior Loan Refinancing Facility Commitments take effect, or a Substitute Affiliate Lender is designated in accordance with Clause 5.7 (*Lender Affiliates and Facility Office*); or
 - (ii) where the Borrower is not a Borrower as at the relevant Transfer Date or Increase Date or date on which the Incremental Facility Commitments or Senior Loan Refinancing Facility Commitments take effect, or a Substitute Affiliate Lender is designated in accordance with Clause 5.7 (*Lender Affiliates and Facility Office*), is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower.

“Change of Law” means any change which occurs after the date of this Agreement or, if later, after the date on which the relevant Lender became a Lender (or, if such Lender is a fiscally transparent entity for the purposes of the jurisdiction imposing the Tax Deduction, and such status is relevant for determining the Tax Deduction, the date the relevant member of such Lender became such a member, but only in respect of payments to be received, or deemed to be received, by such member) pursuant to this Agreement (as applicable) in any law, regulation or treaty (or in the interpretation, administration or application of any law,

regulation or treaty) or any published practice or published concession of any relevant tax authority other than a change in a Relevant Covered Tax Agreement (or the interpretation, administration or application of a Relevant Covered Tax Agreement) that occurs pursuant to the MLI and in accordance with MLI Reservations or MLI Notifications made by the MLI Lender Jurisdiction (on the one hand) the MLI Obligor Jurisdiction (on the other hand), where such relevant MLI Reservation or MLI Notification satisfies the MLI Disclosure Condition.

“**CTA**” means the Corporation Tax Act 2009.

“**Exempt Lender**” means a Lender:

- (a) which is a company which is not resident in the United Kingdom for United Kingdom tax purposes;
- (b) which is entitled to sovereign immunity from direct taxation in the United Kingdom and is thereby entitled to receive payments of interest without withholding or deduction for or on account of United Kingdom taxation; and
- (c) in respect of which the Borrower has received an Exempt Lender Confirmation and such Exempt Lender Confirmation remains valid and has not expired, been withdrawn or otherwise ceased to have effect.

“**Exempt Lender Confirmation**” means a letter, direction or other communication of similar effect from HM Revenue & Customs to the Borrower confirming that such Exempt Lender is entitled to receive payments of interest from the Borrower under this Agreement without withholding or deduction for or on account of United Kingdom taxation.

“**MLI**” means the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting of 24 November 2016.

“**MLI Disclosure Condition**” means the freely accessible publication of the relevant MLI Reservation or MLI Notification on the OECD website (to the extent that such MLI Reservation or MLI Notification has not been withdrawn or superseded and taking into account any applicable amendments) no later than five Business Days prior to the date of this Agreement where the relevant Lender is an Original Lender, no later than five Business Days prior to the date on which the relevant Lender became a Lender pursuant to this Agreement where the relevant Lender is not an Original Lender.

“**MLI Lender Jurisdiction**” means the jurisdiction in which the relevant Lender is treated as resident for the purposes of the Relevant Covered Tax Agreement.

“**MLI Notification**” means a notification validly made pursuant to Article 29 of the MLI.

“**MLI Obligor Jurisdiction**” means the jurisdiction of incorporation or formation of the relevant Obligor.

“**MLI Reservation**” means a reservation validly made pursuant to Article 28 of the MLI.

“**Protected Party**” means a Senior Finance Party which is or will be subject to any liability or required to make any payment for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Senior Finance Document.

“**Qualifying Lender**” means:

- (a) a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Senior Finance Document and is:
 - (i) a Lender:
 - (A) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a Senior Finance Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payment apart from section 18A of the CTA; or
 - (B) in respect of an advance made under a Senior Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made and which is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or
 - (ii) a Lender which is:
 - (A) a company resident in the United Kingdom for United Kingdom tax purposes;
 - (B) a partnership each member of which is:
 - (1) a company so resident in the United Kingdom; or
 - (2) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA;
 - (C) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company; or
 - (iii) a Treaty Lender;
- (b) a Lender which is a building society (as defined for the purposes of section 880 of the ITA) making an advance under a Senior Finance Document; or
- (c) an Exempt Lender.

“**Relevant Covered Tax Agreement**” means a Covered Tax Agreement (as such term is defined under Article 2(1)(a) of the MLI) the parties to which are the MLI Lender Jurisdiction and the MLI Obligor Jurisdiction.

“**Tax Confirmation**” means a confirmation by a Lender that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Senior Finance Document is either:

- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
- (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
- (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.

“**Tax Credit**” means a credit against, relief or remission for, or repayment of, any Tax.

“**Tax Deduction**” means a deduction or withholding for or on account of Tax from a payment to a Senior Finance Party under a Senior Finance Document, other than a FATCA Deduction.

“**Tax Payment**” means either the increase in a payment made by an Obligor to a Senior Finance Party under Clause 18.2 (*Tax gross-up*) or a payment under Clause 18.3 (*Tax indemnity*).

“**Treaty Lender**” means a Lender which:

- (a) is treated as a resident of a Treaty State for the purposes of the relevant Treaty;
- (b) does not carry on a business in the United Kingdom through a permanent establishment with which that Lender’s participation in the Loan is effectively connected; and
- (c) fulfils any other conditions which must be fulfilled under the relevant Treaty by residents of that Treaty State for such residents to obtain full exemption from Tax on interest imposed by the United Kingdom, subject to the completion of any necessary procedural formalities.

“**Treaty State**” means a jurisdiction having a double taxation agreement (a “**Treaty**”) with the United Kingdom which makes provision for full exemption from Tax imposed by the United Kingdom on interest.

“**UK Non-Bank Lender**” means:

- (a) where a Lender becomes a Party on the day on which this Agreement is entered into, a Lender listed as such in Part 2 (*The Original Lenders*) of Schedule 1 (*The Original Parties*); and
- (b) where a Lender becomes a Party after the day on which this Agreement is entered into, a Lender which gives a Tax Confirmation in the Assignment Agreement, Transfer Certificate, Increase Confirmation, Incremental Facility Accession Certificate or Senior Loan Refinancing Facility Accession Certificate which it executes on becoming a Party.

Unless a contrary indication appears, in this Clause 18 a reference to “**determines**” or “**determined**” means a determination made in the reasonable discretion of the person making the determination.

18.2 Tax gross-up

- (a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Parent shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Senior Finance Party shall promptly notify the Agent on becoming so aware in respect of a payment payable to that Senior Finance Party. If the Agent receives such notification from a Senior Finance Party it shall promptly notify the Parent and that Obligor.
- (c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no such Tax Deduction had been required.
- (d) A payment by an Obligor shall not be increased under paragraph (c) above by reason of a Tax Deduction on account of Tax imposed by the United Kingdom, if on the date on which the payment falls due:
 - (i) the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender and, in the case of a payment made to a Treaty Lender, it shall be assumed the payment has been specified in a direction given by the Commissioners for HM Revenue & Customs under Regulation 2 of the Double Taxation Relief (Taxes on Income (General) Regulation 1970 (SI/1970/488)) but on that date that Lender is not or has ceased to be a Qualifying Lender, other than as a result of any Change of Law; or
 - (ii) the relevant Lender is a Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of “Qualifying Lender” and:
 - (A) an officer of H.M. Revenue & Customs has given (and not revoked) a direction (a “**Direction**”) under section 931 of the ITA which relates to the payment and that Lender has received from the Obligor making the payment or from the Parent a certified copy of that Direction; and
 - (B) the payment could have been made to the Lender without any such Tax Deduction if that Direction had not been made; or
 - (iii) the relevant Lender is a Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of “Qualifying Lender” and:
 - (A) the relevant Lender has not given a Tax Confirmation to the Parent; and
 - (B) the payment could have been made to the Lender without any such Tax Deduction if the Lender had given a Tax Confirmation to the Parent, on the basis that the Tax Confirmation would have enabled

the Parent to have formed a reasonable belief that the payment was an “excepted payment” for the purpose of section 930 of the ITA; or

- (iv) the Obligor making the payment is able to demonstrate that the payment could have been made to the Senior Finance Party without the Tax Deduction had that Senior Finance Party complied with its obligations under paragraph (g) or (h) (as applicable) below.
 - (e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed (including extensions) and in the minimum amount required by law.
 - (f) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Senior Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Senior Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
 - (g)
 - (i) Subject to paragraph (ii) below in respect of a Treaty Lender, a Senior Finance Party and each Obligor which makes a payment to which that Senior Finance Party is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction (or with a reduced Tax Deduction), *provided that* the relevant Senior Finance Party first receives reasonable written notice from the Parent giving reasonable details of the procedural formalities to be completed.
 - (ii)
 - (A) A Treaty Lender which becomes a Party on the day on which this Agreement is entered into that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence opposite its name in Part 2 (*The Original Lenders*) of Schedule 1 (*The Original Parties*); and
 - (B) a New Lender, an Incremental Facility Lender, a Senior Loan Refinancing Facility Lender, an Increase Lender or a Substitute Affiliate Lender that is a Treaty Lender that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence in the Transfer Certificate, Assignment Agreement, Increase Confirmation, Incremental Facility Accession Certificate, Senior Loan Refinancing Facility Accession Certificate, Increase Confirmation or Substitute Affiliate Lender Designation Notice which it executes,
- and having done so, that Lender shall be under no further obligation pursuant to paragraph (i) above.
- (h) If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with paragraph (g)(ii) above and:

- (i) a Borrower making a payment to that Lender has not made a Borrower DTTP Filing in respect of that Lender; or
- (ii) a Borrower making a payment to that Lender has made a Borrower DTTP Filing in respect of that Lender but:
 - (A) that Borrower DTTP Filing has been rejected by HM Revenue & Customs;
 - (B) the Lender's passport or scheme reference number has expired or is invalid; or
 - (C) HM Revenue & Customs has not given the Borrower authority to make payments to that Lender without a Tax Deduction within 60 days of the date of the Borrower DTTP Filing,

and in each case, the Borrower has notified that Lender in writing, that Lender and the Borrower shall co-operate in completing any additional procedural formalities necessary for that Borrower to obtain authorisation to make that payment without a Tax Deduction.

- (i) If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (g)(ii) above, no Obligor shall make a Borrower DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Lender's Commitment(s) or its participation in any Utilisation unless the Lender otherwise agrees.
- (j) A Borrower shall, promptly on making a Borrower DTTP Filing, deliver a copy of that Borrower DTTP Filing to the Agent for delivery to the relevant Lender.
- (k) A UK Non-Bank Lender which becomes a Party on the day on which this Agreement is entered into gives a Tax Confirmation to the Parent by entering into this Agreement.
- (l) A UK Non-Bank Lender shall promptly notify the Parent and the Agent if there is any change in the position from that set out in the Tax Confirmation.

18.3 Tax indemnity

- (a) The Parent shall (within three Business Days of demand by the Agent, which demand shall not be made earlier than five Business Days prior to the date such loss, liability or cost will be suffered by such Protected Party), pay to a Protected Party (or procure payment of) an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Senior Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Senior Finance Party:
 - (A) under the law of the jurisdiction in which that Senior Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Senior Finance Party is treated as resident for tax purposes; or

(B) under the law of the jurisdiction in which that Senior Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Senior Finance Party;

(ii) to the extent a loss, liability or cost:

(A) is compensated for by an increased payment under Clause 18.2 (*Tax gross-up*);

(B) would have been compensated for by an increased payment under Clause 18.2 (*Tax gross-up*) but was not so compensated because one of the exclusions in paragraph (d) of Clause 18.2 (*Tax gross-up*) applied; or

(C) relates to FATCA; and

(iii) in respect of a loss, liability or cost for or on account of Tax which would not have arisen or been incurred but for the reasonably avoidable delay or the default of such Senior Finance Party.

(c) A Protected Party making, or intending to make a claim, under paragraph (a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall promptly notify the Parent.

(d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 18.3, notify the Agent.

18.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Senior Finance Party determines that:

(a) a Tax Credit is attributable either to an increased payment of which that Tax Payment forms part or to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and

(b) that Senior Finance Party has either obtained and utilised, or has retained and determined that it can within the current accounting period utilise, the benefit of that Tax Credit,

the Senior Finance Party shall pay an amount to the Obligor which that Senior Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

18.5 Lender Status Confirmation

(a) Each Lender which becomes a Party to this Agreement after the date of this Agreement shall indicate, in the Transfer Certificate, Assignment Agreement, Incremental Facility Accession Certificate, Senior Loan Refinancing Facility Accession Certificate, Increase Confirmation or Substitute Affiliate Lender Designation Notice which it executes on becoming a Party, and for the benefit of the

Agent and without liability to any Obligor, which of the following categories it falls in:

- (i) not a Qualifying Lender;
 - (ii) a Qualifying Lender (other than a Treaty Lender); or
 - (iii) a Treaty Lender.
- (b) If a New Lender, Incremental Facility Lender, Senior Loan Refinancing Facility Lender, Increase Lender or Substitute Affiliate Lender fails to indicate its status in accordance with this Clause 18.5 then such New Lender, Incremental Facility Lender, Senior Loan Refinancing Facility Lender, Increase Lender or Substitute Affiliate Lender shall be treated for the purposes of this Agreement (including by each Obligor) as if it is not a Qualifying Lender until such time as it notifies the Agent which category applies (and the Agent, upon receipt of such notification, shall promptly inform the Parent). For the avoidance of doubt, a Transfer Certificate, Assignment Agreement, Incremental Facility Accession Certificate, Senior Loan Refinancing Facility Accession Certificate, Increase Confirmation or Substitute Affiliate Lender Designation Notice shall not be invalidated by any failure of a Lender to comply with this Clause 18.5.

18.6 Stamp taxes

The Parent shall pay (or procure payment of) and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Senior Finance Document, other than a Senior Finance Document pursuant to which any rights under a Senior Finance Document are voluntarily assigned or transferred by a Secured Party.

18.7 VAT

- (a) All amounts expressed in a Senior Finance Document to be payable by any Party to a Senior Finance Party which (in whole or in part) constitute the consideration for a supply or supplies for VAT purposes shall be deemed to be exclusive of any amount in respect of VAT which is chargeable on such supply or supplies, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Senior Finance Party to any Party under a Senior Finance Document, and such Senior Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Senior Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of VAT, (and such Senior Finance Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Senior Finance Party (the “**Supplier**”) to any other Senior Finance Party (the “**Recipient**”) under a Senior Finance Document, and any Party other than the Recipient (the “**Relevant Party**”) is required by the terms of any Senior Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
 - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies)

promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and

- (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Senior Finance Document requires any Party to reimburse or indemnify a Senior Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Senior Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Senior Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause 18.7 to any Party shall, at any time when such Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) or any other similar provision in any jurisdiction which is not a member state of the European Union) so that a reference to a party shall be construed as a reference to that party or the relevant group or unity (or fiscal unity) of which that Party is a member for VAT purposes at the relevant time or the relevant representative member (or head) of that group or unity (or fiscal unity) at the relevant time (as the case may be).
- (e) In relation to any supply made by a Party to any other Party under a Senior Finance Document, if reasonably requested by the first Party, that other Party must promptly provide such first Party with details of that other Party's VAT registration and such other information as is reasonably requested in connection with the first Senior Finance Party's VAT reporting requirements in relation to such supply.

18.8 FATCA Information

- (a) Subject to paragraph (c) below, each Party shall, within 10 Business Days of a reasonable request by another Party:
 - (i) confirm to that other Party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party; and
 - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
 - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes

of that other Party's compliance with any other law, regulation, or exchange of information regime.

- (b) If a Party confirms to another Party pursuant to sub-paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Party to do anything which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with sub-paragraph (a)(i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Senior Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

18.9 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment or any other Party for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Company and the Agent and the Agent shall notify the other Senior Finance Parties.

19. INCREASED COSTS

19.1 Increased costs

- (a) Subject to Clause 19.3 (*Exceptions*) the Parent shall, within three Business Days of a demand by the Agent, pay (or procure payment of) for the account of a Senior Finance Party the amount of any Increased Costs incurred by that Senior Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement.
- (b) In this Agreement “**Increased Costs**” means:
 - (i) a reduction in the rate of return from a Facility or on a Senior Finance Party's (or its Affiliate's) overall capital;

- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Senior Finance Document,

which is incurred or suffered by a Senior Finance Party or any of its Affiliates to the extent that it is attributable to that Senior Finance Party having entered into its Commitment or an Ancillary Commitment or funding or performing its obligations under any Senior Finance Document, Letter of Credit or Bank Guarantee to the extent not otherwise compensated for under any other provision of this Agreement, the other Senior Finance Documents or any Letter of Credit or Bank Guarantee.

19.2 Increased cost claims

- (a) A Senior Finance Party intending to make a claim pursuant to Clause 19.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Parent.
- (b) Each Senior Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

19.3 Exceptions

- (a) Clause 19.1 (*Increased costs*) does not apply to the extent any Increased Cost is:
 - (i) attributable to a Tax Deduction required to be made by law;
 - (ii) attributable to FATCA;
 - (iii) compensated for by Clause 18.3 (*Tax Indemnity*) (or would have been compensated for under Clause 18.3 (*Tax Indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 18.3(*Tax Indemnity*) applied);
 - (iv) attributable to a Bank Levy;
 - (v) attributable to the wilful breach by the relevant Senior Finance Party or its Affiliates of any law or regulation; or
 - (vi) attributable to the implementation or application of or compliance with the “International Convergence of Capital Measurement and Capital Standards, a Revised Framework” published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement (or, if later, the date it became a Party to this Agreement) (“**Basel II**”) or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Senior Finance Party or any of its Affiliates) (*provided that* if such Increased Costs attributable to Basel II are incurred as a result of the implementation or application of, or compliance with, Basel III or CRD IV, this subparagraph (vi) shall not apply to the extent that such implementation, application or compliance differs from that which has been implemented or required already as at the date of this Agreement by Basel II as determined without reference to the Basel III or CRD IV).

For the avoidance of doubt, a Lender which is not bound to comply with Basel II either at the date of this Agreement (or, if later, the date it became a Party to this

Agreement) or as at the date of a claim under this Clause 19 shall be entitled to make a claim for all Increased Costs incurred by it as a result of the implementation or application of, or compliance with, the Basel III (to the extent that such Lender is bound to comply with the Basel III) without reference to sub-paragraph (vi) above.

(b) In this Clause 19.3:

(i) “**Basel III**” means:

- (A) the agreements on capital requirements, a leverage ratio and liquidity standards contained in “Basel III: A global regulatory framework for more resilient banks and banking systems”, “Basel III: International framework for liquidity risk measurement, standards and monitoring” and “Guidance for national authorities operating the countercyclical capital buffer” published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
- (B) the rules for global systemically important banks contained in “Global systemically important banks: assessment methodology and the additional loss absorbency requirement – Rules text” published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
- (C) any further guidance or standards published by the Basel Committee on Banking Supervision relating to “Basel III”.

(ii) “**CRD IV**” means:

- (A) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 (the “**CRR**”); and
- (B) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

20. OTHER INDEMNITIES

20.1 Currency indemnity

- (a) If any sum due from an Obligor under the Senior Finance Documents (a “**Sum**”), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the “**First Currency**”) in which that Sum is payable into another currency (the “**Second Currency**”) for the purpose of:
- (i) making or filing a claim or proof against that Obligor; or
 - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Secured Party to whom that Sum is due against any cost,

loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Senior Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

20.2 Other indemnities

- (a) The Company shall (or shall procure that an Obligor will), within three Business Days of demand, indemnify the Arrangers and each other Secured Party against any cost, loss or liability incurred by it as a result of:
 - (i) the occurrence of any Event of Default;
 - (ii) a failure by an Obligor to pay any amount due under a Senior Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 43 (*Sharing among the Senior Finance Parties*);
 - (iii) funding, or making arrangements to fund, its participation in a Utilisation requested by a Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Senior Finance Party alone);
 - (iv) issuing or making arrangements to issue a Letter of Credit or Bank Guarantee requested by the Company or a Borrower in a Utilisation Request but not issued by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Senior Finance Party alone); or
 - (v) a Utilisation (or part of a Utilisation) not being prepaid in accordance with a notice of prepayment given by a Borrower or the Company other than a conditional notice of prepayment, in which case only Break Costs actually incurred by the relevant Lender shall be payable,

save to the extent any such event or circumstance arises by reason of the wilful misconduct or gross negligence or material breach of a Senior Finance Document by that Senior Finance Party.

- (b) The Company shall (or shall procure that an Obligor shall) promptly indemnify each Senior Finance Party, each Affiliate of a Senior Finance Party and each officer or employee of a Senior Finance Party or its Affiliate (each an “**Indemnified Person**”), against any cost, loss or liability incurred by that Senior Finance Party or its Affiliate (or officer or employee of that Senior Finance Party or Affiliate) in connection with or arising out of the Acquisition or the funding of the Acquisition (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the Acquisition), unless such loss or liability is caused by the gross negligence or wilful misconduct of that Senior Finance Party or its Affiliate (or employee or officer of that Senior Finance Party or Affiliate). Any Indemnified Person may rely on this Clause 20.2 subject to Clause 1.3 (*Third party rights*) and the provisions of the Third Parties Act.

- (c) Each Indemnified Person shall promptly notify the Parent in writing within a reasonable time after the relevant Indemnified Person becomes aware of such event or circumstances giving rise to a claim under paragraph (b) above and shall consult with the Parent as to the conduct of the relevant claim, action or proceeding (subject to duties of confidentiality and information which is attorney/client privileged), *provided that* any omission to so notify the Parent will not relieve it from any liability that it may have hereunder.
- (d) For the avoidance of doubt, the provisions of this Clause 20.2 will not apply to any obligations of the Parent to indemnify an Arranger, a Secured Party or an Indemnified Person in respect of (i) Taxes (for the avoidance of doubt, including FATCA), which obligations shall be governed by Clause 18 (*Tax Gross Up and Indemnities*) or (ii) Increased Costs, which obligations shall be governed solely by Clause 19 (*Increased Costs*).

20.3 Indemnity to the Agent

The Parent shall promptly indemnify the Agent against:

- (a) any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
 - (i) investigating any event which it reasonably believes is a Default;
 - (ii) entering into or performing any foreign exchange contract for the purposes of paragraph (b) of Clause 44.10 (*Change of currency*);
 - (iii) acting as agent of the Obligors for the purposes of Clause 38.9 (*The Register*);
 - (iv) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (v) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and
- (b) any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever but not including any cost, loss or liability arising as a result of fraud, gross negligence or wilful misconduct of the Agent) incurred by the Agent as a result of its taking, or failing to take, any actions pursuant to Clause 44.11 (*Disruption to Payment Systems etc.*).

20.4 Continuation of Indemnity

Each Obligor acknowledges that its obligations under Clause 20.3 (*Indemnity to the Agent*) shall survive the termination of this Agreement and the discharge of the Secured Obligations (as defined in the Intercreditor Agreement) in connection with the Initial Senior Facilities Liabilities in respect of actions, omissions or other circumstances existing on or prior to the date of such termination and discharge.

21. MITIGATION BY THE LENDERS

21.1 Mitigation

- (a) Each Senior Finance Party shall, in consultation with the Parent, take all reasonable steps to mitigate any circumstances which arise and which would result in any Facility ceasing to be available or any amount becoming payable under or pursuant

to, or cancelled pursuant to, any of Clause 11.1 (*Illegality*) (or, in respect of the Issuing Bank, Clause 11.2 (*Illegality in relation to Issuing Bank*)), Clause 18 (*Tax Gross Up and Indemnities*) or Clause 19 (*Increased Costs*).

- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Senior Finance Documents.

21.2 Limitation of liability

- (a) The Parent shall promptly indemnify each Senior Finance Party for all costs and expenses reasonably incurred by that Senior Finance Party as a result of steps taken by it under Clause 21.1 (*Mitigation*).
- (b) A Senior Finance Party is not obliged to take any steps under Clause 21.1 (*Mitigation*) if, in the opinion of that Senior Finance Party (acting reasonably), to do so could reasonably be expected to be prejudicial to it (other than any minor costs of an administrative or similar nature).

22. COSTS AND EXPENSES

22.1 Transaction expenses

The Parent shall promptly on demand pay (or cause to be paid to) the Agent, the Arrangers, the Issuing Bank and the Security Agent the amount of all costs and expenses (including reasonable legal fees of a single counsel in each relevant jurisdiction) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution, primary syndication and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement, including the Transaction Security; and
- (b) any other Senior Finance Documents executed after the date of this Agreement,

provided that the Parent shall not be obliged to pay (or cause to be paid) any such costs and expenses for any fees of counsel, accountants, surveyors or other experts or advisors whose engagement has not been approved by the Parent for which purposes the legal advisers engaged by the Finance Parties on or prior to the date hereof shall be deemed approved.

22.2 Amendment costs

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 44.10 (*Change of currency*), the Parent shall, within five Business Days of demand, reimburse (or cause to be reimbursed) each of the Agent and the Security Agent for the amount of all costs and expenses (including reasonable legal fees of a single counsel in each relevant jurisdiction) reasonably incurred by the Agent and the Security Agent (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

22.3 Enforcement and preservation costs

The Parent shall, within three Business Days of demand, pay to each Secured Party (or procure payment of) the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under any Senior Finance Document and the Transaction Security and any proceedings instituted by or against

the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.

22.4 **Breach of confidentiality**

- (a) If a Senior Finance Party (other than the Agent or Security Agent) or any Affiliate of, or adviser to, such Senior Finance Party has breached, or the Parent has reasonable grounds to believe that a Senior Finance Party (other than the Agent or Security Agent) or any Affiliate of or adviser to such Senior Finance Party has breached, the terms of Clause 51 (*Confidentiality*) (in each case, a “**Breaching Senior Finance Party**”), the Parent shall not be obliged to reimburse, or procure the reimbursement of, any out of pocket expenses incurred by such Breaching Senior Finance Party (or, where such expenses are shared among the Senior Finance Parties, the share of such Breaching Senior Finance Party in such expenses *pro rata* to its Commitment) pursuant to Clause 22.1 (*Transaction expenses*), whether or not the Closing Date occurs and no claim may be made against the Parent or any of its Affiliates by such Breaching Senior Finance Party with respect to such out of pocket expenses under Clause 20 (*Other Indemnities*) or under any other indemnity contained in the Senior Finance Documents.
- (b) The Senior Finance Parties agree that Senior Finance Parties which are not Breaching Senior Finance Parties shall in no case be responsible for any out-of-pocket expenses not reimbursed to a Breaching Senior Finance Party pursuant to paragraph (a) above.

SECTION 7 GUARANTEE

23. GUARANTEE AND INDEMNITY

23.1 Guarantee and indemnity

Subject to Clause 23.11 (*Guarantee Limitations*), each Guarantor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Senior Finance Party punctual performance by each other Obligor of all that Obligor’s obligations under the Senior Finance Documents;
- (b) undertakes with each Senior Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Senior Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Senior Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Senior Finance Party immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Senior Finance Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 23 if the amount claimed had been recoverable on the basis of a guarantee.

23.2 Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under the Senior Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

23.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Senior Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 23 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

23.4 Waiver of defences

The obligations of each Guarantor under this Clause 23 will not be affected by an act, omission, matter or thing which, but for this Clause 23, would reduce, release or prejudice any of its obligations under this Clause 23 (without limitation and whether or not known to it or any Senior Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Senior Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Senior Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Senior Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

23.5 Guarantor Intent

Without prejudice to the generality of Clause 23.4 (*Waiver of defences*), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Senior Finance Documents and/or any facility or amount made available under any of the Senior Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension

of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

23.6 **Immediate recourse**

Each Guarantor waives any right it may have of first requiring any Senior Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 23. This waiver applies irrespective of any law or any provision of a Senior Finance Document to the contrary.

23.7 **Appropriations**

Until all amounts which may be or become payable by the Obligors under or in connection with the Senior Finance Documents have been irrevocably paid in full, each Senior Finance Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Senior Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this Clause 23.

23.8 **Deferral of Guarantors' rights**

Until all amounts which may be or become payable by the Obligors under or in connection with the Senior Finance Documents have been irrevocably paid in full and unless the Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Senior Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 23:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Senior Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Senior Finance Parties under the Senior Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Senior Finance Documents by any Senior Finance Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 23.1 (*Guarantee and indemnity*);
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Senior Finance Party.

If a Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Senior Finance Parties by the Obligors under or in

connection with the Senior Finance Documents to be repaid in full on trust for the Senior Finance Parties and shall promptly pay or transfer the same to the Agent or as the Agent may direct for application in accordance with Clause 44 (*Payment Mechanics*).

23.9 Release of Guarantors' right of contribution

If any Guarantor (a "**Retiring Guarantor**") ceases to be a Guarantor in accordance with the terms of the Senior Finance Documents then on the date such Retiring Guarantor ceases to be a Guarantor:

- (a) that Retiring Guarantor is released by each other Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Guarantor arising by reason of the performance by any other Guarantor of its obligations under the Senior Finance Documents; and
- (b) each other Guarantor waives any rights it may have by reason of the performance of its obligations under the Senior Finance Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Senior Finance Parties under any Senior Finance Document or of any other security taken pursuant to, or in connection with, any Senior Finance Document where such rights or security are granted by or in relation to the assets of the Retiring Guarantor.

23.10 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 Senior Finance Party.

23.11 Guarantee Limitations

- (a) In relation to a Guarantor organised in England and Wales, its obligations under this Clause 23 shall not apply to the extent that it would result in such obligations constituting unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act and are subject to any further limitations set out in the Accession Deed applicable to such Additional Guarantor.
- (b) In respect of a Guarantor incorporated or established in a jurisdiction other than England and Wales, the guarantee and indemnity in this Clause 23 shall be subject to any limitations set out in the Accession Deed under which the relevant company acceded to this Agreement as a Guarantor.

SECTION 8 REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

24. REPRESENTATIONS

24.1 General

- (a) Subject to the terms of Clause 24.35 (*Time of making representations*) each Obligor (or, where otherwise stated, the specified Obligors) makes the representations and warranties set out in this Clause 24 in respect of itself and, where a representation expressly states that it is made with respect to the members of the Group, only the Parent makes such representation with respect to members of the Group.
- (b) The representations and warranties set out in this Clause 24 are made at the times and in accordance with Clause 24.35 (*Time of making representations*) and Clause 24.36 (*Repetition of Representations*). The Parent acknowledges that the Senior Finance Parties have entered into this Agreement in reliance on those representations and warranties.

24.2 Status

It is a corporation, company or other person duly incorporated or organised with limited liability and validly existing under the laws of its jurisdiction of formation.

24.3 Governing Law and Judgements

In any proceedings taken in its jurisdiction of formation in relation to the Senior Finance Documents to which it is a party, the choice of law as the governing law of such Senior Finance Documents, and any judgment obtained in the jurisdiction of the governing law in relation to such Senior Finance Documents, will be recognised and enforced subject to the Legal Reservations.

24.4 Binding Obligations

- (a) The obligations expressed to be assumed by it in the Senior Finance Documents to which it is a party are legal and valid obligations binding on it and enforceable against it in accordance with the terms thereof subject to the Legal Reservations and the Perfection Requirements.
- (b) Without limiting the generality of paragraph (a) above, each Transaction Security Document to which it is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective, subject to applicable insolvency, bankruptcy, liquidation, administration, examinership, moratorium, reorganisation and similar and/or equivalent laws affecting the rights of creditors generally, the fact that fixed charges may be construed as floating charges, the Legal Reservations and the Perfection Requirements.

24.5 Execution of the Senior Finance Documents

- (a) Its execution of the Senior Finance Documents to which it is a party and its exercise of its rights and performance of its obligations thereunder (taken as a whole) do not and will not:

- (i) conflict with any agreement, mortgage, bond or other instrument or treaty to which it is a party or which is binding upon it or any of its assets in such manner or to such extent as to have or be reasonably likely to have a Material Adverse Effect;
 - (ii) conflict (save to the extent, if any, described in the Legal Opinions) in any material respect with its constitutional documents; or
 - (iii) conflict in any material respect with any applicable law.
- (b) It has (or will, prior to execution, have) the power to enter into the Senior Finance Documents to which it is a party and all corporate and other action required to authorise the execution of the Senior Finance Documents to which it is a party and the performance of its obligations thereunder has been (or will, prior to execution, have been) duly taken.

24.6 **No Material Proceedings**

No action, litigation, arbitration or administrative proceeding of or before any court, arbitral body or agency which would be reasonably likely to be adversely determined, and, if so adversely determined, would reasonably be expected to have a Material Adverse Effect has been started or, to the best of its knowledge and belief, threatened against it or any member of the Group.

24.7 **Financial Statements**

- (a) The Original Financial Statements:
- (i) were prepared in accordance with the Accounting Principles save as disclosed therein;
 - (ii) disclose all liabilities required to be disclosed in accordance with the Accounting Principles; and
 - (iii) give a true and fair view of (if audited) or fairly present (if unaudited) its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.
- (b) Its most recent financial statements delivered pursuant to Clause 25.1 (*Financial statements*):
- (i) save as notified to the Agent pursuant to paragraph (b)(iii) of Clause 25.4 (*Requirements as to financial statements*), have been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements and the Base Case Model; and
 - (ii) give a true and fair view of (if audited) or fairly present (if unaudited) its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.
- (c) The budgets and forecasts supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were believed by the Parent and the Company to be reasonable as at the date they were prepared and supplied.

24.8 **No Material Adverse Change**

The Parent represents that, since the date of the last audited accounts of the Group, there has been no change in the Group (other than the Acquisition and the financing related thereto) which has had or could reasonably be expected to have a Material Adverse Effect.

24.9 **Validity and Admissibility in Evidence**

All acts, conditions and things required to be done, fulfilled and performed (save for any such acts, conditions or things referred to in the qualifications to the Legal Opinions and subject to the Legal Reservations) in order (a) to enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations (taken as a whole) expressed to be assumed by it in the Senior Finance Documents, (b) to ensure that the obligations expressed to be assumed by it in the Senior Finance Documents (taken as a whole) are legal, valid, binding and enforceable and (c) to make the Senior Finance Documents admissible in evidence in its jurisdiction of incorporation have been done, fulfilled and performed save in each case for any such act, condition or thing which the failure to do, fulfil or perform would not reasonably be expected to have a Material Adverse Effect.

24.10 **Claims pari passu**

Under the laws of its jurisdiction of formation in force at the date hereof or, in the case of an Obligor acceding after the date of this Agreement, as at the date of the relevant Accession Deed, the claims of the Senior Finance Parties against it under the Senior Finance Documents will rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors save for those whose claims are preferred solely by any bankruptcy, insolvency, liquidation or other similar laws or other provisions of general application.

24.11 **No Winding-up or Insolvency**

Except as permitted pursuant to Clause 35 (*Limitation on Fundamental Changes*), it has not taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened against it for its winding-up, dissolution, administration, re-organisation, bankruptcy, moratorium of payments, division or statutory merger (whether by voluntary arrangement, scheme of arrangement or otherwise) or for the appointment of a receiver, administrator, administrative receiver, conservator or similar officer of it or of any or all of its assets or revenues; and none of the circumstances described in Clause 37.6 (*Insolvency*) applies to it.

24.12 **No Material Defaults**

Neither it nor any member of the Group is in breach of or in default under any agreement to which it is a party or which is binding on it or any of its assets to an extent or in a manner which would reasonably be expected to have a Material Adverse Effect.

24.13 **Information Memorandum**

- (a) To the best of the Parent's knowledge and belief, the factual information with respect to the Group contained in the Information Memorandum (taken as a whole) is in all material respects true and accurate and, to the best of the Parent's knowledge and belief, is not misleading in any material respect and no factual information (other than information contained in the Reports) has been omitted that renders such information contained in the Information Memorandum taken as a whole untrue or misleading in any material respect in the context of the Facilities.

- (b) All opinions, predictions or intentions expressed in the Information Memorandum on the part of the Parent are honestly held or made and, to the best of the Parent's knowledge and belief, no factual information with respect to the Group (other than information contained in the Reports) has been omitted that would render such opinions, predictions or intentions misleading in any material respect.
- (c) Notwithstanding the foregoing, it is understood that no representation or warranty is made concerning (A) any forecasts, estimates, *pro forma* information, projections and statements as to anticipated future performance or conditions, and (B) the assumptions on which they were based, contained in the Information Memorandum, except that as of the date such forecasts, estimates, *pro forma* information, projections and statements were generated, (I) such forecasts, estimates, *pro forma* information, projections and statements were based on the good faith assumptions of the management of the Parent, (II) such assumptions were believed by such management to be reasonable and (III) such forecasts, estimates, *pro forma* information, projections and statements and the assumptions on which they were based may or may not prove to be correct.
- (d) All factual material information provided to a Senior Finance Party by or on behalf of the Original Investors, the Parent or the Company in connection with the Acquisition, the Target Group, and/or the refinancing of indebtedness of the Target Group (including, without limitation, the refinancing of the Existing Facilities Agreements) on or before the date of this Agreement and not superseded before that date (whether or not contained in the Information Memorandum or the Reports) is accurate in all material respects and not misleading in any material respect and all projections provided to any Senior Finance Party on or before the date of this Agreement have been prepared in good faith on the basis of assumptions which were believed by the Parent or the Company to be reasonable at the time at which they were prepared and supplied.
- (e) All other factual information provided by any member of the Group (including its advisers) to a Senior Finance Party was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any material respect as at the date it was provided.

24.14 Reports

The Parent represents that, having made reasonable enquiries in the circumstances of the Acquisition (it being acknowledged that in the context of the Acquisition such enquiries have been limited) (and save as otherwise disclosed in writing to the Agent) the negotiation of the Acquisition Documents:

- (a) to the best of its knowledge it is not aware of any material inaccuracy as to factual matters about the Target Group contained in the Reports taken as a whole;
- (b) to the best of its knowledge it is not aware of any material facts not stated in the Reports, the omission of which make any statements contained in the Reports taken as a whole, and subject to the limitations set forth in such Reports, misleading in any material respect; and
- (c) as of the date the forecasts and projections contained in the Accountants' Report and the Base Case Model were prepared (i) such forecasts and projections were based on good faith assumptions of management of the Parent and (ii) the assumptions on which such forecasts and projections were based were believed by such management

to be reasonable, *provided that* it is understood that such forecasts, projections and assumptions may or may not prove to be correct.

24.15 **Environmental Compliance**

The Parent represents that, to the best of its knowledge and belief, each Obligor and each other member of the Group has duly performed and observed in all material respects all Environmental Law, Environmental Permits and all other material covenants, conditions, restrictions or agreements directly or indirectly concerned with any contamination, pollution or waste or the release or discharge of any toxic or hazardous substance in connection with any real property which is or was at any time owned, leased or occupied by such Obligor or other member of the Group or on which such Obligor or other member of the Group has conducted any activity except where failure to do so would not reasonably be expected to have a Material Adverse Effect.

24.16 **Environmental Claims**

The Parent represents that, to the best of its knowledge and belief, no Environmental Claim has been commenced or threatened against any Obligor or any other member of the Group where such claim would be reasonably likely to be adversely determined against any Obligor or any other member of the Group and, if so adversely determined, would reasonably be expected to have a Material Adverse Effect.

24.17 **Security and Indebtedness**

- (a) Save for Permitted Security, no Security exists over all or any of its or any member of the Group's present or future revenues or assets.
- (b) Neither it nor any member of the Group has any Indebtedness other than Indebtedness which is permitted pursuant to Clause 29 (*Limitation on Indebtedness*).

24.18 **No Default**

No Default is continuing.

24.19 **Consents and Approvals**

As of the Closing Date, all necessary consents and approvals to the transactions constituted by the Acquisition Documents have been or, when required, will be obtained and all consents, licences and other approvals and authorisations reasonably necessary and material for the conduct of business by the Group have been, or when required will be obtained, their terms and conditions have been complied with in all material respects and they have not been and, so far as it is aware, will not be revoked or otherwise terminated, except where such failure to obtain, non-compliance, revocation or termination would not reasonably be expected to have a Material Adverse Effect.

24.20 **Taxation**

The Parent represents that each Obligor and each other member of the Group has duly and punctually (i) filed within the prescribed periods of time all Tax returns on which its material Taxes are required to be shown other than Tax returns, the failure to file of which would not reasonably be expected to have a Material Adverse Effect and (ii) paid and discharged all material taxes, assessments and governmental charges imposed upon it or its assets within the time period allowed therefor without imposing tax penalties or creating any Security (other than "Permitted Security" and other than (x) such taxes, assessments and government charges the failure to pay or discharge of which would not reasonably be expected to have a Material

Adverse Effect or (y) such taxes, assessments and government charges the amount and validity of which is being contested in good faith by appropriate proceedings which it is diligently pursuing and is duly reserved to the extent required in accordance with applicable general accounting principles).

24.21 **Good Title to Assets**

The Parent represents that, to the best of its knowledge and belief upon Completion and subject to any Permitted Security, the Group will have good title to, or valid leases of, or other appropriate licence, authorisation or consent to use those material assets necessary to conduct its business.

24.22 **Legal and beneficial ownership**

(a) If the Offer Conversion occurs:

- (i) Subject to sub-paragraph (iii) below, on the Unconditional Date, the Company will become the beneficial owner of, and will be entitled immediately after the Unconditional Date to become the legal registered owner of, the Target Shares tendered for acceptance under the Offer at that time, free from any claims, third party rights or competing interests whatsoever.
- (ii) Subject to sub-paragraph (iii) below, upon completion of the Squeeze-Out Procedures, the Company will become the legal registered owner of all of the Target Shares free from any claims, third party rights or competing interests whatsoever.
- (iii) The Target Shares are beneficially but not legally owned by the Company until those shares are registered in the register of shareholders of Target, and the Parent and the Company will procure that registration will be made as soon as reasonably practicable.

24.23 **Shares**

The shares of any Material Company which are subject to the Transaction Security are fully paid and are not subject to any option to purchase or similar rights. The constitutional documents and/or by-laws of companies whose shares are subject to the Transaction Security do not and could not materially restrict or inhibit any transfer of those shares on enforcement of the Transaction Security. There are no agreements in force which grant any person the right to call for the issue or allotment of, any share or loan capital of any Material Company (including any option or right of pre-emption or conversion) whose shares are subject to Transaction Security, save for the agreements and arrangements regulating the Employee Share Schemes.

24.24 **Holding Company**

The Parent and the Company are holding companies which have not traded (other than by entering into the Transaction Documents or any other activities permitted pursuant to Clause 27.15 (*Holding Companies*)) nor do they have liabilities to any person other than pursuant to the Transaction Documents and pursuant to the activities permitted pursuant to Clause 27.15 (*Holding Companies*).

24.25 **No filing or stamp taxes**

Save as set out in the Legal Reservations and subject to the Perfection Requirements, under the laws of its jurisdiction of incorporation it is not necessary that the Senior Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Senior Finance Documents or the transactions contemplated by the Senior Finance Documents except in the case of any filing, recording or enrolling or any Tax or fee payable which is referred to in any Legal Opinion and which will be made or paid promptly after the date of the relevant Senior Finance Document or at any later time that such payment is required to be made.

24.26 **Insurances**

It is maintaining all insurance policies (or benefits from group policies) necessary in relation to its business and assets (other than Real Property to the extent that either (i) the obligation to insure such Real Property resides with a third party or (ii) a third party has a right to insure such Real Property and has opted to insure it or the third party's right prohibits the relevant Obligor from insuring such Real Property) against those risks and to the extent as is usual for companies carrying on the same or substantially Related Business.

24.27 **Intellectual Property**

Save as otherwise disclosed in writing to the Agent, it and each member of the Group:

- (a) is the sole legal and beneficial owner of or has licensed to it on commercial terms all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business substantially as it is being conducted and as contemplated in the Base Case Model, save where failure to do so does not have and is not reasonably likely to have a Material Adverse Effect;
- (b) does not, in carrying on its businesses, to the best of its knowledge after making such enquiry as is reasonable in the circumstances, infringe any Intellectual Property of any third party in any respect which has or is reasonably likely to have a Material Adverse Effect; and
- (c) has taken all formal or procedural actions (including payment of fees) required to maintain any Material Intellectual Property owned by it, save in the case of any Material Intellectual Property that constitutes a trade secret.

24.28 **Group Structure Chart**

Assuming the Company has acquired 100 per cent. of the ordinary share capital of the Target, the Group Structure Chart delivered to the Agent pursuant to Part 1 (*Conditions Precedent to satisfied before the issue of the Scheme Press Release*) of Schedule 2 (*Conditions Precedent*) shows the corporate structure of the Group and is true, complete and accurate in all material respects as at the Closing Date, *provided that* the truth, completeness and accuracy of the Group Structure Chart insofar as relates to the Target Group is only confirmed to the best knowledge and belief of the Parent.

24.29 **Acquisition Documents, disclosures and other Documents**

- (a) The Parent has delivered to the Agent a complete and correct copy of the Scheme Documents (if and when issued) or, as the case may be, the Offer Transaction Documents (if and when issued), including all schedules and exhibits thereto. The release of the Offer Press Release and the posting of the Offer Transaction Documents (if an Offer is pursued) has been or will be, prior to their release or posting (as the case may be) duly authorised by the Company. Each of the

obligations of the Company under the Offer Transaction Documents is or will be, when entered into and delivered, the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms in each case, except as may be limited by (i) bankruptcy, insolvency, examination or other similar laws affecting the rights and remedies of creditors generally and (ii) general principles of equity.

- (b) The Scheme Press Release and the Scheme Circular (in each case if and when issued) when taken as a whole: (i) except for the information that relates to the Target or the Target Group, do not (or will not if and when issued) contain (to the best of its knowledge and belief (having taken all reasonable care to ensure that such is the case)) any statements which are not in all material respects in accordance with the facts and (ii) contain all the material terms of the Scheme.
- (c) Each of the Acquisition Documents complies in all material respects with the Companies Act and the Takeover Code, subject to any applicable waivers by or requirements of the Takeover Panel.
- (d) If a Scheme is pursued, the undertaking to be given by the Company to the Court to be bound by the Scheme will be, prior to it being given, be duly authorised by the Company.
- (e) The Acquisition has been recommended by the board of directors of the Target.

24.30 Centre of main interests and establishments

For the purposes of the EUIR, the centre of main interest (as that term is used in article 3(1) of the EUIR) of any Obligor incorporated or organised in the European Union or the United Kingdom is situated in its jurisdiction of incorporation or formation.

24.31 Pensions

Save as disclosed in the Reports or otherwise in writing to the Agent prior to the date hereof, all pension schemes of each member of the Group are funded to the extent required by applicable law and each member of the Group is in compliance with applicable laws as to pensions, except in each case where failure to be so or to do so would not have a Material Adverse Effect.

24.32 Sanctions

- (a) None of the Obligors, any other member of the Group, their respective directors or members of senior management or, to the best of the knowledge of the Parent after such enquiry as is reasonable in the circumstances, any agent or employee of them, is an individual or an entity (a “**Relevant Person**”), that:
 - (i) [is in violation of Sanctions in any material respect or, if it would give rise to any material liability for any Finance Party, in any respect;](#)
 - (ii) ~~(i)~~ is the target of any Sanctions, including any individual or entity appearing on the list of Specially Designated Nationals maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by Her Majesty’s Treasury or other similar list maintained by any governmental authority in the European Union (a “**Sanctioned Person**”); [or](#)
 - (iii) ~~(i)~~ is permanently or normally located, organised or resident in a Sanctioned Country or a Future Sanctioned Country (a “**Sanctioned Country Person**”),

except, in relation to this paragraph ~~(ii)~~ (iii) only, to the extent that dealings with such Relevant Person are licensed, approved, exempted or permitted pursuant to applicable Sanctions or are not otherwise prohibited or restricted thereunder; ~~or~~.

~~(iii) is owned or controlled by a person that is a Sanctioned Person or a Sanctioned Country Person, where the relevant Sanctions provide that persons owned or controlled (as such terms are interpreted in the relevant regulations or in any guidance in relation to such regulations) by such Sanctioned Person or Sanctioned Country Person, as applicable, should also be subject to Sanctions.~~

(b) Each Obligor has, and has procured that each member of the Group has, maintained in effect and enforced policies, procedures and internal controls designed to promote and achieve compliance with applicable Sanctions.

(c) ~~(b)~~ The representations set forth in this Clause 24.32 are not made by any Obligor, and shall not be made for the benefit of any Finance Party, to the extent that the making of any such representation would be unenforceable by reason of breach of or conflict with, or would result in a violation of, or would expose any such entity or any directors, officer or employee thereof to any liability under any applicable Blocking Law.

24.33 Anti-corruption laws and anti-money laundering laws

- (a) None of the Obligors, any other member of the Group, their respective directors or members of senior management or, to the best of the knowledge of the Parent after such enquiry as is reasonable in the circumstances, any agent or employee of them, is a person that has engaged in any activity or conduct which would violate, in any material respect, any applicable ~~anti-bribery, anti-corruption or anti-money laundering laws or regulations~~ Anti-Corruption Laws in any applicable jurisdiction, and the Group has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws and regulations.
- (b) To the best of the Obligors' knowledge and belief, no actions or investigations by any governmental or regulatory agency which would be reasonably likely to be adversely determined, and, if so adversely determined, would reasonably be expected to have a Material Adverse Effect are ongoing or, to the best of its knowledge and belief, threatened against the Obligors in relation to any applicable ~~anti-bribery or anti-corruption laws and regulations~~ Anti-Corruption Laws in any applicable jurisdiction.

24.34 No breach of laws

- (a) It has not (and no other member of the Group has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.
- (b) No labour disputes are current or, to the best of its knowledge and belief (having made due and careful enquiry), threatened against any member of the Group which have or are reasonably likely to have a Material Adverse Effect.

24.35 Time of making representations

- (a) All the representations and warranties in this Clause 24 are made (subject, where applicable, to the provisions of Clause 4.5 (*Utilisations during the Certain Funds Period*), Clause 4.6 (*Utilisations for Limited Condition Acquisitions on a Certain*

Funds Basis) and paragraph (d) of Clause 6.5 (*Issue of Letters of Credit or Bank Guarantees*)) as follows:

- (i) on the date of this Agreement (other than the representations and warranties set out in Clause 24.13 (*Information Memorandum*), Clause 24.14 (*Reports*), Clause 24.22 (*Legal and beneficial ownership*), Clause 24.28 (*Group Structure Chart*) and Clause 24.29 (*Acquisition Document, Disclosures and other Documents*)); and
 - (ii) on the date in which the company has acquired 100 per cent. of the ordinary share capital of the Target (other than the representations and warranties set out in Clause 24.13 (*Information Memorandum*), Clause 24.14 (*Reports*) and Clause 24.29 (*Acquisition Document, Disclosures and other Documents*)).
- (b) To the extent that they relate to the Scheme, the representations and warranties in Clause 24.29 (*Acquisition Documents, Disclosures and other Documents*) are deemed to be made by each Obligor on the date of the Scheme Press Release (if they relate to the Scheme Press Release) and on the date the Scheme Circular is published (to the extent they relate to the Scheme Documents).
- (c) If an Offer Conversion occurs, the representations and warranties in Clause 24.29 (*Acquisition Documents, Disclosures and other Documents*) to the extent that they relate to the Offer, are deemed to be made by each Obligor on the date of the Offer Press Release (if they relate to the Offer Press Release) and on the date the Offer Document is published (to the extent they relate to the Offer Document).
- (d) As at the date of the execution of an Accession Deed, each Additional Obligor (or, where otherwise stated, the Parent in respect of such Additional Obligor) shall make all of the representations and warranties set out in this Clause 24 other than the representations and warranties set out in Clause 24.7 (*Financial Statements*), Clause 24.8 (*No Material Adverse Change*), Clause 24.13 (*Information Memorandum*), Clause 24.14 (*Reports*) and Clause 24.29 (*Acquisition Documents, disclosures and other Documents*).
- (e) The Parent (and in the case of paragraph (e)(iii) below, each relevant Obligor) shall make the representations:
- (i) set out in Clause 24.13 (*Information Memorandum*) as at the date on which the Information Memorandum was approved by the Parent and it shall be deemed to be repeated on the Syndication Closing Date;
 - (ii) set out in Clause 24.14 (*Reports*) with respect to a Report as at the date of delivery of such Report; and
 - (iii) set out in paragraphs (b) and (c) of Clause 24.7 (*Financial Statements*) in respect of each set of financial statements, budgets and forecasts delivered as contemplated by Clause 25.1 (*Financial Statements*) on the date such financial statements or budgets and forecasts (as applicable) are delivered.

24.36 Repetition of Representations

The Repeating Representations shall (subject, where applicable, to the provisions of Clause 4.5 (*Utilisations during the Certain Funds Period*), Clause 4.6 (*Utilisations for Limited Condition Acquisitions on a Certain Funds Basis*) and paragraph (d) of Clause 6.5 (*Issue of Letters of Credit or Bank Guarantees*)) be deemed to be repeated by each Obligor (or, where otherwise stated, the specified Obligors) by reference to the facts and

circumstances then existing on the first day of each Interest Period, the date of each Utilisation Request, each date on which a Utilisation (other than a Rollover Loan) is or is to be made, each date on which a Letter of Credit, Bank Guarantee or Ancillary Facility is or is to be issued (but not if it is only being renewed or extended) and each date on which a person becomes (or it is proposed that a person becomes) an Additional Obligor.

24.37 Knowledge Qualifications

Any representation or warranty made (or deemed to be made) on or before:

- (a) the date on which the Company has acquired 100 per cent. of the ordinary share capital of the Target, in respect of matters relating to the Target Group (or any member thereof); or
- (b) the end of an Acquisition Clean-up Period in respect of matters relating to an Acquisition (or subject matter thereof) for which the Acquisition Clean-up Period is in effect,

shall be qualified by the actual knowledge and awareness of the Obligor giving that representation or warranty, after making such enquiry as is reasonable in the circumstances (which shall not include the knowledge and/or awareness of the management of any member of the Target Group or any acquired entity (as applicable), after making such enquiry as is reasonable in the circumstances).

25. INFORMATION UNDERTAKINGS

The undertakings in this Clause 25 remain in force from the date of this Agreement for so long as any amount is outstanding under the Senior Finance Documents or any Commitment is in force.

In this Clause 25:

“**Annual Financial Statements**” means the financial statements for a Financial Year delivered pursuant to paragraph (a)(i) of Clause 25.1 (*Financial statements*).

“**Quarterly Financial Statements**” means the financial statements delivered pursuant to paragraph (b) of Clause 25.1 (*Financial statements*).

25.1 Financial statements

The Parent shall supply to the Agent in electronic copy or, if it is not practicable for the Parent to supply an electronic copy, in sufficient copies for all the Lenders:

- (a) as soon as they are available, but in any event within 120 days after the end of each of its Financial Years ending after the Closing Date:
 - (i) its audited consolidated financial statements for that Financial Year;
 - (ii) the audited financial statements (consolidated if appropriate) of any other Obligor for that Financial Year if requested by the Agent and to the extent prepared (and, for the avoidance of doubt, nothing in this paragraph (ii) shall require any Obligor to prepare audited financial statements to the extent that the same is not required by law or such Obligor does not otherwise prepare audited financial statements);

- (b) as soon as they are available, but in any event within 45 days after the end of each Financial Quarter ending after the Closing Date (or in the case of the first such Financial Quarter ending after the Closing Date, within 60 days) of each of its Financial Years its consolidated financial statements for that Financial Quarter; ~~and~~
- (c) as soon as they are available, but in any event within 45 days after the end of each month ending at least six months after the Closing Date, its consolidated financial statements for that month;
- (d) as soon as they are available, but in any event within:
 - (i) 60 days after 31 December 2019, the consolidated financial statements of the Target Group for the Financial Year ending 31 December, 2019; and
 - (ii) 45 days after the end of the first full Financial Quarter ending after the Closing Date, the Group's consolidated profit and loss account for that Financial Quarter; and
- (e) ~~(e)~~ to the extent applicable, concurrently with any delivery of consolidated financial statements referred to in paragraph (a) ~~or~~ (b), (c) or (d) above, related unaudited consolidated financial statements and appropriate reconciliations reflecting the material adjustments necessary (as determined by the Parent in good faith) to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements.

25.2 Provision and contents of Compliance Certificate

- (a) The Parent shall supply a Compliance Certificate to the Agent with each set of its Annual Financial Statements and each set of its Quarterly Financial Statements.
- (b) The Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to compliance with Clause 26.1 (*Financial Covenant*) if the financial covenant is being tested by reference to that Relevant Period.
- (c) Each Compliance Certificate shall be signed by two directors (one of whom shall be the CEO or CFO) on behalf of the Parent and, if required to be delivered with the consolidated Annual Financial Statements of the Parent, shall be (i) accompanied by confirmation from the Parent that, subject to the Agreed Security Principles, Clause 27.14 (*Guarantors*) has been complied with and (ii) set out in reasonable detail the calculation for Excess Cash Flow and, if required to be delivered with the Annual Financial Statements of the Company, the Parent shall ensure that the Compliance Certificate shall be reported on by the Parent's auditors as to the proper extraction of the numbers used in the financial covenant calculations, in each case by reference to the relevant Annual Financial Statements (*provided that* such auditors have not adopted a general policy that they will not provide such reports and, if the Parent's auditors as a matter of practice in respect of such reports require Finance Parties to sign an engagement, hold harmless, non-reliance or other similar letter with them, the Finance Parties have entered into any such letters with the Company's auditors).

25.3 Budget

- (a) The Parent shall supply to the Agent within 60 days after the beginning of each of its Financial Years (commencing with the Financial Year ending on or around 31 December 2021), an annual budget of the Group for such Financial Year.

- (b) The Parent shall ensure that each annual budget:
 - (i) includes a projected consolidated profit and loss account (or income statement), balance sheet and cashflow statements for the Group and details of projected material disposals and projected capital expenditure by the Group; and
 - (ii) is prepared in accordance with the Accounting Principles, accounting practices and financial reference periods consistent with those applied to financial statements delivered under Clause 25 (*Information Undertakings*).

25.4 Requirements as to financial statements

- (a) The Parent shall procure that each set of Annual Financial Statements and Quarterly Financial Statements includes a balance sheet, profit and loss account, cash flow statement. In addition the Parent shall procure that:
 - (i) each set of its Annual Financial Statements shall be audited by the Parent's Auditors; and
 - (ii) each set of Quarterly Financial Statements includes (i) a consolidated balance sheet compared against the statements provided for the previous Financial Year for the Group or the Target Group (as applicable), (ii) a consolidated cash flow statement and income statement compared against the statement provided for the previous Financial Year for the Group or the Target Group (as applicable), (iii) calculations showing operating profits to Consolidated EBITDA compared against the corresponding period in the previous Financial Year in respect of the Group or the Target Group (as applicable) and (iv) details of any material acquisitions completed during that Financial Quarter.
- (b) Each set of financial statements delivered pursuant to Clause 25.1 (*Financial statements*):
 - (i) shall give a true and fair view of (in the case of Annual Financial Statements or any financial statements delivered pursuant to paragraph (a)(ii) of Clause 25.1 (*Financial statements*) for any Financial Year), or fairly present (in other cases), the consolidated financial condition of the Group (or the relevant Obligor (as applicable)) as at the end of the period to which those financial statements relate and of the results of the Group's (or the relevant Obligor's (as applicable)) operations during such period, subject to appropriate footnotes and to normal year end, and as the case may be, quarter end, audits and other adjustments and, in the case of the Annual Financial Statements or any financial statements delivered pursuant to paragraph (a)(ii) of Clause 25.1 (*Financial statements*), shall be accompanied by any letter addressed to the management of the relevant company by the auditors of those financial statements and accompanying those financial statements;
 - (ii) the Annual Financial Statements and Quarterly Financial Statements of the Group, shall be accompanied by a statement of the Parent (signed by two directors (one of whom shall be the CFO or the CEO)) comparing actual performance for the period to which the financial statements relate to the actual performance for the corresponding period in the preceding Financial Year of the Group or the Target Group (as applicable).

- (iii) shall be prepared using the Accounting Principles and financial reference periods consistent with those applied:
 - (A) in the case of the Parent or the Company, in accordance with the Accounting Principles as in effect at the date of this Agreement; and
 - (B) in the case of any Obligor, in the preparation of the Original Financial Statements for that Obligor,

unless, in relation to any set of financial statements, the Parent notifies the Agent that there has been a change in the Accounting Principles or the accounting practices and in the case of any consolidated financial statements for the Group the Parent's Auditors deliver to the Agent:

- (C) a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices upon which the Base Case Model or the Original Financial Statements were prepared; and
- (D) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 26.1 (*Financial Covenant*) has been complied with, to determine the Margin as set out in the definition of "Margin", to determine the amount of any prepayments to be made from Excess Cash Flow under Clause 12.5 (*Excess Cash Flow*) and to make an accurate comparison between the financial position indicated in those financial statements, the Original Financial Statements and the Base Case Model.

Any reference in this Agreement to any financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Base Case Model or the Original Financial Statements (as applicable) were prepared (except as adjusted as contemplated in this Clause 25.4).

- (c) If the Parent notifies the Agent of a change in accordance with sub-paragraph (b)(iii) above:
 - (i) the Parent and the Agent (on behalf of the Lenders) shall promptly after such notification enter into negotiations in good faith with a view to agreeing (i) such amendments to Clause 26.1 (*Financial Covenant*) and/or the definitions or any or all of the terms used therein as are necessary to give the Lenders comparable protection to that contemplated at the date of this Agreement and (ii) any other amendments to this Agreement which are necessary to ensure that the adoption by the Group of such different accounting basis does not result in any material alteration in the commercial effect of the obligations of the Parent or any Obligor in the Senior Finance Documents;
 - (ii) if amendments satisfactory to the Majority Lenders are agreed by the Parent and the Agent in writing within 30 days of such notification to the Agent, those amendments shall take effect in accordance with the terms of that agreement; and
 - (iii) if such amendments are not so agreed within 30 days, the Parent shall promptly deliver to the Agent:

- (A) in reasonable detail and in a form reasonably satisfactory to the Agent, details of all such adjustments as need to be made to the relevant financial statements in order to reflect the applicable accounting principles at the date of delivery of the relevant financial statements;
- (B) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 26 (*Financial Covenant*) has been complied with including but not limited to a reconciliation statement to be delivered with each set of financial statements; and
- (C) together with the Compliance Certificate delivered with the Annual Financial Statements for that Financial Year, if reasonably obtainable from the Parent's Auditors, written confirmation from the Parent's Auditors (addressed to the Agent) confirming the basis for such changes and the calculations and adjustments provided by the Parent under paragraphs (A) and (B) above.

25.5 **Year-end**

The Parent shall procure that each Financial Year-end of each Material Company and each Obligor falls on the Accounting Reference Date, except in the case of a Subsidiary acquired on or after the Closing Date.

25.6 **Annual Presentation**

Once in every Financial Year appropriate senior management of the Parent (one of whom shall be the CFO or CEO) shall, if requested by the Agent (acting on the instructions of the Majority Lenders), give a single telephone conference presentation to the Finance Parties, at a time agreed with the Agent (acting reasonably), about the financial performance of the Group.

25.7 **Information: miscellaneous**

The Parent shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

- (a) at the same time as they are dispatched, copies of all documents dispatched by the Parent or any Obligors to its creditors generally (or any class of them);
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group which are reasonably likely to be adversely determined, and which, if so adversely determined, are reasonably likely to have a Material Adverse Effect;
- (c) promptly upon becoming aware of the relevant claim, the details of any material claim which is current, threatened or pending against any person in each case in respect of any of the Offer, Acquisition Documents and details of any disposal or insurance claim which will require a prepayment under Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*);

- (d) promptly, such information as the Security Agent may reasonably require about the Charged Property and compliance of the Obligor with the terms of any Transaction Security Documents; and
- (e) promptly on request, such further information regarding the financial condition, assets and operations of the Group and/or any member of the Group as any Senior Finance Party through the Agent may reasonably request, *provided that* the Parent shall not be obliged to provide any such information if (A) to do so would breach any law or regulation or restriction (contractual or otherwise) or any applicable stock exchange requirement or duty of confidentiality binding on it, other than where such restriction was entered into for the purpose of avoiding disclosure of such information, (B) such information is not readily available to the Group, (C) preparation or provision of such information would result in a material cost to the Group relative to the materiality of the information requested, (D) the Parent believes (acting reasonably) that the information is of a particularly confidential or sensitive commercial nature or (E) such information is of a type not customarily provided, or not relevant, to lenders under a facility agreement of the nature of this Agreement.

25.8 Notification of default

- (a) The Parent shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence and that the relevant event or circumstance is a Default (unless it is aware that a notification has already been provided by another Obligor).
- (b) Promptly upon a request by the Agent (which request may only be made if the Agent reasonably believes a Default is continuing and may in any event not be made more than twice in any Financial Year), the Parent shall supply to the Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

25.9 “Know your customer” checks

- (a) If:
 - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) any change in the status of an Obligor or the composition of the shareholders of an Obligor after the date of this Agreement; or
 - (iii) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent, the Security Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Agent, Security Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of the Security Agent or any Lender) or any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender) in order for the Agent, Security Agent, such Lender or, in the case of the event

described in paragraph (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Senior Finance Documents.

- (b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or the Security Agent) in order for the Agent to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Senior Finance Documents.
- (c) The Parent shall, by not less than five Business Days’ prior written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Obligor pursuant to Clause 40 (*Changes to the Obligors*).
- (d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Obligor obliges the Agent, the Security Agent or any Lender to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Parent shall promptly upon the request of the Agent, Security Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself, Security Agent or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the Agent, Security Agent or such Lender or any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this Agreement as an Additional Obligor.

26. FINANCIAL COVENANT

26.1 Financial Covenant

Commencing with the Financial Quarter ending ~~31 December~~30 September 2020, the Parent shall not permit the Consolidated Senior Secured Leverage Ratio for the Relevant Period (set out in column 1 below) to exceed the ratio set out in column 2 below opposite that relevant period.

Column 1	Column 2
Relevant Period expiring	Ratio
<u>30 September 2020</u>	<u>6.60:1.00</u>
31 December 2020	6.60:1.00
31 March 2021	6.60:1.00
30 June 2021	6.60:1.00
30 September 2021	6.60:1.00
31 December 2021	6.60:1.00

31 March 2022	6.60:1.00
30 June 2022	6.60:1.00
30 September 2022	6.35:1.00
31 December 2022	6.35:1.00
31 March 2023	6.35:1.00
30 June 2023	6.35:1.00
30 September 2023	6.10:1.00
31 December 2023	6.10:1.00
31 March 2024 and each Quarter Date thereafter	6.10:1.00

26.2 Financial definitions

“Adjustment Amount” means the amount which is equal to (x) the amount of Consolidated Working Capital at the end of the Relevant Period minus (y) the Normal CWC Amount for the applicable Relevant Period, as determined by the Parent in good faith.

“Capital Expenditure” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalised under leases evidencing Capitalised Lease Obligations) by any member of the Group during such period that, in accordance with the Accounting Principles, are or are required to be included as capital expenditures on the Parent’s consolidated cash flow statement.

“Consolidated EBITDA” means, for any period, the Consolidated Net Income for such period:

plus

- (a) the following to the extent deducted in calculating such Consolidated Net Income, without duplication:
 - (i) provision for all taxes (whether or not paid, estimated or accrued) based on income, profits or capital (including penalties and interest, if any);
 - (ii) Consolidated Interest Expense, all items deducted from the definition of “Consolidated Interest Expense” under paragraph (c) thereof (other than Special Purpose Financing Fees), all items deducted from the definition of “Consolidated Interest Expense” under paragraph (d) thereof, any Special Purpose Financing Fees and non-cash interest expense in respect of the Subordinated Shareholder Funding;
 - (iii) depreciation;
 - (iv) amortization (including but not limited to amortization of goodwill and intangibles and amortization and write-off of financing costs);

- (v) any non-cash charges or non-cash losses;
- (vi) any expenses or charges related to any equity offering, Subordinated Shareholder Funding, Investment or Indebtedness permitted by this Agreement (whether or not consummated or incurred, and including any offering or sale of Share Capital of a Parent Holdco to the extent the proceeds thereof were intended to be contributed to the equity capital of the Parent or the Restricted Subsidiaries);
- (vii) the amount of any loss attributable to non-controlling interests, any loss related to start-ups, greenfield projects and other new ventures (in each case, for a period of 18 Months commencing (at the Parent's election) on the date of acquisition of or the commencement of trading of such initiative) and any loss related to the operation and sale process of the Group's Lloyds managing general agency business and owned life insurance business;
- (viii) all deferred financing costs written off and premiums paid in connection with any early extinguishment of Permitted Hedging Transaction or other derivative instruments;
- (ix) any management, monitoring, consulting and advisory fees and related expenses paid or payable to Lovell Minnick or any of its Affiliates;
- (x) interest and investment income;
- (xi) the amount of loss on any Financing Disposition;
- (xii) any costs or expenses pursuant to any management or employee stock option or other equity-related plan, program or arrangement, or other benefit plan, program or arrangement, or any equity subscription or equity holder agreement, to the extent funded with cash proceeds contributed to the capital of the Parent or an issuance of Share Capital of the Parent (other than Disqualified Share Capital) or Subordinated Shareholder Funding and excluded from the calculation set forth in paragraph (iii)(B) of Clause 30.1 (*Limitation on payments and investments*); and
- (xiii) (A) any gain or loss relating to the amortization of any pensions asset or deficit and (B) any gain or loss relating to the fair value of the pension asset or liability calculated in accordance with the 'corridor test' under the Accounting Principles,

plus

the full run rate amount of net cost savings or cost synergies projected by the CEO or CFO in good faith to be realised up to 12 months after making any Sale, Purchase, operational change or other transaction (each a "**Relevant Action**") (calculated on a pro forma basis as though such cost savings or cost synergies had been realised on the first day of such period and for the avoidance of doubt, no such adjustments in respect of such cost savings or cost synergies for such Relevant Action may be made after the end of that 12 month period), net of the amount of actual benefits realised during such period from such Relevant Actions provided that (i) the amount of such net cost savings or cost synergies ~~for operational changes~~ shall not in aggregate exceed 25 per cent. of Consolidated EBITDA (calculated on a pro forma basis after taking into account such ~~operational changes and such~~ net costs savings or cost synergies) ~~and~~; (ii) to the extent such net cost savings or cost synergies for any Relevant Action exceed 20 per cent. of Consolidated EBITDA

(calculated on a pro forma basis after taking into account such Relevant Action and such net costs savings or cost synergies), such cost savings or cost synergies shall be commented on (in writing to the Agent) as not being unreasonable by one of the “Big 4” accountancy firms or other independent reputable accountancy firm approved by the Agent (acting on the instructions of the Majority Lenders), which commentary may be provided in an accompanying accountants’ due diligence report; and (iii) to the extent such net cost savings or cost synergies for any Relevant Action exceed 10 per cent. of Consolidated EBITDA (calculated on a pro forma basis after taking into account such Relevant Action and such net cost savings or cost synergies), such cost savings or cost synergies shall be certified by the CEO or CFO of the Parent (in writing to the Agent) as being his or her good faith determination of the appropriate amount of such net cost savings or cost synergies;

plus

- (b) earn-out and other contingent consideration obligations or payments (including to the extent accounted for as bonuses or otherwise) and adjustments in respect thereof and any purchase price adjustments or payments;

plus

- (c) the amount of any:
 - (i) restructuring charge, accrual or reserve (and adjustments to existing reserves), integration cost or other business optimization expense or cost (including charges directly related to the implementation of cost-savings initiatives) that is deducted (and not added back) in such period in computing Consolidated Net Income, including any one-time costs incurred in connection with acquisitions, investments or divestitures after the Closing Date (including without limitation any related legal or other due diligence expenses), including those related to any severance, retention, signing bonuses, relocation, recruiting and other employee related costs, internal costs in respect of strategic initiatives and curtailments or modifications to pension and post-retirement employment benefit plans (including any settlement of pension liabilities), systems development and establishment costs, future lease commitments and costs related to the opening and closure and/or consolidation of facilities and to exiting lines of business and consulting fees incurred with any of the foregoing;
 - (ii) fees, costs and expenses associated with acquisition related litigation and settlements thereof; and
 - (iii) any non-capitalized consulting costs and expenses incurred in connection with the evaluation of, and potential upgrade to, the Group’s financial, accounting or other enterprise services systems;

plus

- (d) the amount of board of director fees, management, monitoring, advisory, consulting, refinancing, subsequent transaction, advisory and exit fees (including termination fees) and related indemnities and expenses paid or accrued in such period;

plus

- (e) any recruitment costs (including recruiter fees, signing bonuses and forgivable loans);

plus

(f) severance expenses;

plus

(g) other cash charges which the Agent (acting on the instructions of the Majority Lenders) agrees may be added back.

In addition, Consolidated EBITDA may, at the election of the Parent, (without double counting) be adjusted for *pro forma* adjustments consistent with those applied in the preparation of the quality of earnings report delivered in connection with the Acquisition, such adjustments to Consolidated EBITDA to be determined in good faith by the Parent.

“**Consolidated Interest Expense**” means for any period:

- (a) the total interest expense of the Group to the extent deducted in calculating Consolidated Net Income, net of any interest income of the Group, including any such interest expense consisting of:
- (i) interest expense attributable to Capitalised Lease Obligations;
 - (ii) amortisation of debt discount;
 - (iii) interest in respect of Indebtedness of any other person that has been Guaranteed by any Obligor, but only to the extent that such interest is actually paid by such Obligor;
 - (iv) non-cash interest expense;
 - (v) the interest portion of any deferred payment obligation; and
 - (vi) commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing, **plus**
- (b) dividends on Preferred Share Capital paid in cash in respect of Disqualified Share Capital of the Parent held by persons other than the Parent or a Restricted Subsidiary or in respect of Designated Preferred Shares of the Parent pursuant to paragraph (k)(i) of Clause 30.2 (*Permitted Payments*); **minus**
- (c) to the extent otherwise included in such interest expense referred to in paragraph (a) above, Special Purpose Financing Expense, non-cash interest expense in respect of the Subordinated Shareholder Funding, accretion or accrual of discounted liabilities not constituting Indebtedness, expense resulting from discounting of Indebtedness in conjunction with recapitalisation or purchase accounting, any interest cost or expected return on plan assets in relation to any post-employment benefit schemes, and any “additional interest” in respect of registration rights arrangements for any securities, amortisation or write-off of financing costs, any interest expense in relation to any guarantee, indemnity, bond, standby letter of credit or similar instrument issued in respect of commercial obligations of the Parent or any Restricted Subsidiary in the ordinary course of business and any arrangement, underwriting and participation fees and similar issue costs, agency and fronting fees, repayment and prepayment premiums, fees or costs, in each case under paragraphs (a) to (b) above as determined on a Consolidated basis in accordance with the Accounting Principles; *provided that* gross interest expense shall be determined after giving effect to any net

payments made or received by any member of the Group with respect to Permitted Hedging Transaction; **minus**

- (d) to the extent otherwise included in such interest expense referred to in paragraph (a) above, any amounts paid or payable in respect of any Preferred Share Capital issued pursuant to a Group LTIP.

“**Consolidated Net Income**” means for any period, the net income (loss) of the Group, determined on a Consolidated basis in accordance with the Accounting Principles and before any reduction in respect of dividends on Preferred Share Capital, *provided that*, without duplication, there shall not be included in Consolidated Net Income:

- (a) any net income (loss) of any person if such person is not a member of the Group, except that (i) the net income of each member of the Group for such period shall be increased by the aggregate amount actually distributed in cash by such person during such period to another Group member as a dividend or other distribution (subject, in the case of a dividend or other distribution to a Restricted Subsidiary, to the limitations contained in paragraph (b) below), to the extent not already included therein and (ii) each Group member’s equity in the net loss of such person shall be included to the extent of the aggregate Investment of the relevant Group member in such person;
- (b) solely for purposes of determining the amount available for Restricted Payments under paragraph (iii)(A) of Clause 30.1 (*Limitation on payments and investments*) and Excess Cash Flow, any net income (loss) of any member of the Group that is not an Obligor if such member of the Group is subject to restrictions, directly or indirectly, on the payment of dividends or the making of similar distributions by such member of the Group, directly or indirectly, to the Parent by operation of the terms of such member of the Group’s constitutional documents or any agreement, instrument, judgment, decree, order, statute or governmental rule or regulation applicable to such member of the Group or its shareholders (other than (i) restrictions that have been waived or otherwise released, (ii) restrictions pursuant to this Agreement or the other Senior Finance Documents and (iii) restrictions in effect on the Closing Date with respect to a member of the Group and other restrictions with respect to such member of the Group that taken as a whole are not materially less favourable to the Lenders than such restrictions in effect on the Closing Date as determined by the Parent in good faith), except that (A) the Parent’s equity in the net income of any such member of the Group for such period shall be included in such Consolidated Net Income up to the aggregate amount of any dividend or distribution in cash that was or that could have been made by such member of the Group during such period to the Parent or another member of the Group (subject, in the case of a dividend that could have been made to another member of the Group, to the limitation contained in this paragraph (b)) and (B) the net loss of such member of the Group shall be included to the extent of the aggregate Investment of the Group in such member of the Group;
- (c)
 - (i) (A) any gain or loss realised upon the sale, abandonment or other disposal of any asset of any member of the Group (including pursuant to any sale/leaseback transaction) that is not sold, abandoned or otherwise disposed of in the ordinary course of day to day business (as determined by the Parent in good faith) and (B) any gain or loss realised upon the disposal, abandonment or discontinuation of operations of any member of the Group, and any income (loss) from disposed, abandoned or discontinued operations

(but if such operations are classified as discontinued because they are subject to an agreement to dispose of such operations, only when and to the extent such operations are actually disposed of), including in each case any closure of any branch; and

- (ii) any gain or loss associated with the sale or write-down or revaluation of assets;
- (d) any extraordinary, unusual or nonrecurring gain, loss or charge (including fees, expenses and charges associated with the Transactions and any acquisition, merger, investment or consolidation after the date hereof or any accounting change);
- (e) the cumulative effect of a change in the Accounting Principles;
- (f) all deferred financing costs written off and premiums paid in connection with any early extinguishment of Indebtedness or Hedging Liabilities or other derivative instruments;
- (g) any unrealised gains or losses in respect of Permitted Hedging Transactions;
- (h) any unrealised foreign currency translation gains or losses, including in respect of Indebtedness of any person denominated in a currency other than the functional currency of such person;
- (i) any non-cash compensation charge arising from any grant of limited liability company interests, shares, share options or other equity based awards;
- (j) to the extent otherwise included in Consolidated Net Income, any unrealised foreign currency translation gains or losses, including in respect of Indebtedness or other obligations of any member of the Group owing to any other member of the Group;
- (k) any non-cash charge, expense or other impact attributable to application of the purchase or recapitalisation method of accounting (including the total amount of depreciation and amortisation, cost of sales or other non-cash expense resulting from the write-up of assets to the extent resulting from such purchase or recapitalisation accounting adjustments), non-cash charges for deferred tax valuation allowances and non-cash gains, losses, income and expenses resulting from fair value accounting required by the applicable standard under the Accounting Principles, *provided that* if any non-cash gain in relation to an asset is excluded pursuant to this paragraph (k) and the Group subsequently has a cash gain in relation to that asset then the full amount of that cash gain shall be included notwithstanding that any amount of it was attributable to a non-cash gain made in the current or any previous period;
- (l) expenses related to the conversion of various employee benefit programmes in connection with the Transactions, and non-cash compensation related expenses;
- (m) to the extent covered by insurance and actually reimbursed (or the Parent has determined that there exists reasonable evidence that such amount will be reimbursed by the insurer and such amount is not denied by the applicable insurer in writing within 180 days and is reimbursed within 365 days of the date of such evidence (with a deduction in any future calculation of Consolidated Net Income for any amount so added back to the extent not so reimbursed within such 365 day period)), any expenses with respect to liability or casualty events or business interruption; and
- (n) the amount of any deduction for minority interests and dividends,

provided further that the exclusion of any item pursuant to the paragraphs (a) to (n) above shall also exclude the tax impact of any such item, if applicable.

For purposes of this Agreement any and all interest accrued on the Subordinated Shareholder Funding but not paid in cash or other property (excluding Share Capital (other than Disqualified Share Capital) and additional Subordinated Shareholder Funding), shall not be deducted in calculating Consolidated Net Income.

In the case of any unusual or nonrecurring gain, loss or charge not included in Consolidated Net Income pursuant to paragraph (d) above (other than a determination for purposes of Clause 26 (*Financial Covenant*)) in any determination thereof, the Parent will deliver a certificate of a Responsible Officer to the Agent promptly after the date on which Consolidated Net Income is so determined, setting out the nature and amount of such unusual or nonrecurring gain, loss or charge. Notwithstanding the foregoing, for the purpose of paragraph (iii)(A) of Clause 30.1 (*Limitation on payments and investments*) only, there shall be excluded from Consolidated Net Income, without duplication, any income consisting of dividends, repayments of loans or advances or other transfers of assets from Unrestricted Subsidiaries to a member of the Group, and any income consisting of return of capital, repayment or other proceeds from dispositions or repayments of Investments consisting of Restricted Payments, in each case to the extent such income would be included in Consolidated Net Income and such related dividends, repayments, transfers, return of capital or other proceeds are applied by the Parent to increase the amount of Restricted Payments permitted under paragraph (iii)(C) or (D) of Clause 30.1 (*Limitation on payments and investments*).

In addition, Consolidated Net Income for any period ending on or prior to the Closing Date shall be determined based upon the aggregate net income (or loss) reflected in each of the consolidated financial statements of the Target Group for such period; and each person that is a Group member upon giving effect to the Transactions shall be deemed to be a Group member and the Transactions shall not constitute a sale or disposition under paragraph (c) above, for purposes of such determination.

“Consolidated Senior Secured Indebtedness” means, as of any date of determination:

- (a) an amount equal to Consolidated Total Indebtedness (without regard to paragraph (b) of that definition) as of such date that in each case is then secured by a Security Interest on property or assets of any member of the Group (other than (i) Indebtedness that is junior in right of payment to the Initial Senior Facilities Liabilities or is secured by a Security Interest ranking junior to or subordinated to the Security Interests securing the Initial Senior Facilities Liabilities and (ii) property or assets held in a defeasance or similar trust or other arrangement for the benefit of the Indebtedness secured thereby);

minus

- (b) the sum of:
 - (i) the amount of such Indebtedness consisting of Indebtedness of the type referred to in, or Incurred pursuant to, paragraph (n) or (o) of Clause 29.2 (*Other Permitted Indebtedness*); and
 - (ii) Unrestricted Cash of any member of the Group,

provided that, for the purposes of calculating Consolidated Senior Secured Indebtedness, any Indebtedness denominated in a currency other than the Base Currency shall be converted into the Base Currency at the average exchange rate used in calculating EBITDA for the Relevant

Period and not the exchange rate in effect as at the date of determination and if no such exchange rate is available, the average exchange rate for the Relevant Period as determined by the Parent in good faith from sources it may reasonably select.

“Consolidated Senior Secured Leverage Ratio” means as of any date of determination, the ratio of (i) Consolidated Senior Secured Indebtedness as at such date (after giving effect to any Incurrence or Discharge of Indebtedness on such date) to (ii) the aggregate amount of Consolidated EBITDA for the most recent Relevant Period ending prior to the date of such determination for which consolidated financial statements of the Parent are available (determined for any Financial Quarter or portion thereof ending prior to the Closing Date, on a pro forma basis to give effect to the Acquisition as if it had occurred at the beginning of such Relevant Period), *provided that*:

- (a) if, since the beginning of such period, any member of the Group shall have made a Sale (including any Sale occurring in connection with a transaction causing a calculation to be made hereunder), the Consolidated EBITDA for such period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets that are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period;
- (b) if, since the beginning of such period, any member of the Group (by merger, consolidation or otherwise) shall have made a Purchase (including any Purchase occurring in connection with a transaction causing a calculation to be made hereunder), Consolidated EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Purchase occurred on the first day of such period; and
- (c) if, since the beginning of such period, any person became a Restricted Subsidiary or was merged or consolidated with or into any member of the Group, and since the beginning of such period such person shall have made any Sale or Purchase that would have required an adjustment pursuant to paragraph (a) or (b) above if made by a member of the Group since the beginning of such period, Consolidated EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Sale or Purchase occurred on the first day of such period.

~~*provided that in the event that the Parent shall classify Indebtedness Incurred on the date of determination as secured in part pursuant to paragraph (k)(i) of the definition of “Permitted Security” in respect of Indebtedness Incurred pursuant to proviso (y) to paragraph (a) of Clause 29.2 (Other Permitted Indebtedness) and paragraph (a) of the definition of “Incremental Facilities Amount” and in part pursuant to one or more other paragraphs of the definition of “Permitted Security” as provided in paragraph (e) of the final section of such definition, any calculation of the Consolidated Senior Secured Leverage Ratio, including in the definition of “Incremental Facilities Amount”, shall not include any such Indebtedness (and shall not give effect to any Discharge of Indebtedness from the proceeds thereof) to the extent secured pursuant to any such other part of such definition.*~~

For the purposes of this definition, whenever *pro forma* effect is to be given to any Sale, Purchase or other transaction, or the amount of income or earnings relating thereto, the *pro forma* calculations in respect thereof shall be as determined in good faith by a Responsible Officer of the Parent.

“Consolidated Total Indebtedness” means as of any date of determination, an amount equal to:

- (a) the aggregate principal amount of outstanding Indebtedness of the Group as of such date consisting of (without duplication) Indebtedness for borrowed money (including Purchase Money Obligations and unreimbursed outstanding drawn amounts under funded letters of credit), Capitalised Lease Obligations, debt obligations evidenced by bonds, debentures, notes or similar instruments, Disqualified Share Capital, and (in the case of any member of the Group that is not an Obligor) Preferred Share Capital, determined on a Consolidated basis in accordance with the Accounting Principles (excluding items eliminated in Consolidation, and for the avoidance of doubt, excluding Hedging Liabilities and other liabilities in relation to Permitted Hedging Transactions):

minus

- (b) the sum of:
- (i) the amount of such Indebtedness consisting of Indebtedness of a type referred to in, or Incurred pursuant to, paragraph (n) or (o) of Clause 29.2 (*Other Permitted Indebtedness*); and
 - (ii) Unrestricted Cash of the Group,

provided that, for the purposes of calculating Consolidated Total Indebtedness, (i) any Indebtedness denominated in a currency other than the Base Currency shall be converted into the Base Currency at the average exchange rate used in calculating EBITDA for the Relevant Period and not the exchange rate in effect as at the date of determination and if no such exchange rate is available, the average exchange rate for the Relevant Period as determined by the Parent in good faith from sources it may reasonably select and (ii) the aggregate amount of Unrestricted Cash of the Group shall be adjusted in respect of any Relevant Period to normalise the impact of any increase or decrease in Consolidated Working Capital in the Relevant Period by increasing (or decreasing if the Adjustment Amount is negative) the amount of Unrestricted Cash in such Relevant Period by the Adjustment Amount.

“Consolidated Total Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Total Indebtedness as at such date (after giving effect to any Incurrence or Discharge of Indebtedness on such date) to (b) the aggregate amount of Consolidated EBITDA for the most recent Relevant Period ending prior to the date of such determination for which consolidated financial statements of the Parent are available (in each case, determined for any Financial Quarter or portion thereof ending prior to the Closing Date, on a pro forma basis to give effect to the Acquisition as if it had occurred at the beginning of such Relevant Period), *provided that*:

- (a) if, since the beginning of such period, any member of the Group shall have made a Sale (including any Sale occurring in connection with a transaction causing a calculation to be made hereunder), the Consolidated EBITDA for such period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets that are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period;
- (b) if, since the beginning of such period, any member of the Group (by merger, consolidation or otherwise) shall have made a Purchase (including any Purchase occurring in connection with a transaction causing a calculation to be made hereunder), Consolidated EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Purchase occurred on the first day of such period; and

- (c) if, since the beginning of such period, any person became a member of the Group or was merged or consolidated with or into any member of the Group, and since the beginning of such period such person shall have made any Sale or Purchase that would have required an adjustment pursuant to paragraph (a) or (b) above if made by a member of the Group since the beginning of such period, Consolidated EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Sale or Purchase occurred on the first day of such period.

~~provided that, for purposes of such calculation, in the event that the Parent shall classify Indebtedness Incurred on the date of determination as Incurred in part pursuant to paragraph (j) of Clause 29.2 (Other Permitted Indebtedness) and in part pursuant to one or more other paragraphs of Clause 29.2 (Other Permitted Indebtedness) and/or (unless the Parent at its option has elected to disregard Indebtedness being Incurred on the date of determination in part pursuant to sub-paragraph (2) of the proviso to paragraph (j) of Clause 29.2 (Other Permitted Indebtedness) for purposes of calculating the Consolidated Total Leverage Ratio for Incurring Indebtedness on the date of determination in part under Clause 29.1 (Ratio Debt) pursuant to Clause 29.1 (Ratio Debt) (as provided in paragraphs (b) and (c) of Clause 29.3 (Calculation of Indebtedness)), Consolidated Total Indebtedness shall not include any such Indebtedness Incurred pursuant to one or more such other paragraphs of Clause 29.2 (Other Permitted Indebtedness) and/or pursuant to Clause 29.1 (Ratio Debt), and shall not give effect to any Discharge of any Indebtedness from the proceeds of any such Indebtedness being disregarded for purposes of the calculation of the Consolidated Total Leverage Ratio that otherwise would be included in Consolidated Total Indebtedness.~~

For purposes of this definition, whenever *pro forma* effect is to be given to any Sale, Purchase or other transaction, or the amount of income or earnings relating thereto, the *pro forma* calculations in respect thereof shall be as determined in good faith by a Responsible Officer of the Parent.

“**Consolidated Working Capital**” means at any date, the excess of:

- (a) the sum of all amounts (other than cash, Cash Equivalent Investments and Temporary Cash Investments) that would, in accordance with the Accounting Principles be included in “total current assets” (or its equivalent) on a consolidated balance sheet of the Group at such date excluding the current portion of current and deferred income taxes;

over

- (b) the sum of all amounts that would, in accordance with the Accounting Principles, be included in “total current liabilities” (or its equivalent) on a consolidated balance sheet of the Group on such date, including deferred revenue but excluding, without duplication:
- (i) the current portion of any Funded Debt;
 - (ii) all Indebtedness consisting of Loans or Subordinated Shareholder Funding to the extent otherwise included therein;
 - (iii) the current portion of interest; and
 - (iv) the current portion of current and deferred income taxes.

“**Consolidation**” means the consolidation of the accounts of each of the Restricted Subsidiaries with those of the Parent in accordance with the Accounting Principles, *provided that* this will not include consolidation of the accounts of any Unrestricted Subsidiary, but the

interest of the Parent or any Restricted Subsidiary in any Unrestricted Subsidiary will be accounted for as an investment. The term “**Consolidated**” has a corresponding meaning. For the purposes of this Agreement for periods ending on or prior to the Closing Date, references to the consolidated financial statements of the Parent shall be to the consolidated financial statements of the Parent with the Target Group, after giving effect to the Transaction, being deemed Subsidiaries of the Parent, as the context may require.

“**Discharge**” means any member of the Group has repaid, repurchased, redeemed, defeased or otherwise acquired, retired or discharged any Indebtedness, or Designated Preferred Shares of the Parent, that is no longer outstanding.

“**Excess Cash Flow**” means for any period, an amount equal to the excess of:

- (a) the sum, without duplication, of:
 - (i) Consolidated Net Income for such period;
 - (ii) an amount equal to the amount of all non-cash charges to the extent deducted in calculating such Consolidated Net Income and cash receipts to the extent excluded in calculating such Consolidated Net Income (except to the extent such cash receipts are attributable to revenue or other items that would be included in calculating Consolidated Net Income for any prior period);
 - (iii) decreases in Consolidated Working Capital for such period other than any such decreases arising (v) from any acquisition or disposition of (a) any business unit, division, line of business or person or (b) any assets other than in the ordinary course of day to day business (each, an “**ECF Acquisition**” or “**ECF Disposal**” respectively) by any member of the Group completed during such period, (w) from the application of purchase accounting, (x) as a result of the reclassification of any balance sheet item from short-term to long-term or *vice versa*, or (y) from changes in current assets or current liabilities as a result of the effect of fluctuations in the amount of accrued or contingent obligations, assets or liabilities under hedging agreements or other derivative obligations;
 - (iv) an amount equal to the aggregate net non-cash loss on Disposals (or any Disposal specifically excluded from the definition of the term “Permitted Asset Disposal”) by any member of the Group during such period (other than in the ordinary course of day to day business) to the extent deducted in calculating such Consolidated Net Income;
 - (v) cash receipts in respect of Permitted Hedging Transactions during such period to the extent not otherwise included in calculating such Consolidated Net Income;
 - (vi) any extraordinary, unusual or nonrecurring cash gain;over
- (b) the sum, without duplication, of:
 - (i) an amount equal to the amount of all non-cash credits included in calculating such Consolidated Net Income and cash charges to the extent not deducted in calculating such Consolidated Net Income;

- (ii) without duplication of amounts deducted pursuant to paragraph (xi) below in prior years:
- (A) the amount of Capital Expenditure either made in cash or accrued during such period (*provided that*, whether any such Capital Expenditure shall be deducted for the period in which cash payments for such Capital Expenditure has been paid or the period in which such Capital Expenditures has been accrued shall be at the Parent's election; *provided, further that*, in no case shall any accrual of a Capital Expenditure which has previously been deducted give rise to a subsequent deduction upon the making of such Capital Expenditure in cash in the same or any subsequent period);
 - (B) at the Parent's election, any amounts which have been included in the most recent budget as Capital Expenditure during such period (provided that such amount is actually applied towards Capital Expenditure within 18 months of being so budgeted and provided further that, to the extent that the aggregate amount of Capital Expenditure actually spent during such Relevant Period is less than the amount budgeted, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such Relevant Period);
- (iii) the aggregate amount of all principal payments, purchases or other retirements of Indebtedness of the Group, including:
- (A) the principal component of payments in respect of Capitalised Lease Obligations;
 - (B) the amount of any repayment of Term Loans pursuant to Clauses 10.1 (*Repayment of Facility B Loans*), 10.2 (*Repayment of Incremental Facility Loans*), 10.3 (*Repayment of Senior Loan Refinancing Facility Loans*) and 10.4 (*Repayment of Extended Tranches*); and
 - (C) the amount of a mandatory prepayment of Term Loans pursuant to paragraph (a) of Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*) and any mandatory prepayment, repayment or redemption of Pari Passu Indebtedness pursuant to requirements under the agreements governing such Pari Passu Indebtedness similar to the requirements set forth in paragraph (a) of Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*), to the extent required due to the Disposal of an asset (or any Permitted Asset Disposal), Recovery Claim or insurance claim that resulted in an increase to Consolidated Net Income and not in excess of the amount of such increase,

but excluding (x) all other prepayments of Loans, (y) all prepayments of revolving loans (other than Revolving Facility Loans hereunder), to the extent there is not an equivalent permanent reduction in commitments thereunder and (z) all voluntary prepayments of Pari Passu Indebtedness to the extent such prepayments reduce the ECF Prepayment Amount pursuant to paragraph (a) of Clause 12.5 (*Excess Cash Flow*) made during such period,

except to the extent financed with the proceeds of long-term Indebtedness of the Group;

- (iv) an amount equal to the aggregate net non-cash gain on the Disposal of an asset (or any Permitted Asset Disposal) by the Group during such period (other than in the ordinary course of day to day business) to the extent included in calculating such Consolidated Net Income;
- (v) increases in Consolidated Working Capital for such period other than any such increases arising (v) from any ECF Acquisition or ECF Disposal by any member of the Group completed during such period, (w) from the application of purchase accounting, (x) as a result of the reclassification of any balance sheet item from short-term to long-term or *vice versa*, or (y) from changes in current assets or current liabilities as a result of the effect of fluctuations in the amount of accrued or contingent obligations, assets or liabilities under hedging agreements or other derivative obligations;
- (vi) payments by any member of the Group during such period in respect of long-term liabilities of the Group other than Indebtedness, to the extent not already deducted in calculating Consolidated Net Income;
- (vii) without duplication of amounts deducted under paragraph (xi) below in prior financial years, the aggregate amount of cash consideration paid by the Group (on a consolidated basis) in connection with Investments (including acquisitions) made during such period constituting “Permitted Investments” (other than Permitted Investments of the type described in paragraph (c) of the definition thereof and intercompany Investments by and among the Parent and its Restricted Subsidiaries) or made pursuant to Clause 30 (*Limitation on Restricted Payments*) to the extent that such Investments were financed with internally generated cash flow of the Group;
- (viii) the amount of Restricted Payments (other than Investments) made in cash during such period (on a consolidated basis) by the Group pursuant to Clause 30.2 (*Permitted Payments*) (other than paragraphs (f) and (p) thereof), to the extent such Restricted Payments were financed with internally generated cash flow of the Group;
- (ix) the aggregate amount of expenditure actually made by the Group in cash during such period (including expenditure for the payment of financing fees) to the extent that such expenditure is not expensed during such period and are not deducted in calculating Consolidated Net Income;
- (x) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Group during such period that are made in connection with any prepayment of Indebtedness to the extent that such payments are not deducted in calculating Consolidated Net Income;
- (xi) at the Parent’s election, without duplication of amounts deducted from Excess Cash Flow in previous periods, the aggregate consideration required to be paid in cash by any member of the Group pursuant to binding contracts (or, as determined by the Board of Directors of the Parent in good faith, which determination shall be conclusive (in the absence of manifest error), pursuant to arrangements that will result in a binding contract) (the “**Contract Consideration**”) entered into prior to or during such period relating to Investments constituting “Permitted Investments” (other than Permitted

Investments of the type described in paragraph (c) of the definition thereof and intercompany Investments by and among the members of the Group) or made pursuant to Clause 30 (*Limitation on Restricted Payments*) or Capital Expenditure to be consummated or made during the Relevant Period following the end of such period, *provided that* to the extent the aggregate amount of internally generated cash actually utilised to finance such Investments and Capital Expenditure during such Relevant Period is less than the Contract Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such Relevant Period;

- (xii) the amount of taxes (including penalties and interest) paid in cash or tax reserves set aside or payable (without duplication) in such period to the extent they exceed the amount of tax expense deducted in calculating such Consolidated Net Income for such period;
- (xiii) cash expenditure in respect of Permitted Hedging Transactions during such period to the extent not deducted in calculating such Consolidated Net Income;
- (xiv) any extraordinary, unusual or nonrecurring cash loss or charge (including fees, expenses and charges associated with the Transactions and any acquisition, merger or consolidation after the Closing Date); and
- (xv) any amounts paid in respect of any Preferred Share Capital issued pursuant to a Group LTIP.

“Funded Debt” means, all Indebtedness of the Group for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of any member of the Group, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including all amounts of such debt required to be paid or prepaid within one year from the date of its creation and, in the case of the Borrowers, Indebtedness in respect of the Term Loans.

“Normal CWC Amount” means the amount of Consolidated Working Capital at the end of the Relevant Period.

“Purchase” means that any member of the Group (by merger, consolidation or otherwise) has made an Investment in any person that thereby becomes a Restricted Subsidiary, or otherwise acquired any company, any business or an group of assets constituting an operating unit of a business or any joint venture, including any such Investment or acquisition occurring in connection with a transaction causing a calculation to be made hereunder, or designated any Unrestricted Subsidiary as a Restricted Subsidiary.

“Sale” means any member of the Group has disposed of any company, any business or any group of assets constituting an operating unit of a business or any joint venture, including any such disposal occurring in connection with a transaction causing a calculation to be made, or designated any Restricted Subsidiary as an Unrestricted Subsidiary.

“Unrestricted Cash” means, at any date of determination, the sum of:

- (a) the aggregate amount of Cash, Cash Equivalent Investments and Temporary Cash Investments included in the cash accounts that would be listed on the consolidated balance sheet of the Parent prepared in accordance with the Accounting Principles as of the end of the most recent Relevant Period ending prior to the date of such

determination for which consolidated financial statements of the Parent are available to the extent such cash is not classified as “restricted” for financial statement purposes unless so classified solely because of any provision under the Senior Finance Documents or any other agreement or instrument governing other Indebtedness that is subject to the Intercreditor Agreement or any Other Intercreditor Agreement governing the application thereof or because they are subject to Security securing the Initial Senior Facilities Liabilities, or other Indebtedness that is subject to the Intercreditor Agreement (including Indebtedness Incurred pursuant to any Second Lien Facility (as defined in the Intercreditor Agreement)); and

- (b) the proceeds from any Incurrence of Incremental Facility Loans since the date of such consolidated balance sheet and on or prior to the date of determination that are (in the good faith judgment of the Parent) intended to be used for working capital purposes.

26.3 Debt Cure

- (a) Subject to the provisions of this Clause 26.3, the Parent may on or before the date falling 20 Business Days after delivery of the Relevant Compliance Certificate (as defined in paragraph (b)(i) below) elect by notice in writing to the Agent to use the net amounts to be received in cash in respect of any New Shareholder Injections (the “**Cure Amount**”) to remedy non-compliance with the covenant set out in Clause 26.1 (*Financial Covenant*) by applying the Cure Amount to reduce Consolidated Total Indebtedness for the Cure Financial Quarter (as defined in paragraph (b)(i) below) and any Relevant Period that contains such Cure Financial Quarter and recalculating the covenant set out in Clause 26.1 (*Financial Covenant*) by giving effect to the foregoing *pro forma* adjustment (without giving effect to any repayment of any Indebtedness with any portion of the Cure Amount with respect to such Financial Quarter only) (a “**Debt Cure**”), in each case in accordance with the following provisions.
- (b) The Debt Cure may only be taken into account to remedy non-compliance with the covenant set out in Clause 26.1 (*Financial Covenant*) if each of the following conditions are satisfied:
 - (i) the Cure Amount is received in immediately and freely available cash by the Parent, within 20 Business Days after the date on which the Compliance Certificate (the “**Relevant Compliance Certificate**”) relating to the quarterly financial statements for the last Financial Quarter (the “**Cure Financial Quarter**”) of the Relevant Period to which the non-compliance relates (the date upon which such cash is received by the Parent, being the “**Injection Date**”) was required to be delivered to the Agent (excluding any applicable grace period for delivery of that Compliance Certificate);
 - (ii) as soon as reasonably practicable, and in any event within five Business Days after or prior to the Injection Date, the Parent by written notice (signed by its CEO or CFO) to the Agent (the “**Injection Notice**”) certifies the Cure Amount received by the Parent and specifies the Financial Quarter in respect of which it is to be taken into account;
 - (iii) the Injection Notice is accompanied by a revised Compliance Certificate indicating compliance with the ratio in Clause 26.1 (*Financial Covenant*) after taking into account the Cure Amount used to remedy the non-compliance;

- (iv) the Parent has not made four or more previous elections pursuant to paragraph (a) above since the date of this Agreement; and
 - (v) the Parent has not made elections pursuant to paragraph (a)(a) above in respect of the immediately preceding Financial Quarter.
- (c) The Cure Amount shall be deemed to have been received on the last day of the Cure Financial Quarter for the purpose of remedying non-compliance with the covenant set out in Clause 26.1 (*Financial Covenant*).
- (d) For the avoidance of doubt but without prejudice to any other condition of this Clause 26.3 any recalculation of the covenant in Clause 26.1 (*Financial Covenant*) following the application of this Clause 26.3 shall be solely for the purpose of ensuring compliance with the covenant set out in Clause 26.1 (*Financial Covenant*) and for no other purpose.
- (e) For the avoidance of doubt, any New Shareholder Injection, shall be retained by the group and does not need to be applied in prepayment or repayment of the Facilities.
- (f) The amount of any New Shareholder Injection included in the calculation of Consolidated Total Indebtedness hereunder shall be limited to the amount required to effect or continue compliance with Clause 26.1 (*Financial Covenant*) hereof and such amount shall be deemed applied to reduce Consolidated Total Indebtedness solely when calculating Consolidated Total Indebtedness for purposes of determining compliance with Clause 26.1 (*Financial Covenant*).
- (g) If, after giving effect to the Debt Cure, the requirements of the financial covenant set out in Clause 26.1 (*Financial Covenant*) are met, then the requirements of such financial covenant shall be deemed to have been satisfied as at the relevant original date of determination as though there had been no failure to comply with such requirements and any breach, Default or Event of Default occasioned thereby shall be deemed to have been remedied for the purposes of the Senior Finance Documents.
- (h) The Parties hereby acknowledge that notwithstanding any other provision in this Agreement to the contrary:
- (i) the Cure Amount received pursuant to any New Shareholder Injection shall be disregarded for purposes of calculating any determination of any financial ratio-based conditions, pricing or basket under this Agreement;
 - (ii) no Cure Amount shall constitute an Excluded Contribution or be deemed to increase the amounts calculated pursuant to Clause 30 (*Limitation on Restricted Payments*); and
 - (iii) no Lender shall be required to comply with Clause 5.4 (*Lenders' participation*) in relation to any Utilisation and the Issuing Bank shall not be required to comply with paragraph (a) of Clause 6.5 (*Issue of Letters of Credit or Bank Guarantees*) hereunder, if a Financial Covenant Event of Default has occurred and is continuing during the ten Business Day period during which a New Shareholder Injection may be made, unless and until the Cure Amount is actually received.

27. GENERAL UNDERTAKINGS

The undertakings in this Clause 27, Clause 28 (*Acquisition Related Undertakings*) and Clause 29 (*Limitation on Indebtedness*) to Clause 36 (*Limitation on Lines of Business*)

remain in force from the date of this Agreement for so long as any amount is outstanding under the Senior Finance Documents or any Commitment is in force.

27.1 **Maintenance of legal validity**

Each Obligor shall maintain in full force and effect all material authorisations, approvals, licences and consents required in or by the laws of its jurisdiction of formation to enable it lawfully to enter into and perform its obligations under the Senior Finance Documents to which it is a party and to ensure, subject to the Legal Reservations and the Perfection Requirements, the legality, validity, enforceability against it or admissibility in evidence in its jurisdiction of formation of the Senior Finance Documents to which it is a party.

27.2 **Insurance**

Each Obligor shall (and the Parent shall procure that each member of the Group shall) maintain insurances on and in relation to (or benefit from group policies in respect of) its business and assets (other than Real Property to the extent that either (i) the obligation to insure such Real Property resides with a third party or (ii) a third party has a right to insure such Real Property and has opted to insure it or the third party's right prohibits the relevant Obligor from insuring such Real Property) with reputable underwriters or insurance companies against such risks and to such extent as is usual for companies carrying on a business such as that carried on by such member of the Group.

27.3 **Environmental Compliance**

The Parent shall ensure that each member of the Group shall comply in all material respects with all Environmental Laws and obtain and maintain any Environmental Permits breach of which (or failure to obtain or maintain) would reasonably be expected to have a Material Adverse Effect.

27.4 **Environmental Claims**

The Parent shall inform the Agent in writing as soon as reasonably practicable upon becoming aware of the same if any Environmental Claim has been commenced or (to the best of the Parent's knowledge and belief) is threatened against it or any of its Subsidiaries in any case where such claim is reasonably likely to be adversely determined against the Parent or any other member of the Group and, if so adversely determined, would reasonably be expected to have a Material Adverse Effect or of any facts or circumstances which will or are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group in any case where such claim would be reasonably likely to have a Material Adverse Effect.

27.5 **Claims Pari Passu**

Each Obligor shall ensure that at all times the claims of the Senior Finance Parties against it under the Senior Finance Documents rank at least *pari passu* with the claims of all its unsecured and unsubordinated creditors save those whose claims are preferred by any bankruptcy, insolvency, liquidation or other similar laws or other applicable laws of general application.

27.6 **Consents and Approvals**

Each Obligor shall, and the Parent shall ensure that each member of the Group will, comply with all applicable laws, rules, regulations and orders and obtain and maintain all

governmental and regulatory consents and approvals the failure to obtain, maintain or comply with which would reasonably be expected to have a Material Adverse Effect.

27.7 **Conduct of Business**

Each Obligor shall (and the Parent shall procure that each member of the Group shall) ensure that it has the right and is duly qualified to conduct its business as it is conducted from time to time in all applicable jurisdictions and does all things reasonably necessary to obtain, preserve and keep in full force and effect all material rights including, without limitation, all franchises, contracts, licences, consents and other rights which are necessary and material for the conduct of its business save, to the extent that failure to so qualify, obtain or preserve would not reasonably be expected to have a Material Adverse Effect.

27.8 **Tax**

Each Obligor shall (and the Parent shall procure that each member of the Group shall) duly and punctually (a) file within the prescribed periods of time all Tax returns on which its material Taxes are required to be shown other than Tax returns, the failure to file of which would not reasonably be expected to have a Material Adverse Effect and (b) pay and discharge (i) all material taxes, assessments and governmental charges imposed upon it or its assets within the time period allowed therefor without imposing penalties and without resulting in Security (other than Permitted Security) with priority to any Senior Finance Party or any security purported to be granted by or created pursuant to the Transaction Security Documents and (ii) all material and lawful claims which, if unpaid, would by law become Security (other than Permitted Security) upon its assets, save where either (A) failure to make such payments or discharges would not reasonably be expected to have a Material Adverse Effect or (B) the amount or validity of such taxes, assessments, charges or claims is being contested in good faith by appropriate proceedings which it is diligently pursuing and is duly reserved to the extent required in accordance with applicable general accounting principles.

27.9 **Preservation of Assets**

Each Obligor shall, (and the Parent shall procure that each member of the Group shall), maintain and preserve (save to the extent disposed of pursuant to a Disposal permitted under Clause 32 (*Limitation on Sales of Assets and Shares*)) all of its assets that are necessary and material in the conduct of its business as conducted on the Closing Date in good working order and condition, ordinary wear and tear excepted except those which the failure to maintain or preserve would not reasonably be expected to have a Material Adverse Effect or where it is a third party's obligation to do so.

27.10 **Security Preservation**

Each Obligor shall, subject to the Agreed Security Principles, at its own expense, take all such action as the Security Agent may reasonably require for the purpose of perfecting or protecting the Security Agent's rights under and preserving the Security intended to be created by any of the Senior Finance Documents in respect of such Obligor's assets and, following the making of any declaration pursuant to Clause 37.18 (*Acceleration and Cancellation*) or Clause 37.19 (*Loans Due on Demand*), for facilitating the realisation of any such Security or any part thereof.

27.11 **Access**

Each Obligor shall, while an Event of Default is continuing or where the Agent reasonably suspects that an Event of Default is continuing, ensure that any one or more representatives of the Agent and advisers of the Agent will be allowed to have access to its assets, premises, books and records and to inspect the same during normal business hours upon reasonable

advance notice to such Obligor and subject to restrictions on viewing or receiving confidential information that is the subject of then-existing *bona fide* confidentiality arrangements with non-affiliated third parties and fiduciary duties of officers of such Obligors.

27.12 Intellectual Property

Each Obligor shall (and the Parent shall procure that each member of the Group shall) do all acts as are reasonably practicable to maintain, protect and safeguard the Material Intellectual Property and not terminate or discontinue the use of any Material Intellectual Property (and, in particular, shall not permit any registration thereof to terminate, be abandoned, cancelled, lapse or be liable to any claim of abandonment) or change adversely in a material respect any Material Intellectual Property, any contracts relating to Material Intellectual Property or take any action which could foreseeably imperil the existence or right of the Group to use any Material Intellectual Property except (i) in the ordinary course of business or (ii) with the prior written consent of the Majority Lenders or (iii) pursuant to a Disposal permitted under Clause 32 (*Limitation on Sales of Assets and Shares*) or (iv) pursuant to Permitted Security.

27.13 Syndication

The Parent shall provide reasonable assistance to the Arrangers in the primary syndication of the Facilities (including, without limitation, providing all information reasonably required to prepare the Information Memorandum, by making management available for the purpose of making presentations to, or meeting, potential lending institutions on the basis provided for in the Fee Letter between the Company and the Arranger date on or about the date of this Agreement) and will comply with all reasonable requests from the Arrangers for information prior to the Syndication Closing Date.

27.14 Guarantors

- (a) Subject to the Agreed Security Principles and irrespective of any existing Security which is permitted pursuant to paragraph (k)(iv) or (l) of the definition of “Permitted Security”, the Parent shall ensure that on the date falling 120 days after the ~~date on which the Company acquires 100 per cent. of the ordinary share capital of the Target~~Closing Date, and as at the date that Annual Financial Statements for each Financial Year (beginning with the Financial Year ending on 31 December 2020) are delivered prior to the occurrence of a Qualifying Listing or a Qualifying Ratings Event, the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA (calculated on an unconsolidated basis and excluding intra-Group items)) of the Covenant Group represents not less than 80 per cent. of Consolidated EBITDA of the Group, determined by reference to the latest audited financial statements of each Obligor and the latest audited consolidated financial statements of the Group and, for such purposes, after giving *pro forma* effect to any accession of a Material Company required under Clause 40.4 (*Additional Guarantors*) provided that any members of the Group incorporated in England and Wales that are required to be Guarantors for the purpose of satisfying such test at the end of the aforesaid 120 day period after the ~~date of the acquisition of Target Shares~~Closing Date shall become Guarantors by no later than 90 days after the ~~date of such acquisition~~Closing Date.
- (b) For the purpose of calculating:
- (i) the Covenant Group’s contribution to the test set out in paragraph (a) above (the “**Guarantor Coverage Test**”), any entity having negative earnings before interest, tax, depreciation and amortisation shall be deemed to have zero earnings before interest, tax, depreciation and amortisation;

- (ii) the Guarantor Coverage Test, the earnings before interest, tax, depreciation and amortisation of any entity which cannot become a Guarantor in accordance with the provisions of the Agreed Security Principles shall solely for this purpose be excluded (x) as a Guarantor from the numerator and (y) as a member of the Group from the denominator for the purposes of calculating the Guarantor Coverage Test; and
- (iii) the Guarantor Coverage Test, the earnings before interest, tax, depreciation and amortisation attributable to any Excluded Jurisdiction shall solely for this purpose be excluded as a member of the Group from the denominator for the purposes of calculating the Guarantor Coverage Test.

27.15 Condition Subsequent

The Parent shall ensure that:

- (a) on the Closing Date Financial Indebtedness under the Existing Facilities Agreement is prepaid, satisfied or discharged in full; and
- (b) on, or as soon as reasonably practicable thereafter, and in any event within 90 days thereafter any Security securing that Financial Indebtedness is discharged.

27.16 Holding Companies

The Parent and the Company shall not trade, carry on any business, own any assets or incur any liabilities except for:

- (a) liabilities under the Transaction Documents to which it is a party, liabilities under any Structural Loans or Subordinated Shareholder Funding, *provided that* any indebtedness incurred under Subordinated Shareholder Funding or Structural Loan or other agreement is subordinated to indebtedness arising under the Senior Finance Documents pursuant to the Intercreditor Agreement or otherwise to the satisfaction of the Agent (acting reasonably) (“**Holdco Subordinated Liabilities**”), liabilities under and payment of professional fees and administration costs in the ordinary course of business as a holding company and liabilities under the transactions contemplated by the Structure Memorandum or Funds Flow Statement;
- (b) the provision of administrative, legal, accounting, treasury and management services to or on behalf of any of its respective Subsidiaries and the purchase of management and other services from certain members of the Group or any of the Investors and provision or sale of such services to other members of the Group;
- (c) the ownership of the share capital or other interests of its respective Subsidiaries (provided that the Parent shall only own share capital or other interests in the Company), the sale and transfer of such ownership interests to the extent permitted under this Agreement, the acquisition of such ownership interests to the extent permitted under this Agreement, any merger or consolidation with or into, or conveyance, lease or transfer of all or substantially all of its assets to, any person permitted under this Agreement and, in each case, the exercise of rights and performance of obligations in connection therewith;
- (d) the entry into, incurrence of liabilities under and exercise of rights and performance of obligations in respect of:
 - (i) any of the Transaction Documents, any Holdco Subordinated Liabilities, any tax sharing agreements or other tax sharing arrangements with other members

of the Group, any Permitted Tax Consolidation Arrangement Transactions, any cash pooling arrangements with other members of the Group to the extent permitted under this Agreement, any other contracts or arrangements in respect of any investment by any Investors or Relevant Holders any guarantee of indebtedness or other obligations of any of its Subsidiaries and any refinancings, refundings, renewals or extensions of any thereof and any security agreements or other documents contemplated by any thereof in each case, permitted pursuant to the other provisions of the Senior Finance Documents;

- (ii) contracts and agreements with any of its officers, directors and employees or those of any of its Subsidiaries relating to their employment or directorships;
 - (iii) insurance policies and related contracts and agreements;
 - (iv) subscription or purchase agreements for securities and/or convertible preferred equity certificates, public offering rights agreements, voting and other stockholder agreements, engagement letters, underwriting agreements, agreements with rating agencies and other agreements in respect of its securities or any offering, issuance or sale thereof; and
 - (v) confidentiality, engagement letters and reliance letters in respect of legal, accounting and other advice and/or reports received and/or commissioned by it;
- (e) the offering, issuance, sale and repurchase or redemption of, and dividends, distributions or other payments on, its securities to the extent permitted under the other provisions of the Senior Finance Documents;
 - (f) the filing of registration statements and compliance with applicable reporting and other obligations under any applicable laws;
 - (g) the listing of its securities and the issuance, offering and sale of its securities and compliance with applicable regulatory, reporting and other obligations in connection therewith and entry into any agreements with respect thereto, in each case, permitted pursuant to the other provisions of the Senior Finance Documents;
 - (h) the retention of (and the entry into, and exercise of rights and performance of obligations in respect of, contracts and agreements with) transfer agents, private placement agents, underwriters, counsel, accountants and other advisors and consultants;
 - (i) the performance of obligations under and compliance with its constitutional documents, or any applicable law, ordinance, regulation, rule, order, judgement, decree or permit, including, without limitation, as a result of or in connection with the activities of its Subsidiaries;
 - (j) the incurrence and payment (including the opening of any bank accounts) of its operating and business expenses and any Taxes for which it may be liable;
 - (k) making loans to or other investments in, or incurrence of Indebtedness to:
 - (i) in the case of the Parent, the Company as Structural Loans; and
 - (ii) in the case of the Company, to its Subsidiaries,

to the extent permitted under the other provisions of the Senior Finance Documents;

- (l) receipt by the Parent and onward payment of any New Shareholder Injections;
- (m) the ownership of Cash, Cash Equivalent Investments and credit balances in bank accounts, subject to Transaction Security;
- (n) any activities directly related to the establishment and/or maintenance of its, or its Subsidiaries', corporate existence;
- (o) the making of payments which are permitted under Clause 30 (*Limitation on Restricted Payments*);
- (p) any transactions and the performance of obligations and exercise of rights thereunder specifically referred to in the Structure Memorandum (other than exit steps set out therein) as envisaged to be carried out by the Parent or the Company;
- (q) in the case of the Company only, the entry into of any Permitted Hedging Transactions;
- (r) subject to the requirements of this definition, the making of any Disposals, loans, guarantees or Investments or the Incurrence of any Indebtedness or the granting of any Security to the extent permitted under this Agreement *provided that*, in the case of the Parent only, such transactions are consistent with its status as a holding company; and
- (s) other activities necessary to effect the foregoing.

27.17 Acquisition Documents

- (a) The Parent has delivered to the Agent a complete and correct copy of the Scheme Documents (if and when issued) or, as the case may be, the Offer Transaction Documents (if and when issued), including all schedules and exhibits thereto. The release of the Offer Press Release and the posting of the Offer Transaction Documents if an Offer is pursued has been or will be, prior to their release or posting (as the case may be) duly authorised by the Company. Each of the obligations of the Company under the Offer Transaction Documents is or will be, when entered into and delivered, the legal, valid and binding obligations of the Company, enforceable against such persons in accordance with its terms in each case, except as may be limited by (i) bankruptcy, insolvency, examination or other similar laws affecting the rights and remedies of creditors generally and (ii) general principles of equity.
- (b) The Scheme Press Release and the Scheme Circular (in each case if and when issued) when taken as a whole: (i) except for the information that relates to the Target or the Target Group, do not (or will not if and when issued) contain (to the best of its knowledge and belief (having taken all reasonable care to ensure that such is the case)) any statements which are not in accordance with the facts in all material respects and (ii) contain all the material terms of the Scheme.
- (c) Each of the Acquisition Documents complies in all material respects with the Companies Act and the Takeover Code, subject to any applicable waivers by or requirements of the Takeover Panel.

(d) If a Scheme is pursued, the undertaking to be given by the Company to the Court to be bound by the Scheme will be, prior to it being given, duly authorised by the Company.

(e) The Acquisition has been recommended by the board of directors of the Target.

27.18 Centre of Main Interests

Each Obligor incorporated in the European Union or the United Kingdom shall ensure its centre of main interests (as that term is used in article 3(1) of the EUIR) is situated in its jurisdiction of incorporation.

27.19 Pensions

The Parent shall ensure that all pension schemes operated by or maintained for the benefit of members of the Group and/or any employees are funded in accordance with applicable laws where failure to do so would have a Material Adverse Effect.

27.20 Amendments

(a) No Obligor shall (and the Parent shall ensure that no member of the Group will) amend, vary, novate, supplement, supersede, waive or terminate any term of a Transaction Document except:

- (i) in accordance with the provisions of Clause 50 (*Amendments and Waivers*);
- (ii) to the extent that that amendment, variation, novation, supplement, superseding, waiver or termination is permitted by the Intercreditor Agreement or an Other Intercreditor Agreement (as applicable); or
- (iii) in a way which could not be reasonably expected materially and adversely to affect the interests of the Lenders under the Senior Finance Documents.

(b) The Parent shall promptly supply to the Agent a copy of any document relating to any of the matters referred to in sub-paragraphs (a)(i) to (a)(iii) above (other than the Equity Documents, any such document relating to the Equity Documents, which could not be reasonably expected materially and adversely to affect the interests of the Lenders under the Senior Finance Documents).

27.21 Financial assistance

Each Obligor shall comply in all respects with sections 678 and 679 of the Companies Act and any equivalent legislation in other jurisdictions including in relation to the execution of the Transaction Security Documents and payment of amounts due under this Agreement.

27.22 Rating

If the Arranger determines in good faith (acting reasonably) that a (i) credit rating for Facility B and/or (ii) a corporate credit rating is needed for the purposes of syndication, the Parent shall use commercially reasonable efforts to obtain and maintain a credit and/or corporate credit rating from any two of Moody's, Fitch and Standard & Poor's Credit Market Services Europe Limited (each, an "**Agency**"). If, notwithstanding such commercial efforts, any Agency fails to or ceases to assign a credit rating to Facility B and/or a corporate credit rating, the Parent shall use commercially reasonable efforts to obtain a credit rating of Facility B and a corporate credit rating and such rating is still needed for the purposes of syndication from a substitute rating agency that shall be a statistical rating

agency of recognised standing, and references in this Clause 27.22 to an Agency or the credit ratings thereof, shall be to such substitute rating agency or, as the case may be, the equivalent credit ratings thereof.

27.23 Further assurance

- (a) Subject to the Agreed Security Principles, each Obligor shall (and the Parent shall procure that each other member of the Group will) promptly do all such acts or execute all such documents (including assignments, dispositions, standard securities, assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
- (i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, standard security, assignment, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Senior Finance Parties provided by or pursuant to the Senior Finance Documents or by law;
 - (ii) to confer on the Security Agent or confer on the Senior Finance Parties Security over any property and assets of that Obligor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or
 - (iii) once the Transaction Security has become enforceable, to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.
- (b) Subject to the Agreed Security Principles, each Obligor providing Transaction Security shall (and the Parent shall procure that each other member of the Group will) take all such action as is reasonably available to it (including making all filings, recordings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Senior Finance Parties by or pursuant to the Senior Finance Documents.

27.24 Accounting Reference Date

Subject to Clause 25.5 (*Year-end*), no Obligor shall (and the Parent shall procure that no member of the Group shall) change their Accounting Reference Date or any of their Quarter Dates.

27.25 Sanctions

- (a) Each Obligor undertakes that, and the Parent will procure that each other member of the Group, their respective directors or members of senior management and any agent or employee of them, is not a Sanctioned Person or a Sanctioned Country Person, does not act directly or indirectly on behalf of a Sanctioned Person or a Sanctioned Country Person and will not, directly or indirectly:
- (i) use the proceeds of any Facility, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person:

- (A) to fund any activities or business of or with any person, or in any country or territory, that, at the time of such funding, is a Sanctioned Person or Sanctioned Country or Future Sanctioned Country; or
 - (B) in any other manner that would result in a violation of Sanctions by any party to the Senior Finance Documents, whether as underwriter, advisor, investor, or otherwise; or
- (ii) use any revenue or benefit derived from any activity or dealing with a Sanctioned Person or Sanctioned Country Person to be used in discharging any obligation due or owing to a Senior Finance Party.
- (b) Each Obligor undertakes that it will not, and the Parent will procure that any other member of the Group, their respective directors or members of senior management and any agent or employee of it will not, directly or indirectly, engage in any transaction, activity or conduct that would violate Sanctions ~~(x)~~ in any material respect or ~~(y) in a way that would be reasonably likely to:~~ if it would result in material liability for any Finance Party, in any respect.
- ~~(i) have a Material Adverse Effect;~~
- ~~(ii) be prejudicial to the Senior Finance Parties in any material respect; or~~
- ~~(iii) impose any liability on the Senior Finance Parties.~~
- (c) Each Obligor undertakes that it will, and the Parent will procure that each other member of the Group, their respective directors or members of senior management and any agent or employee of it will, to the extent permitted by law, promptly upon becoming aware of them, supply to the Agent details of any claim, action, suit, proceedings or investigation against it with respect to Sanctions by a Sanctions Authority.
- (d) The undertaking set forth in this Clause 27.25 shall not apply to any Obligor, nor operate for the benefit of any Finance Party, to the extent that the obligations under this Clause 27.25 would be unenforceable by reason of breach of or conflict with, or would result in a violation of, or would expose any such entity or any directors, officer or employee thereof to any liability under any applicable Blocking Law.

27.26 **Anti-corruption ~~law~~laws**

- (a) No Obligor shall (and the Parent shall ensure that no other member of the Group shall) directly or, to such Obligor's knowledge, having made such inquiries as is reasonable in the circumstances, indirectly use the proceeds of the Facilities to make any unlawful payment which would breach ~~the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other relevant jurisdictions~~ in any material respect any Anti-Corruption Laws.
- (b) Each Obligor shall (and the Parent shall ensure that each member of the Group shall) conduct its business in all material respects in compliance in applicable Anti-Corruption Laws and maintain policies and procedures designed to promote and achieve compliance by it and its Subsidiaries and their respective directors, officers and employees with applicable ~~anti bribery, anti corruption or anti money laundering laws or regulations in any applicable jurisdiction~~ Anti-Corruption Laws.

27.27 Restricted Jurisdictions

In view of the significant corruption, financial crime, terrorist financing, political and business risks that certain jurisdictions present, namely Venezuela, North Korea, Sudan, Syria, the Crimea region of Ukraine (as defined and construed in the applicable Sanctions laws and regulations), Cuba and Iran (each a “**Restricted Country**”) neither the Group nor its subsidiaries has in the last two years engaged in, is now engaged in, or shall engage in, any dealings or transactions with or for the benefit of any Person located, organized or ordinarily resident in any Restricted Country, in each case directly or indirectly, including through any of their distributors, agents, or other persons acting on their behalf. For the avoidance of doubt, the existence of, and current Group interests in, the Existing Iranian JV and any action taken to dissolve, terminate or discharge the Existing Iranian JV in compliance with applicable laws will not in and of themselves constitute a breach of this Clause 27.27 (Restricted Jurisdictions).

27.28 ~~27.27~~ **Special Purpose Subsidiaries**

No Obligor shall (and the Parent shall ensure that no other member of the Group shall) Incur any Indebtedness, make any Restricted Payment, create or permit to exist any Security, make any Disposal, provide any representations, warranties, indemnities or guarantees or enter into any other transaction, agreement or undertaking or make any other distribution to, with or in favour of any such Special Purpose Subsidiaries in connection with any Special Purpose Financing unless such action is permitted under the terms of this Agreement.

27.29 ~~27.28~~ **Employee Share Scheme**

The Parent will procure that any shares in the Target (or any other member of the Target Group) acquired by, allotted to or transferred to any person under or pursuant to an Employee Share Scheme will be acquired by the Company (or another member of the Group, as applicable) or cancelled by no later than three months after the Closing Date.

28. ACQUISITION RELATED UNDERTAKINGS

28.1 Scheme Undertakings

(a) Scheme Press Release

The Parent and the Company will procure the issue of the Scheme Press Release within five Business Days of the date of this Agreement.

(b) Scheme Circular

The Parent and the Company will use reasonable endeavours to:

- (i) procure that the Scheme Circular is dispatched as soon as practicable and in any event within 28 days of the date of issue of the Scheme Press Release or such later date as may be approved by the Takeover Panel; and
- (ii) procure that the form and terms of the Scheme Circular do not vary in any respect which is materially adverse to the interests of the Lenders from the form and terms of the draft Scheme Press Release delivered as a condition precedent to this Agreement unless the Agent has approved in writing such change in advance.

(c) Progress of Scheme

The Parent and the Company will keep the Agent reasonably informed as to any material developments in relation to the Scheme and promptly on request provide the Agent with information as to the progress of the Scheme and with any material information or advice received in relation to the Scheme and will notify the Agent promptly following it becoming aware that the Scheme Court Order has been issued.

(d) Terms of the Scheme

The Parent and the Company shall:

- (i) not increase, and ensure there is no increase in, the amount of cash payable by it in respect of the Target Shares pursuant to the Scheme or otherwise vary the cash consideration payable pursuant to the Scheme except to the extent that such increase is funded entirely (directly or indirectly) by the subscription for shares in, or subordinated loans to, the Parent by the Sponsor and such monies are passed down to the Company by way of subscription for shares or intercompany loan which is subordinated under the terms of the Intercreditor Agreement;
- (ii) use reasonable endeavours to ensure that the Effective Date does not occur after the date falling 180 days after the publication of the Scheme Press Release;
- (iii) not take any action (and procure, so far as they are able to do so, that no person, acting in concert with it or otherwise, takes any action) which would compel it to make an offer to shareholders in the Target under Rule 9 of the Takeover Code;

- (iv) not waive or amend (and use reasonable endeavours to ensure there is no waiver or amendment to) any condition of the Scheme where such waiver or consent would be materially prejudicial to the interests of the Finance Parties unless either:
 - (A) the Agent has given its consent (not to be unreasonably withheld or delayed); or
 - (B) to the extent required by the Takeover Code, the Takeover Panel or the Court; and
- (v) if it becomes aware of a circumstance or event which is or could reasonably be construed to be covered by any condition of the Scheme which, if not waived, would entitle the Company (with the Takeover Panel's and/or the Court's consent, if needed) to lapse or withdraw the Scheme, it shall promptly notify the Agent.

(e) **Certificate of registration of Scheme Court Order**

The Company shall, within five Business Days of receipt, deliver the Scheme Court Order to the Registrar and obtain evidence of the same.

(f) **Take Private Procedure**

The Obligors shall as soon as reasonably practicable after the Effective Date (and in any event within thirty days of the Effective Date) procure the Target to be delisted and the re-registration of the Target as a private company pursuant to section 97 of the Companies Act.

28.2 Offer Undertakings

The Undertakings in this Clause 28.2 shall only apply if an Offer Conversion occurs.

(a) **Issue of Offer Document**

- (i) The Company shall despatch the Offer Document as soon as reasonably practicable and in any event within 28 days of the date of issuing the Offer Press Release or such later date as may be approved by the Takeover Panel.
- (ii) The Company shall procure that the terms and conditions of the Offer Document are consistent as regards all terms in any way material to the interests of the Finance Parties with those terms recorded in the Scheme Press Release or Scheme Circular (as applicable) except for the acceptance condition (which shall be in the usual form for an Offer) or as otherwise required by the Takeover Code or the Takeover Panel, unless the Agent has approved such change in advance.

(b) **Progress of Offer**

The Obligors shall keep the Agent informed as to the progress of the Offer and any market purchases of Target Shares made, and provide the Agent with such information and copies of professional advice received in respect of the Offer as the Agent may reasonably request (other than advice relating to any issue that is either contentious or reasonably likely to become contentious arising as between the Finance Parties and the Group) unless compliance with this Clause would breach the Takeover Code.

(c) **Terms of the Offer**

Other than with the consent of the Agent, the Parent and the Company shall:

- (i) not declare the Offer unconditional as to acceptances unless the acceptance condition (being acceptances in respect of such number of Target Shares to which the Offer relates that, when aggregated with all Target Shares to which the Offer relates directly or indirectly acquired by the Company, represent at least 75 per cent. of the Target Shares to which the Offer relates) has been satisfied;
- (ii) not take any action (and procure, so far as it is able to do so, that no person, whether acting in concert with it or otherwise, takes any action) which would compel it to revise the Offer under Rule 9 of the Takeover Code;
- (iii) not waive or amend (and use reasonable endeavours to ensure there is no waiver or amendment to) any condition of the Offer where such waiver or consent would be materially prejudicial to the interests of the Finance Parties unless either:
 - (A) the Agent has given its consent (not to be unreasonably withheld or delayed); or
 - (B) to the extent required by the Takeover Code, the Takeover Panel or the Court; and
- (iv) if it becomes aware of a circumstance or event which is or could reasonably be construed to be covered by any condition of the Offer which, if not waived, would entitle the Company (with the Takeover Panel's consent) to lapse or withdraw the Offer, it shall promptly notify the Agent.

28.3 General Acquisition Undertakings

(a) **Announcements**

- (i) The Obligors agree that where such material refers to any Finance Party, it must be approved in writing by such party prior to its publication. No such approval shall be necessary where such announcement is required in order to comply with any relevant Authorisation, law or regulation or the requirements, rules and regulations of any court, applicable regulatory authority (including, without limitation, the Takeover Panel) or body relating to the Acquisition; and
- (ii) the Scheme Document or Offer Document (as applicable) shall include reference to the Facilities and to the Finance Parties.

(b) **Conduct of Offer and/or Scheme**

From the Closing Date the Company shall:

- (i) if the Acquisition is being effected by way of an Offer, de-list the Target from the Official List of the UK Listing Authority and re-register the Target as a private limited company in each case (unless prevented by law, regulation or court) within 60 days of the later of (i) the Closing Date and (ii) the date on which the Offer is declared or becomes unconditional in all respects provided that the Company has at that time acquired shares in the Target carrying 75% or more of the voting rights attributable to the capital of the Target which are then exercisable at a general meeting of the Target; and
- (ii) if the Acquisition is being effected by way of an Offer, and to the extent the Company owns or controls not less than 90% of the voting rights of the shares in the Target the subject of the Offer, (A) within 60 days of becoming entitled to do so, give notice to all other shareholders of the Target under section 979 of the Companies Act and (B) use reasonable efforts to, as soon as reasonably practicable, purchase their shares in the Target on or before the Squeeze-Out Date under section 979 of the Companies Act.

(c) **Authorisations**

Each Obligor shall comply in all material respects with all relevant Authorisations, laws and regulations and the requirements, rules and regulations of all applicable regulatory authorities and bodies relating to the Acquisition.

29. LIMITATION ON INDEBTEDNESS

29.1 Ratio Debt

The Parent will not, and will not permit any other member of the Group to, Incur any Indebtedness, *provided that* any member of the Group may Incur Indebtedness if on the date of the Incurrence of such Indebtedness, after giving effect to the Incurrence thereof (or, at the Parent's option in respect of a Limited Condition Acquisition, on the date of entry into the definitive agreement providing the commitment to fund such Indebtedness after giving pro forma effect to the Incurrence of the entire committed amount, in which case such committed amount may thereafter be borrowed and re-borrowed in whole or in part, from time to time, without further compliance with this proviso):

- (a) the Consolidated Total Leverage Ratio would not exceed 4.75: 1.00;
- (b) the Consolidated Senior Secured Leverage Ratio would not exceed 4.25:1.00; and
- (c) if such Indebtedness Incurred under this Clause 29.1 or Clause 29.2 constitutes Relevant Material Debt it shall be subject to the Intercreditor Agreement or an Other Intercreditor Agreement.

29.2 Other Permitted Indebtedness

In addition to the Indebtedness permitted under Clause 29.1 (*Ratio Debt*) any member of the Group may Incur the following Indebtedness at any time:

- (a) Indebtedness Incurred by the Obligors:
 - (i) under the Senior Finance Documents;

- (ii) constituting Additional Obligations (and any Refinancing Indebtedness in respect thereof);
- (iii) constituting Rollover Indebtedness (and any Refinancing Indebtedness in respect thereof); and
- (iv) pursuant to any Letter of Credit Facility (and any Refinancing Indebtedness in respect thereof),

provided that the maximum principal amount of all such Indebtedness (as permitted under sub-paragraphs (a)(i) to (iv) above) ~~at any time~~ outstanding immediately after giving effect to such Incurrence (but subject to Clause 1.2(l)) does not exceed, in aggregate, the Incremental Facilities Amount, plus (z) without double counting of incremental amounts included in the definition of “Refinancing Indebtedness”, in relation to any refinancing of any such Indebtedness (including Senior Loan Refinancing Facility Indebtedness), the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing. Notwithstanding the foregoing, Indebtedness may be Incurred under Facility B on the Closing Date in an aggregate principal amount not exceeding £150,000,000 and Indebtedness may be Incurred under the Revolving Facility at any time in an aggregate principal amount not exceeding £30,000,000 at any time outstanding (regardless of whether such Indebtedness falls within the “Incremental Facilities Amount”) but Indebtedness may not be Incurred in accordance with this paragraph (a) under the Revolving Facility to finance acquisitions (other than the Acquisition) unless it is Incurred pursuant to the definition of “Incremental Facilities Amount”.

- (b) Indebtedness of any member of the Group to any other member of the Group, *provided that* any subsequent issuance or transfer of any Share Capital of a Restricted Subsidiary to which such Indebtedness is owed, or other event, that results in such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of such Indebtedness (except to a member of the Group) will be deemed, in each case, an Incurrence of such Indebtedness by the issuer thereof which shall not be permitted by this paragraph (b).
- (c) Any Indebtedness (other than Indebtedness Incurred under the Senior Finance Documents) outstanding (or Incurred pursuant to any commitment outstanding) on the Closing Date details of which are set out in Schedule 20 (*Permitted Existing Indebtedness and Security*)
- (d) Any Refinancing Indebtedness in respect of any Indebtedness Incurred under Clause 29.1 (*Ratio debt*) or under paragraph (c) above.
- (e) Purchase Money Obligations and Capitalised Lease Obligations and, in each case, any Refinancing Indebtedness in respect thereof, *provided that* the aggregate principal amount of such Purchase Money Obligations and Capitalised Lease Obligations, at any time outstanding pursuant to this paragraph (e) shall not exceed an amount equal to the greater of £10,000,000 and 28 per cent. of Consolidated EBITDA.
- (f) Indebtedness:
 - (i) supported by a letter of credit issued in compliance with this Clause 28 or pursuant to any Ancillary Facility in a principal amount not exceeding the face amount of such letter of credit; or

- (ii) consisting of guarantees in respect of the obligations of Restricted Subsidiaries for the benefit of trade creditors of any member of the Group on normal commercial terms and in the ordinary course of day to day business.
- (g) Indebtedness arising:
 - (i) under Guarantees of Indebtedness or any other obligation or liability of any member of the Group (other than any Indebtedness Incurred by such member of the Group in violation of this Clause 28); or
 - (ii) in respect of any Security granted by or applicable to such person permitted by Clause 34 (*Limitation on Security*);
- (h) Indebtedness:
 - (i) arising from the honouring of a cheque, draft or similar instrument of such person drawn against insufficient funds in the ordinary course of day to day business (*provided that* such Indebtedness is extinguished in the ordinary course of day to day business), or
 - (ii) consisting of guarantees, indemnities, obligations in respect of earnouts or other purchase price adjustments, or similar obligations, Incurred in connection with the acquisition or disposition of any business, assets or person;
- (i) Indebtedness in respect of:
 - (i) letters of credit, bankers' acceptances or other similar instruments or obligations issued, or relating to liabilities or obligations Incurred, in the ordinary course of day to day business;
 - (ii) completion guarantees, surety, judgment, appeal or performance bonds, or other similar bonds, instruments or obligations, provided, or relating to liabilities or obligations Incurred, in the ordinary course of day to day business;
 - (iii) Permitted Hedging Transactions;
 - (iv) Management Guarantees or Management Indebtedness;
 - (v) the financing of insurance premiums in the ordinary course of day to day business;
 - (vi) take-or-pay obligations under supply arrangements Incurred in the ordinary course of day to day business;
 - (vii) netting, overdraft protection and other arrangements arising under standard business terms of any bank at which a member of the Group maintains an overdraft, cash pooling or other similar facility or arrangement;
 - (viii) Bank Products Obligations; and
 - (ix) Ancillary Outstandings.
- (j) Indebtedness:

- (i) Incurred to finance or refinance, or otherwise Incurred in connection with, any acquisition of assets (including Share Capital), business or person, or any merger or consolidation of any person with or into any member of the Group; or
- (ii) of any person that is acquired by or merged or consolidated with or into any member of the Group (including Indebtedness thereof Incurred in connection with any such acquisition, merger or consolidation),

provided that, in each case, (x) on the date of such acquisition, merger or consolidation, after giving effect thereto, the Consolidated Senior Secured Leverage Ratio would be equal to or less than 4.25:1.00 (or 4.75:1.00 in relation to any Indebtedness Incurred on or prior to the first anniversary of the first Utilisation Date) and the Consolidated Total Leverage Ratio would be equal to or less than 4.75:1.00 (y) if, at the Parent's option, on the date of the initial borrowing of such Indebtedness or entry into of the definitive agreement providing the commitment to fund such Indebtedness, *pro forma* effect is given to the Incurrence of the entire committed amount of such Indebtedness and the use of proceeds thereof (and, on the basis of such *pro forma* test, such Incurrence is permitted in accordance with (x) above), such committed amount may thereafter be borrowed and reborrowed, in whole or in part, from time to time, without further compliance with this paragraph (j) and (z) in respect of Indebtedness Incurred pursuant to paragraph (j)(i) above, if such Indebtedness constitutes Relevant Material Debt it shall be subject to the Intercreditor Agreement or an Other Intercreditor Agreement; and

- (iii) any Refinancing Indebtedness in respect thereof.
- (k) Indebtedness arising upon the conversion or exchange of shares of Disqualified Share Capital issued under Clause 29.1 (*Ratio Debt*), and any Refinancing Indebtedness in respect thereof;
- (l) Indebtedness in an aggregate principal amount at any time outstanding not exceeding an amount equal to the greater of £2,500,000 and 7 per cent. of Consolidated EBITDA;
- (m) Indebtedness consisting of local lines of credit, working capital facilities or similar or equivalent facilities or financial accommodation the aggregate principal amount of which does not at any time exceed the greater of ~~£25,000,000~~20,000,000 and ~~71~~57 per cent. of Consolidated EBITDA;
- (n) any Indebtedness arising pursuant to the transactions described in paragraph (d) of the definition of "Permitted Asset Disposal" where such transactions are without recourse or with limited recourse on arm's length terms (where the level and nature of such recourse is not unusual);
- (o) Indebtedness:
 - (i) of a Special Purpose Subsidiary; or
 - (ii) Incurred in connection with a Special Purpose Financing subject to Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*), provided that such Indebtedness is not recourse to the Parent or any Restricted Subsidiary that is not a Special Purpose Subsidiary (other than with respect to Special Purpose Financing Undertakings or, in respect of

Security granted pursuant to paragraph (t) of the definition of “Permitted Security”);

- (p) ~~any Indebtedness in an aggregate principal amount not greater than the aggregate principal amount of Restricted Payments which could be made at the time of such Incurrence pursuant to paragraph (e) or (f) of Clause 30.2 (Permitted Payments) (and any Refinancing Indebtedness thereof), provided that the Incurrence of Indebtedness in reliance on such amounts available for making such Restricted Payments shall reduce the amount available under paragraphs (e) or (f) (as applicable) of Clause 30.2 (Permitted Payments) by an amount equal to the outstanding principal amount of such Indebtedness; and~~ [Not Used]; and
- (q) any Indebtedness comprising a Guarantee of any pension scheme of any member of the Group.

29.3 Calculation of Indebtedness

For purposes of determining compliance with, and the outstanding principal amount of any Indebtedness Incurred pursuant to this Clause 28:

- (a) any other obligation arising under any Guarantee, Security or letter of credit, bankers’ acceptance or other similar instrument or obligation supporting any Indebtedness shall be disregarded to the extent that such Guarantee, Security or letter of credit, bankers’ acceptance or other similar instrument or obligation secures the principal amount of Indebtedness Incurred in compliance with this Clause 28;
- (b) in the event that Indebtedness Incurred pursuant to Clause 29.2 (*Other Permitted Indebtedness*) meets the criteria of more than one of the categories of Indebtedness described in Clause 29.2 (*Other Permitted Indebtedness*), the Parent, in its sole discretion, shall classify such item of Indebtedness and may include the amount and type of such Indebtedness in one or more of the categories of Indebtedness permitted by Clause 29.2 (*Other Permitted Indebtedness*) (including in part under one such category and in part under another such category), *provided that* (if the Parent shall so determine) any Indebtedness Incurred under (x) paragraph (l) or (m) of Clause 29.2 (*Other Permitted Indebtedness*) shall cease to be deemed Incurred or outstanding under such Clause but shall be deemed Incurred under Clause 29.1 (*Ratio Debt*) from and after the first date on which such Indebtedness could have been Incurred under Clause 29.1 (*Ratio Debt*) without reliance on such Clause;
- (c) if any commitments in respect of revolving or deferred draw Indebtedness are established in reliance on any provision of Clause 29.2 (*Other Permitted Indebtedness*) (to the extent such commitments have been so established but not yet been drawn, “Reserved Debt Amounts”) measured by reference to (A) a percentage of Consolidated EBITDA, (B) a ratio of Consolidated Total Indebtedness to Consolidated EBITDA or (C) a ratio of Consolidated Senior Secured Indebtedness to Consolidated EBITDA, after giving pro forma effect to the incurrence of the committed amount, such amount may thereafter be borrowed and re-borrowed, in whole or in part, from time to time, irrespective of whether or not such incurrence would cause such percentage of Consolidated EBITDA or such ratio to be exceeded; provided that an amount equal to the Reserved Debt Amounts shall be included as “Indebtedness” for the purposes of calculating Consolidated Total Indebtedness and (if applicable because it was established in reliance on the ratio of Consolidated Senior Secured Indebtedness to Consolidated EBITDA) Consolidated Senior Secured

Indebtedness save that this proviso shall not apply for the purposes of calculating the financial covenants set out in Clause 26 (Financial Covenant);

- (d) if any Indebtedness is initially Incurred (or, Indebtedness Incurred to refinance Indebtedness initially Incurred) in reliance on any provision of Clause 29.2 (*Other Permitted Indebtedness*) which is measured by a sterling amount, such sterling amount shall not be deemed to be exceeded (and such Refinancing Indebtedness shall be deemed permitted) to the extent the principal amount of such newly Incurred Indebtedness does not exceed an amount equal to the principal amount of such Indebtedness being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing;
- (e) in the event that Indebtedness could be Incurred in part under Clause 29.1 (*Ratio Debt*), the Parent, in its sole discretion, may classify a portion of such Indebtedness as having been Incurred under Clause 29.1 (*Ratio Debt*) and the remainder of such Indebtedness as having been Incurred under Clause 29.2 (*Other Permitted Indebtedness*);
- (f) the amount of Indebtedness issued at a price that is less than the principal amount thereof shall be equal to the amount of the liability in respect thereof determined in accordance with the Accounting Principles;
- (g) the principal amount of Indebtedness outstanding under any paragraph of Clause 29.2 (*Other Permitted Indebtedness*), including for the purposes of any determination of the “Incremental Facilities Amount,” shall be determined after giving effect to the application of the proceeds of any such Indebtedness Incurred to refinance any such other Indebtedness and disregarding any increase in cash resulting therefrom pending its application in accordance with the envisaged use of proceeds;
- (h) if any Indebtedness is Incurred to refinance Indebtedness initially Incurred in reliance on a basket measured by reference to a percentage of Consolidated EBITDA at the time of Incurrence, and such refinancing would cause the percentage of Consolidated EBITDA restriction to be exceeded if calculated based on the Consolidated EBITDA on the date of such refinancing, such percentage of Consolidated EBITDA restriction shall not be deemed to be exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced, plus the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing; and
- (i) notwithstanding anything herein to the contrary, Indebtedness Incurred by the Borrowers on the Closing Date under this Agreement or pursuant to a Revolving Facility shall be classified as Incurred under paragraph (a) of Clause 29.2 (*Other Permitted Indebtedness*) and not under clause 29.1 (*Ratio Debt*) and shall not be permitted to be reclassified.

29.4 **Currency Conversion**

For purposes of determining compliance with any Base Currency denominated restriction on the Incurrence of Indebtedness denominated in a currency other than the Base Currency, the Base Currency Equivalent principal amount of such Indebtedness shall be calculated on the date that such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of revolving or deferred draw Indebtedness, *provided that*:

- (a) the Base Currency Equivalent principal amount of any such Indebtedness outstanding on the Closing Date shall be calculated based on the relevant currency exchange rate in effect on the Closing Date;
- (b) if such Indebtedness is Incurred to refinance other Indebtedness denominated in a currency other than the Base Currency (or in a different currency from such Indebtedness so being Incurred), and such refinancing would cause the applicable Base Currency denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Base Currency denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed (x) the outstanding or committed principal amount (whichever is higher) of such Indebtedness being refinanced plus (y) the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing; and
- (c) the Base Currency Equivalent principal amount of Indebtedness denominated in a currency other than the Base Currency and Incurred pursuant to this Agreement shall be calculated based on the relevant currency exchange rate in effect on, at the Company's option, (x) the Closing Date, (y) any date on which any of the respective commitments under this Agreement shall be reallocated between or among facilities or sub-facilities thereunder, or on which such rate is otherwise calculated for any purpose thereunder, or (z) the date of such Incurrence and the term "Base Currency Equivalent" shall be construed accordingly. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

29.5 Restriction on Incurrence

Notwithstanding Clause 29.1 (*Ratio Debt*) and Clause 29.2 (*Other Permitted Indebtedness*):

- (a) no person shall Incur any Subordinated Indebtedness, Junior Secured Indebtedness or Pari Passu Indebtedness:
 - (i) where an Event of Default (or, in the case of Subordinated Indebtedness, Junior Secured Indebtedness or Pari Passu Indebtedness being Incurred to fund a Limited Condition Acquisition, a Major Default) is continuing or would exist at the time the Subordinated Indebtedness, Junior Secured Indebtedness or Pari Passu Indebtedness is Incurred; or
 - (ii) which provides for a maturity date or weighted average life to maturity earlier than the Termination Date in respect of an original Facility B Loan or shorter than the remaining weighted average life to maturity of an original Facility B Loan, as the case may be (other than (x) Permitted Hedging Transactions, and (y) an earlier maturity date and/or shorter weighted average life to maturity for customary bridge financings which are subject to customary conditions and, would either be automatically converted into or required to be exchanged for permanent financing which does not provide for an earlier maturity date or a shorter weighted average life to maturity than the Termination Date in respect of an original Facility B Loan or the remaining weighted average life to maturity of an original Facility B Loan, as applicable);

- (b) any Pari Passu Indebtedness, Junior Secured Indebtedness or Subordinated Indebtedness incurred in accordance with this Agreement shall be subject to the Intercreditor Agreement or an Other Intercreditor Agreement;
- (c) the aggregate principal amount that may be Incurred under this Clause 29 (*Limitation on Indebtedness*) to finance the acquisition of entities with negative earnings before interest, depreciation and amortisation (as determined in good faith by the Parent) may not exceed £15,000,000;
- (d) the aggregate principal amount of Indebtedness that may be Incurred by members of the Group that are not Obligors to persons other than the Parent or any Restricted Subsidiary may not at any time outstanding on or after 120 days after the Closing Date exceed ~~the greater of £15,000,000 and 45 per cent. of Consolidated EBITDA,~~ *plus*, in the event of any refinancing of such Indebtedness, the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) Incurred or payable in connection with such refinancing; and
- (e) the aggregate principal amount of Special Purpose Financing and outstanding at any one time may not exceed £5,000,000.

29.6 Incurrence of additional Indebtedness

- (a) In this Clause 29.6 “**Additional Senior Secured Financing**”, “**Additional Senior Secured Finance Documents**”, “**Credit Facility**”, “**Finco**”, “**Senior Secured Notes**”, “**Senior Secured Notes Indenture**”, “**Unsecured Notes**”, “**Unsecured Notes Financing**” and “**Unsecured Notes Indenture**” shall have the meaning give to such terms in the Intercreditor Agreement.
- (b) Notwithstanding any other provision of this Agreement and without prejudice to the right of the Group to Incur Indebtedness and grant Security Interests as otherwise permitted under the Senior Finance Documents:
 - (i) *Credit Facilities*: The terms of any other Credit Facility which is to be an Additional Senior Secured Financing shall comply with the following conditions:
 - (A) any term Indebtedness Incurred pursuant to the Credit Facility is Incurred by the Parent or the Company;
 - (B) the scheduled maturity of any Credit Facility shall be no earlier than the Termination Date applicable to any outstanding Term Facility (as at the date the relevant Credit Facility is entered into);
 - (C) the covenants and events of default contained in the Credit Facility Documents shall be of a type generally consistent with, or otherwise not materially less favourable (taken as a whole) to the Group than those customary in the relevant market for equivalent financings at the relevant date taking into account market conditions and the operations, size and financial condition of the Group (which determination may be made in the good faith judgement of the Parent);
 - (D) the requirements set out in the Intercreditor Agreement as to guarantors and Security in respect of the Credit Facility are met; and

- (E) the Parent has certified in writing to the Agent that either no Event of Default has occurred and is continuing (as at the date the relevant Credit Facility is entered into) or, if an Event of Default has occurred and is continuing (as at the date the relevant Credit Facility is entered into), that immediately following the incurrence of the Indebtedness under the relevant Credit Facility no Event of Default will be continuing and the incurrence of the relevant Indebtedness will not, on a *pro forma* basis, result in an increase in Consolidated Senior Secured Indebtedness except in an amount not exceeding the aggregate amount of the fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) in connection with such incurrence;
- (ii) *Senior Secured Notes*: The terms of any Senior Secured Notes which are to be an Additional Senior Secured Financing shall comply with the following conditions:
- (A) the Indebtedness Incurred pursuant to the Senior Secured Notes is Incurred by the Parent or the Company;
 - (B) there must be no scheduled or mandatory principal payments under the Senior Secured Notes until on or after the Termination Date in respect of any outstanding Term Facility (as at the date of the relevant Senior Secured Notes Indenture) other than customary optional redemption, change of control, asset sale, escrow or mandatory redemption or prepayment provisions;
 - (C) the covenants and events of default contained in the Additional Senior Secured Finance Documents shall be of a type generally consistent with, or otherwise not materially less favourable (taken as a whole) to the Group than those customary in the relevant market for equivalent financings at the relevant date taking into account market conditions and the operations, size and financial condition of the Group (which determination may be made in the good faith judgement of the Parent);
 - (D) the requirements set out in the Intercreditor Agreement as to guarantors and Security in respect of the relevant Senior Secured Notes are met; and
 - (E) the Parent has certified in writing to the Agent that either no Event of Default has occurred and is continuing (as at the date the relevant Senior Secured Notes Indenture is entered into) or, if an Event of Default has occurred and is continuing (as at the date the relevant Senior Secured Notes Indenture is entered into), that immediately following the incurrence of the Indebtedness under the relevant Senior Secured Notes Indenture no Event of Default will be continuing and the incurrence of the relevant Indebtedness will not, on a *pro forma* basis, result in an increase in Consolidated Senior Secured Indebtedness except in an amount not exceeding the aggregate amount of the fees, underwriting discounts, premiums and other costs and expenses (including accrued and unpaid interest) in connection with such incurrence;

(iii) *Second Lien Facilities or Second Lien Notes:* The terms of any Second Lien Facility or Second Lien Notes (as defined in the Intercreditor Agreement) shall comply with the following conditions:

- (A) the Indebtedness Incurred pursuant to any Second Lien Facility or Second Lien Notes (each, as defined in the Intercreditor Agreement) is Incurred by the Parent or the Company.
- (B) the scheduled maturity of any Second Lien Facility (as defined in the Intercreditor Agreement) shall be no earlier than the Termination Date applicable to any outstanding Term Facility (as at the date the relevant Second Lien Facility (each, as defined in the Intercreditor Agreement) is entered into);
- (C) there must be no scheduled payments of principal under the Second Lien Notes (as defined in the Intercreditor Agreement) until on or after the Termination Date in respect of any outstanding Term Facility (as at the date of the relevant Second Lien Notes Indenture) other than customary optional redemption, change of control, asset sale, escrow or mandatory redemption or prepayment provisions;
- (D) the requirements set out in the Intercreditor Agreement as to guarantors and Security in respect of the relevant Second Lien Facility or Second Lien Notes (each, as defined in the Intercreditor Agreement) are met; and
- (E) the Parent has certified in writing to the Agent that:
 - (I) subject to sub-paragraph (II) no Event of Default will occur as a result of the incurrence of the Indebtedness under, or granting of Security Interests in respect of, the relevant Second Lien Facility or Second Lien Notes (each, as defined in the Intercreditor Agreement); or
 - (II) where such Indebtedness is incurred for the purpose of financing a Limited Condition Acquisition, no Major Default will occur as a result of the incurrence of the Indebtedness under, or granting of Security Interests in respect of, the relevant Second Lien Facility or Second Lien Notes (each, as defined in the Intercreditor Agreement);

(iii) *Unsecured Notes:* The terms of any Unsecured Notes which are to be an Unsecured Notes Financing shall comply with the following conditions:

- (A) the issuer of the Unsecured Notes is Finco;
- (B) there must be no scheduled or mandatory principal payments under the Unsecured Notes until on or after the Termination Date in respect of any Term Facility (as at the date of the relevant Unsecured Notes Indenture) other than customary optional redemption, change of control, asset sale and mandatory redemption provisions;
- (C) the requirements set out in the Intercreditor Agreement as to guarantors and security of the relevant Unsecured Notes are met; and

- (D) the Parent has certified in writing to the Agent that:
- (I) subject to sub-paragraph (II) no Event of Default will occur as a result of the incurrence of the Indebtedness under, or granting of Security Interests in respect of, the relevant Unsecured Notes; or
 - (II) where such Indebtedness is incurred for the purpose of financing a Limited Condition Acquisition, no Major Default will occur as a result of the incurrence of the Indebtedness under the relevant Unsecured Notes.

30. LIMITATION ON RESTRICTED PAYMENTS

30.1 Limitation on payments and investments

The Parent shall not, and shall not permit any member of the Group, directly or indirectly, to:

- (a) declare or pay any dividend or make any distribution or redeem any of its share capital, share premium reserve or other reserve on or in respect of its Share Capital (including any such payment in connection with any merger or consolidation to which the Parent is a party) except:
 - (i) dividends or distributions payable solely in Share Capital of the Parent (other than Disqualified Share Capital); and
 - (ii) dividends or distributions payable to the Parent or any Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to other holders of its Share Capital on no more than a *pro rata* basis, measured by value provided that in the case of any such pro rata dividend or distribution to other holders of Preferred Share Capital in respect of any Group LTIP, such dividend or distribution is permitted by Clause 30.2 (*Permitted Payments*) or not prohibited by this Clause 30.1 (*Limitation on Payments and Investments*) (other than pursuant to this paragraph (a)(ii)));
- (b) purchase, redeem, retire or otherwise acquire for value any Share Capital of the Parent held by persons other than the Parent or a Restricted Subsidiary (other than any acquisition of Share Capital deemed to occur upon the exercise of options if such Share Capital represents a portion of the exercise price thereof);
- (c) pay or prepay principal, interest or otherwise on the Subordinated Shareholder Funding (other than payment of interest by increasing the principal amount of such Subordinated Shareholder Funding) or otherwise purchase, repurchase, redeem, defease or otherwise acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment or Subordinated Shareholder Funding;
- (d) voluntarily purchase, repurchase, redeem, defease or otherwise voluntarily acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Indebtedness and any Indebtedness Incurred pursuant to paragraph (b) of Clause 29.2 (*Limitation on Indebtedness*);
- (e) pay, prepay, repay, redeem or discharge any Second Lien Liabilities in relation to any Second Lien Financing (each as defined in the Intercreditor Agreement) other than:

- (i) any payment permitted under the terms of the Intercreditor Agreement; or
 - (ii) any prepayment made when the Consolidated Senior Secured Leverage Ratio (after taking account of the relevant prepayment) is equal to or less than 4.25:1.00 *provided that* a pro rata prepayment of the Initial Senior Facilities is made simultaneously with such prepayment; or
- (f) make any Investment, other than a Permitted Investment, in any person,

(any such dividend, distribution, payment, repayment, purchase, repurchase, redemption, discharge, defeasance, other acquisition or retirement or Investment, as referred to in paragraphs (a) to (e) above, being referred to as a “**Restricted Payment**”); provided that the Parent or any member of the Group may make any Investment if, at the time the Parent or such Restricted Subsidiary makes such ~~Restricted Payment~~Investment, after giving effect thereto:

- (i) ~~an~~no Event of Default shall have occurred and be continuing (or would result therefrom);
- (ii) the Consolidated Total Leverage Ratio would not, on a *pro forma* basis, exceed 4.25:1.00; ~~and~~and
- (iii) the aggregate amount of such ~~Restricted Payment~~Investment and all other ~~Restricted Payments~~Investments (the amount so expended, if other than in cash, to be as determined in good faith by the Board of Directors of the Parent, whose determination shall be conclusive and evidenced by a resolution of the Board of Directors of the Parent) declared or made subsequent to the Closing Date and then outstanding would not exceed, without duplication, the sum of:
 - (A) 50.0 per cent. of the Consolidated Net Income accrued during the period (treated as one accounting period) beginning on the first day of the Financial Quarter in which the Closing Date occurs to the end of the most recent Financial Quarter ending prior to the date of such Restricted Payment for which consolidated financial statements of the Parent are available (or, in case such Consolidated Net Income shall be a negative number, 100.0 per cent. of such negative number);
 - (B) the aggregate Net Cash Proceeds and the fair value (as determined in good faith by the Parent, which determination shall be conclusive in the absence of manifest error) of property or assets received (x) by the Parent as capital contributions to the Parent after the Closing Date or from the issuance or sale (other than to a Restricted Subsidiary) of its Share Capital (other than Disqualified Share Capital) after the Closing Date or from Subordinated Shareholder Funding after the Closing Date (in each case, other than Excluded Contributions, Contribution Amounts and Cure Amounts) or (y) by the Parent or any Restricted Subsidiary from the Incurrence by the Parent or any Restricted Subsidiary after the Closing Date of Indebtedness that shall have been converted into or exchanged for Share Capital of the Parent (other than Disqualified Share Capital) or Subordinated Shareholder Funding or Share Capital of any Parent Holdco, plus the amount of any cash and the fair value (as determined in good faith by the Parent) which determination shall be conclusive in the absence of manifest error of any property or assets,

received by the Parent, or any Restricted Subsidiary upon such conversion or exchange;

- (C) (1) the aggregate amount of cash and the fair value (as determined in good faith by the Parent, which determination shall be conclusive in the absence of manifest error) of any property or assets received from dividends, distributions, interest payments, return of capital, repayments of Investments or other transfers of assets to the Group from any Unrestricted Subsidiary, including dividends or other distributions related to dividends or other distributions made pursuant to paragraph (i) of Clause 30.2 (*Permitted Payments*), plus (2) the aggregate amount resulting from the redesignation of any Unrestricted Subsidiary as a Restricted Subsidiary (valued in each case as provided in the definition of “Investment”); and
- (D) in the case of any disposal or repayment of any Investment constituting a Restricted Payment (without duplication of any amount deducted in calculating the amount of Investments at any time outstanding included in the amount of Restricted Payments), the aggregate amount of cash and the fair value (as determined in good faith by the Parent, which determination shall be conclusive in the absence of manifest error) of any property or assets received by the Parent or a Restricted Subsidiary with respect to all such dispositions and repayments.

30.2 Permitted Payments

The provisions of Clause 30.1 (*Limitation on payments and investments*) do not prohibit any of the following:

- (a)
 - (i) any payment, prepayment, purchase, redemption, repurchase, defeasance or other acquisition or retirement of Share Capital of the Parent (“**Treasury Shares**”) or any Subordinated Indebtedness or any Subordinated Shareholder Funding made by exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the issuance or sale of, Share Capital of the Parent (other than Disqualified Share Capital and other than Share Capital issued or sold to a Subsidiary) (“**Refunding Share Capital**”) or a capital contribution to the Parent or Subordinated Shareholder Funding, in each case other than Excluded Contributions, Contribution Amounts and Cure Amounts,

provided that the Net Cash Proceeds from such issuance, sale or capital contribution shall be excluded in subsequent calculations under paragraph (iii)(B) of Clause 30.1 (*Limitation on payments and investments*); and

- (ii) if, immediately prior to such acquisition or retirement of such Treasury Shares, dividends thereon were permitted pursuant to paragraph (k) below, dividends on such Refunding Share Capital in an aggregate amount per annum not exceeding the aggregate amount per annum of dividends so permitted on such Treasury Share Capital;

- (b) any dividend paid or redemption made within 60 days after the date of declaration or giving notice thereof, as applicable, if at such date of declaration or giving notice, such dividend or redemption would have complied with this Clause 30;
- (c) Investments or other Restricted Payments (x) in an aggregate amount outstanding at any time not to exceed the amount of Excluded Contributions or (y) (without duplication of sub-paragraph (a)(i)) in an amount equal to the lesser of (a) the Net Proceeds from an asset disposition in respect of property or assets acquired after the Closing Date, if and to the extent the acquisition of such property or assets was financed with Excluded Contributions and (b) an amount equal to the amount of Excluded Contributions applied to finance such acquisitions of property or assets;
- (d) (i) repurchases or acquisitions of Share Capital of any Parent Holdco or the Parent or the Share Capital or other debt or equity securities of any Management Holdco (including in each case any options, warrants or other rights in respect thereof) by the Parent (ii) loans, advances, dividends or distributions by the Parent to any Parent Holdco (whether made directly or indirectly) or to any Management Holdco to permit any Parent Holdco to repurchase or otherwise acquire its Share Capital or to permit any Management Holdco to repurchase or otherwise acquire its or any other Management Holdco's Share Capital or other debt or equity securities (including in each case any options, warrants or other rights in respect thereof), or (iii) payments by the Parent to repurchase or otherwise acquire Share Capital of any Parent Holdco or the Parent or the Share Capital or other debt or equity securities of any Management Holdco (including in each case any options, warrants or other rights in respect thereof), in each case from Management or Management Investors (including any repurchase or acquisition by reason of the Parent, or any Parent Holdco or any Management Holdco retaining any Share Capital, other debt or equity securities, option, warrant or other right in respect of tax withholding obligations, and any related payment in respect of any such obligation),

provided that such payments, loans, advances, dividends or distributions shall not exceed an amount (net of repayments of any such loans or advances) equal to (x)(1) ~~£10,000,000~~ £7,000,000 plus (2) £500,000 multiplied by the number of calendar years that have commenced since the Closing Date, plus (y) the Net Cash Proceeds received by the Parent since the Closing Date from, or as a capital contribution from, the issuance or sale to Management or Management Investors of Share Capital or other debt or equity securities or the Incurrence of Subordinated Shareholder Funding in an amount equal to the proceeds of issuance or sale to Management Investors of Share Capital or other debt or equity securities in a Parent Holdco or a Management Holdco (including in each case any options, warrants or other rights in respect thereof) or the Parent, to the extent such Net Cash Proceeds are not included in any calculation under paragraph (iii)(B)(x) of Clause 30.1 (*Limitation on payments and investments*), plus (z) the cash proceeds of key man life insurance policies received by the Parent or any Restricted Subsidiary (or by any Parent Holdco and contributed to the Parent) since the Closing Date to the extent such cash proceeds are not included in any calculation under paragraph (iii)(A) of Clause 30.1 (*Limitation on payments and investments*), and *provided further that* any cancellation of Indebtedness owing to the Parent or any Restricted Subsidiary by any Management or Management Investor in connection with any repurchase or other acquisition of Share Capital or other debt or equity securities (including in each case any options, warrants or other rights in respect thereof) from any Management or Management Investor shall not constitute a Restricted Payment for purposes of this Clause 30 or any other provision of this Agreement;

- (e) the payment by the Parent of, or loans, advances, dividends or distributions by the Parent to any Parent Holdco to pay, dividends on the common shares, units or equity of the Parent or any Parent Holdco following a public offering of such common

shares, units or equity in an amount not to exceed in any Financial Year of the Parent, the greater of (x) 6 per cent. of the aggregate gross proceeds received by the Parent (whether directly, or indirectly through a contribution to common equity capital) in or from such public offering and (y) 6 per cent. of Market Capitalisation, provided that after giving *pro forma* effect to such loans, advances, dividends or distribution, the Consolidated Total Leverage Ratio shall be equal to or less than 3.00:1.00;

- (f) Restricted Payments (including loans or advances) in an aggregate amount outstanding at any time not exceeding an amount (net of repayments of any such loans or advances) equal to the greater of (i) £3,750,000 and (ii) 10 per cent. of Consolidated EBITDA;
- (g) loans, advances, dividends or distributions to any Parent Holdco or other payments by the Parent or any Restricted Subsidiary (x) to satisfy or permit any Parent Holdco to satisfy obligations under the Transaction Documents (other than in respect of the Second Lien Finance Documents (as defined in the Intercreditor Agreement) to the extent otherwise prohibited by this Agreement or the Intercreditor Agreement), (y) pursuant to any Permitted Tax Consolidation Arrangement Transaction, or (z) to pay or permit any Parent Holdco to pay (but without duplication) any Parent Expenses or any Related Taxes;
- (h) payments by the Parent, or loans, advances, dividends or distributions by the Parent to any Parent Holdco to make payments, to holders of Share Capital of the Parent or any Parent Holdco in substitution for the issuance of fractional shares of such Share Capital;
- (i) dividends or other distributions of, or Investments paid for or made with, Share Capital, Indebtedness or other securities of Unrestricted Subsidiaries;
- (j) any Restricted Payment made pursuant to or in connection with the Transactions but excluding, for the avoidance of doubt any payment of Second Lien Liabilities (as defined in the Intercreditor Agreement);
- (k)
 - (i) dividends on any Designated Preferred Shares of the Parent, *provided that* at the time of such issuance and after giving effect thereto on a *pro forma* basis, the Consolidated Total Leverage Ratio would not exceed 2.75: 1.00;
 - (ii) loans, advances, dividends or distributions to any Parent Holdco to permit dividends on any Designated Preferred Shares of any Parent Holdco if the net proceeds of the issuance of such Designated Preferred Shares have been contributed to the Parent or any of its Restricted Subsidiaries in cash, *provided that* the aggregate amount of all loans, advances, dividends or distributions paid pursuant to this paragraph (ii) shall not exceed the net proceeds of such issuance of Designated Preferred Shares received by or contributed to the Parent or any of its Restricted Subsidiaries; or
 - (iii) any dividend on Refunding Share Capital of the Parent that is Preferred Share Capital, *provided that* at the time of the declaration of such dividend and after giving effect thereto on a *pro forma* basis, the Consolidated Total Leverage Ratio would not exceed 2.75: 1.00;
- (l) distributions or payments of Special Purpose Financing Fees;

- (m) the declaration and payment of dividends to holders of any class or series of Disqualified Share Capital, or of any Preferred Share Capital of a Restricted Subsidiary, Incurred in accordance with the terms of Clause 29.1 (*Ratio Debt*);
- (n) any purchase, redemption, repurchase, defeasance or other acquisition or retirement of any Subordinated Indebtedness or Second Lien Liabilities (as defined in the Intercreditor Agreement) (v) made in exchange for, or out of the proceeds of the Incurrence of, (1) Refinancing Indebtedness Incurred in compliance with Clause 29.1 (*Ratio Debt*) or (2) new Indebtedness of any member of the Group, Incurred in compliance with Clause 29.1 (*Ratio Debt*), so long as such new Indebtedness satisfies all requirements for “Refinancing Indebtedness” set out in the definition of that term applicable to a refinancing of such Subordinated Indebtedness or Second Lien Liabilities (as defined in the Intercreditor Agreement), (w) from the Net Proceeds of Disposals (or an equivalent amount) (other than from the Net Proceeds of a Disposal falling under paragraphs (a), (b) (other than pursuant to paragraph (i) of the definition of “Permitted Asset Disposal”, provided that such Disposal is not to a member of the Group), (e) and (f) of the definition of Excluded Disposal Proceeds) provided that the Parent shall have complied with Clause 32.1 (*Restriction on Disposals*), to the extent such provision applies, prior to purchasing, redeeming, repurchasing, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness or Second Lien Liabilities, (x) following the occurrence of a Change of Control (or other similar event described in the documentation for such Subordinated Indebtedness or Second Lien Liabilities as applicable) as a “change of control”) to the extent such payment is permitted under the Intercreditor Agreement or an Other Intercreditor Agreement or (y) constituting Acquired Indebtedness;
- (o) Investments in Unrestricted Subsidiaries in an aggregate amount outstanding at any time not exceeding an amount equal to the greater of £5,000,000 and 14 per cent. of Consolidated EBITDA;
- (p) any Restricted Payment in the form of dividends, distributions or redemptions of share capital or repayment of Subordinated Shareholder Funding, *provided that* on a *pro forma* basis after giving effect to such Restricted Payment the Consolidated Total Leverage Ratio would not exceed 2.75:1.00;
- (q) any Restricted Payments (including, without limitation, any investments) other than dividends, distributions or redemptions of share capital or repayment of Subordinated Shareholder Funding, provided that, on a *pro forma* basis after giving effect to such Restricted Payment the Consolidated Total Leverage Ratio would not exceed ~~3.50~~3.25:1.00; and
- (r) Restricted Payments in cash to pay or permit any Parent Holdco to pay any amounts payable in respect of guarantees, indemnities, obligations in respect of earn-outs or other purchase price adjustments, or similar obligations, incurred in connection with the acquisition or disposal of any business, assets or person, as long as such business, assets or person have been acquired by or disposed of by the Parent or a Restricted Subsidiary, or such business, assets or person (or in the case of a disposition, the Net Proceeds thereof) have been contributed to the Parent or a Restricted Subsidiary,

provided that (x) in the case of paragraphs (b), (e) and (h) of Clause 30.2 (*Permitted Payments*), the net amount of any such Permitted Payment shall be included in subsequent calculations of the amount of Restricted Payments, (y) in all cases other than pursuant to (x) above, the net amount of any such Permitted Payment shall be excluded in subsequent calculations of the amount of Restricted Payments, and (z) with respect to paragraphs (e), (f)

~~and~~, (p) and (q) of Clause 30.2 (*Permitted Payments*) only, no Event of Default shall have occurred and be continuing at the time of (or would result from) any such Permitted Payment after giving effect thereto,

and, *provided further that* in the event that any Investment or other Restricted Payment meets the criteria of more than one of the categories of permitted payments described in paragraph (iii) of Clause 30.1 (*Limitation on payments and investments*) or Clause 30.2 (*Permitted Payments*), the Parent, in its sole discretion, may classify such Investment or Restricted Payment and may include the amount and type of such Investment or Restricted Payment in one or more of the categories of permitted payments permitted by paragraph (iii) of Clause 30.1 (*Limitation on payments and investments*) or Clause 30.2 (*Permitted Payments*) (including in part under one such category and in part under one or more other category), *provided that* (if the Parent shall so determine) any Investment or other Restricted Payment made pursuant to one or more categories of permitted payments under Clause 30.2 (*Permitted Payments*) shall cease to be deemed made under such provision but shall be deemed made pursuant to paragraph (iii) of Clause 30.1 (*Limitation on payments and investments*) from and after the first date on which such Investment or Restricted Payment could have been made under paragraph (iii) of Clause 30.1 (*Limitation on payments and investments*) without reliance on such other provision.

30.3 **Restriction on certain investments**

Notwithstanding Clause 30.1 (*Limitation on payments and investments*) and Clause 30.2 (*Permitted Payments*):

- (a) where any Restricted Payment is made by way of investment in a person that, upon making such investment, becomes a member of the Group or, as a result of such investment, is merged or consolidated with or into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, any member of the Group, such person must undertake the same, similar or complementary businesses to that carried out by the Group; and
- (b) no person shall make any Restricted Payment in respect of an acquisition where:
 - (i) in the case of any acquisition that is a Limited Condition Acquisition, a Major Default exists on the date a legally binding commitment to make such acquisition is entered into; and
 - (ii) in the case of any other acquisition, an Event of Default is continuing at the time such acquisition is made or would, in the Parent's reasonable determination, reasonably be likely to arise as a result of such acquisition.

31. **LIMITATION ON RESTRICTIVE AGREEMENTS**

31.1 **No Restrictive Agreements**

The Parent will not, and will not permit any member of the Group to, create or otherwise cause to exist or become effective any encumbrances (other than those arising without its consent) or restriction on the ability of any member of the Group (other than any Dormant Subsidiary or joint venture) to:

- (a) pay dividends or make any other distributions on its Share Capital or pay any Indebtedness or other obligations owed to the Parent;
- (b) make any loans or advances to the Parent; or

- (c) transfer any of its property or assets to the Parent (*provided that* dividend or liquidation priority between classes of Share Capital, or subordination of any obligation (including the application of any standstill periods thereto) to any other obligation, will not be deemed to constitute such an encumbrance or restriction).

31.2 Permitted Restrictions

Clause 31.1 (*No Restrictive Agreements*) does not apply to any encumbrance or restriction:

- (a) pursuant to an agreement or instrument in effect at or entered into on the Closing Date or pursuant to the Senior Finance Documents, any Second Lien Finance Documents (as defined in the Intercreditor Agreement) any Other Intercreditor Agreement or any Additional Obligations Documents;
- (b) pursuant to any agreement or instrument of a person, or relating to Indebtedness or Share Capital of a person, which person is acquired by or merged or consolidated with or into the Company or any Restricted Subsidiary, or which agreement or instrument is assumed by the Company or any Restricted Subsidiary in connection with an acquisition of assets from such person or any other transaction entered into in connection with any such acquisition, merger or consolidation, as in effect at the time of such acquisition, merger, consolidation or transaction (except to the extent that such Indebtedness was Incurred to finance, or otherwise in connection with, such acquisition, merger, consolidation or transaction),

provided that for purposes of this paragraph (b), if a person other than the Company is the Successor Obligor with respect thereto, any Subsidiary thereof or agreement or instrument of such person or any such Subsidiary shall be deemed acquired or assumed, as the case may be, by the Company or a Restricted Subsidiary, as the case may be, when such person becomes such Successor Obligor;

- (c) pursuant to an agreement or instrument (a “**Refinancing Agreement**”) effecting a refinancing of Indebtedness Incurred or outstanding pursuant or relating to, or that otherwise extends, renews, refunds, refinances or replaces, any agreement or instrument referred to in paragraph (a) or (b) above or in this paragraph (c) (an “**Initial Agreement**”) or that is, or is contained in, any amendment, supplement or other modification to an Initial Agreement or Refinancing Agreement (an “**Amendment**”),

provided that the encumbrances and restrictions contained in any such Refinancing Agreement or Amendment taken as a whole are not materially less favourable to the Lenders than encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such Refinancing Agreement or Amendment relates (as determined in good faith by the Parent, which determination shall be conclusive in the absence of manifest error);

- (d)
 - (i) pursuant to any agreement or instrument that restricts in a customary manner (as determined by the Parent in good faith, which determination shall be conclusive, in the absence of manifest error) the assignment or transfer of any property or asset, or the subletting, assignment or transfer thereof;
 - (ii) by virtue of any transfer of, agreement to transfer, option or right with respect to, or Security Interest on, any property or assets of any member of the Group not otherwise prohibited by this Agreement;

- (iii) contained in mortgages, pledges or other security agreements securing Indebtedness or other obligations of any member of the Group to the extent restricting the transfer of the property or assets subject thereto;
 - (iv) pursuant to customary provisions (as determined by the Parent in good faith, which determination shall be conclusive, in the absence of manifest error) restricting the disposal of real property interests set out in any reciprocal easement agreements of the Parent or any Restricted Subsidiary;
 - (v) pursuant to Purchase Money Obligations that impose encumbrances or restrictions on the property or assets so acquired;
 - (vi) on cash or other deposits or on inventory imposed by customers or suppliers under agreements entered into in the ordinary course of day to day business;
 - (vii) pursuant to customary provisions contained in agreements and instruments entered into in the ordinary course of day to day business (including but not limited to leases and licenses) or in joint venture and other similar agreements or in shareholder, partnership, limited liability company and other similar agreements in respect of non-wholly owned Restricted Subsidiaries;
 - (viii) that arises or is agreed to in the ordinary course of day to day business and does not detract from the value of property or assets of any member of the Group in any manner material to the relevant member of the Group;
 - (ix) pursuant to Permitted Hedging Transactions, Bank Products Obligations or any Ancillary Document; or
 - (x) that arises under the terms of the documentation governing any factoring agreement or any similar arrangements that in the good faith determination of the relevant member of the Group (which determination shall be conclusive in the absence of manifest error) are necessary or appropriate to effect such factoring agreement or any similar arrangements;
- (e) with respect to any agreement for the direct or indirect disposal of Share Capital of any person, property or assets, imposing restrictions with respect to such person, Share Capital, property or assets pending the closing of such disposal;
- (f) by reason of any applicable law, rule, regulation or order, or required by any regulatory authority having jurisdiction over any member of the Group or any of their businesses;
- (g) pursuant to an agreement or instrument:
- (i) relating to any Indebtedness permitted to be Incurred subsequent to the Closing Date pursuant to Clause 29 (*Limitation on Indebtedness*) (x) if the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favourable to the Lenders than the encumbrances and restrictions contained in the Initial Agreements (as determined in good faith by the Parent, which determination shall be conclusive in the absence of manifest error), or (y) if such encumbrance or restriction is not materially more disadvantageous to the Lenders than is customary in comparable financings (as determined in good faith by the Parent, which determination shall be conclusive in the absence of manifest error) and either (1) the Parent determines in good faith (which determination shall be conclusive in the absence of manifest error) that such encumbrance

or restriction will not materially affect the Group's ability to create and maintain the Transaction Security and make principal or interest payments on the Loans or (2) such encumbrance or restriction applies only if a default occurs in respect of a payment or financial covenant relating to such Indebtedness; or

- (ii) relating to (A) any Indebtedness of or a Financing Disposition by or to or in favour of any Special Purpose Entity (B) in connection with a transaction described in paragraph (d) of the definition of "Permitted Asset Disposal";
- (h) pursuant to any agreement relating to intercreditor arrangements and related rights and obligations, to or by which the Lenders and/or the Agent, the Security Agent or any other agent, trustee or representative on their behalf may be party or bound at any time or from time to time, and any agreement providing that in the event that a Security Interest is granted for the benefit of the Secured Parties another person shall also receive a Security Interest, which Security Interest is permitted by Clause 34 (*Limitation on Security*); or
- (i) pursuant to any agreement governing or relating to Indebtedness and/or other obligations and liabilities secured by a Security Interest permitted by Clause 34 (*Limitation on Security*).

32. LIMITATION ON SALES OF ASSETS AND SHARES

32.1 Restriction on Disposals

The Parent will not, and will not permit any member of the Group to, make any Disposal unless:

- (a) the relevant member of the Group receives consideration (including by way of relief from or discharge of, or by any other person assuming responsibility for, any liabilities, contingent or otherwise) at the time of such Disposal at least equal to the Fair Market Value of the shares and assets subject to such Disposal as such Fair Market Value (on the date a legally binding commitment for such Disposal was entered into) may be determined (and shall be determined, to the extent such Disposal or any series of related Disposals involves aggregate consideration in excess of £5,000,000 and 15 per cent. of Consolidated EBITDA) in good faith by the Parent, whose determination shall be conclusive (including as to the value of all non cash consideration);
- (b) in the case of any Disposal (or series of related Disposals) having a fair market value (as determined by the Parent in good faith, which determination shall be conclusive in the absence of manifest error, as of the date on which a legally binding commitment for such Disposal was entered into) of £5,000,000 or more, at least 75 per cent. of the consideration therefore (excluding, in the case of a Disposal (or series of related Disposals), any consideration by way of relief from or discharge of, or by any other person assuming responsibility for, any liabilities, contingent or otherwise, that are not Indebtedness) received by the relevant member of the Group is in the form of cash; and
- (c) to the extent required by Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*), an amount equal to 100 per cent. of the Net Proceeds from such Disposal is applied by the Group as provided therein.

32.2 Permitted Asset Disposals

The provisions of Clause 32.1 (*Restriction on Disposals*) do not prohibit the making of any Permitted Asset Disposal.

32.3 Deemed Cash

For the purposes of paragraph (b) of Clause 32.1 (*Restriction on Disposals*), the following are deemed to be cash:

- (a) Temporary Cash Investments and Cash Equivalent Investments;
- (b) the assumption by the transferee of Indebtedness of the Parent (other than Disqualified Share Capital of the Parent, any Subordinated Shareholder Debt or Indebtedness owed by one member of the Group to another member of the Group) or any other member of the Group and the release of any member of the Group from all liability for the payment of the principal amount of such Indebtedness in connection with such Disposal;
- (c) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Disposal, to the extent that the members of the Group are released from any Guarantee of payment of the principal amount of such Indebtedness in connection with such Disposal;
- (d) securities received by any member of the Group from the transferee that are converted by such member of the Group into cash within 180 days;
- (e) consideration consisting of Indebtedness of any member of the Group (other than any Subordinated Shareholder Debt or Indebtedness owed by one member of the Group to another member of the Group) received after the Closing Date from persons who are not the Parent or any Restricted Subsidiary;
- (f) Additional Assets; and
- (g) any Designated Non-Cash Consideration received by any member of the Group in a Disposal having an aggregate Fair Market Value, taken together with all other Designated Non-Cash Consideration received pursuant to this paragraph (g), not to exceed an aggregate amount at any time outstanding equal to the greater of £5,000,000 and 14 per cent. of Consolidated EBITDA (with the Fair Market Value of each item of Designated Non-Cash Consideration being measured on the date a legally binding commitment for such Disposal (or, if later, for the payment of such item) was entered into and without giving effect to subsequent changes in value).

33. LIMITATIONS ON TRANSACTIONS WITH AFFILIATES

33.1 Affiliate Transaction Restriction

- (a) The Parent will not, and will not permit any member of the Group to, directly or indirectly, enter into or conduct any transaction or series of related transactions (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Parent (an “**Affiliate Transaction**”) involving aggregate consideration in excess of the greater of £5,000,000 and 14 per cent of Consolidated EBITDA unless:
 - (i) the terms of such Affiliate Transaction are not materially less favourable to the relevant member of the Group than those that could be obtained at the time in a transaction with a person who is not such an Affiliate; and

- (ii) if such Affiliate Transaction involves aggregate consideration in excess of the greater of £5,000,000 and 14 per cent of Consolidated EBITDA the terms of such Affiliate Transaction have been approved by a majority of the Board of Directors.
- (b) For the purposes of this Clause 33.1, any Affiliate Transaction shall be deemed to have satisfied the requirements set out in this Clause 33.1 if such Affiliate Transaction is approved by a majority of the Disinterested Directors or, in the event there are no Disinterested Directors, a fairness opinion is provided to the Agent by a nationally recognised appraisal or investment banking firm with respect to such Affiliate Transaction.

33.2 Permitted Affiliate Transactions

The provisions of Clause 33.1 (*Affiliate Transaction Restriction*) will not apply to:

- (a) any Restricted Payment Transaction (for the avoidance of doubt, other than Permitted Investments in entities that become Restricted Subsidiaries);
- (b)
 - (i) the entering into, maintaining or performance of any employment or consulting contract, collective bargaining agreement, benefit plan, programme or arrangement, related trust agreement or any other similar arrangement for or with any current or former management member, employee, officer or director or consultant of or to the Parent, any Restricted Subsidiary or any Parent Holdco entered into before or after the date of this Agreement in the ordinary course of day-to-day business, including vacation, health, insurance, deferred compensation, severance, retirement, savings or other similar plans, programmes or arrangements;
 - (ii) payments, compensation, performance of indemnification or contribution obligations, the making or cancellation of loans in the ordinary course of day-to-day business to any such management members, employees, officers, directors or consultants;
 - (iii) any issuance, grant or award of shares, options, other equity related interests or other securities, to any such management members, employees, officers, directors or consultants;
 - (iv) the payment of reasonable fees to directors of the Parent or any of its Subsidiaries or any Parent Holdco (as determined in good faith by the Parent, such Subsidiary or such Parent Holdco, which determination shall be conclusive in the absence of manifest error); or
 - (v) Management Advances and payments in respect thereof (or in reimbursement of any expenses referred to in the definition of such term);
- (c) any transaction between or among any of the Parent or one or more Restricted Subsidiaries, or one or more Special Purpose Entities under or in connection with a Special Purpose Financing;
- (d) any transaction arising out of agreements or instruments in existence on the Closing Date, details of which are set out in Schedule 19 (*Existing Affiliate Transactions*) or any amendment to any such agreement or instrument (provided that such amendment is not disadvantageous in any material respect in the good faith judgment of the

Parent, whose determination shall be conclusive, to the Lenders when taken as a whole as compared to the applicable agreement or instrument as in effect on the Closing Date), and any payments made pursuant thereto;

- (e) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, in each case in the ordinary course of business, which are fair to the Parent or the relevant Restricted Subsidiary in the reasonable determination of the Board of Directors or senior management of the Parent, or are on terms no less favourable than those that could reasonably have been obtained at such time from an unaffiliated party;
- (f)
 - (i) the execution, delivery and performance of any Permitted Tax Consolidation Arrangement Transaction and Transaction Document; and
 - (ii) payments to any Lovell Minnick Party (x) for any management, consulting, or advisory services or, in respect of financing, underwriting or placement services or other investment banking activities (if any) (or as may be approved by a majority of the Disinterested Directors), (y) in connection with any acquisition, disposition, merger, recapitalisation or similar transactions, which payments are made pursuant to the Transaction Documents or are approved by a majority of the Board of Directors in good faith (which determination shall be conclusive in the absence of manifest error), and (z) of all out-of-pocket expenses Incurred in connection with such services or activities;
- (g) the Transactions, all transactions in connection therewith (including but not limited to the financing thereof), and all fees and expenses paid or payable in connection with the Transactions, including the fees and out-of-pocket expenses of the Lovell Minnick Parties;
- (h) any issuance or sale of Share Capital (other than Disqualified Share Capital) of the Parent or Subordinated Shareholder Funding or Junior Capital or any capital contribution to the Parent;
- (i) any investment by any Lovell Minnick Party in securities of the Parent (and payment of out-of-pocket expenses Incurred by any Lovell Minnick Party in connection therewith) so long as such securities are being offered generally to other investors (other than the Lovell Minnick Parties) on the same or more favourable terms; and
- (j) the grant of any security over share capital, Indebtedness or other securities of any Unrestricted Subsidiary or joint venture in favour of lenders to support the Indebtedness or other obligations of such Unrestricted Subsidiary or joint venture, respectively, owed to such lenders.

34. LIMITATION ON SECURITY

34.1 Security Restriction

- (a) The Parent shall not, and shall not permit any member of the Group to, directly or indirectly, create or permit to exist any Security Interest on any of its property or assets (including Share Capital of any other person), whether owned on the Closing Date or thereafter acquired, securing any Indebtedness.

- (b) Paragraph (a) above shall not prohibit the grant of a Security Interest (a “**Non-Charged Property Security Interest**”) over any asset or property that does not, prior to the application of this Clause 34.1, form part of the Charged Property, *provided that* the Initial Senior Facilities Liabilities are equally and rateably secured with (or on a senior basis to, in the case such Non-Charged Property Security Interest secures any Subordinated Indebtedness or Junior Secured Indebtedness) the obligations secured by such Non-Charged Property Security Interest for so long as such obligations are so secured.
- (c) Any such Security Interest created in respect of the Initial Senior Facilities Liabilities pursuant to paragraph (b) above will be automatically and unconditionally released and discharged upon:
- (i) the release of the Non-Charged Property Security Interest or the discharge of the obligations to which it relates; or
 - (ii) any sale, exchange or transfer (other than a transfer constituting a transfer of all or substantially all of the assets of the Parent that is governed by the provisions of Clause 35 (*Limitation on Fundamental Changes*)) to any person not an Affiliate of the Parent of the property or assets secured by such Non-Charged Property Security Interest, or of all of the Share Capital held by the Parent or any other member of the Group in, or all or substantially all the assets of, any member of the Group creating such Non-Charged Property Security Interest.

34.2 Permitted Security

The restriction set out in paragraph (a) of Clause 34.1 (*Security Restriction*) will not apply to any Permitted Security.

35. LIMITATION ON FUNDAMENTAL CHANGES

35.1 Restriction on Merger

No Obligor (the “**Initial Obligor**”) will consolidate with or merge with or into, or convey, lease or otherwise transfer all or substantially all its assets to, any person, unless:

- (a) the resulting, surviving or transferee person (the “**Successor Obligor**”) will be a person organised and existing under the laws of the jurisdiction of incorporation or organisation of the Initial Obligor and the Successor Obligor (if not the Initial Obligor) will expressly assume all the obligations of the Initial Obligor under this Agreement and the other Senior Finance Documents to which it is a party by executing and delivering to the Agent and/or the Security Agent such documents or instruments in form reasonably satisfactory to the Agent and/or the Security Agent as may be required by the Agent and/or the Security Agent (acting reasonably) in order to effect such assumption of obligations;
- (b) if the Initial Obligor is the Parent or the Company, immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the Successor Obligor or any Restricted Subsidiary as a result of such transaction as having been Incurred by the Successor Obligor or such Restricted Subsidiary at the time of such transaction), no Default will have occurred and be continuing;
- (c) if the Initial Obligor is the Parent or the Company immediately after giving effect to such transaction, either (x) the Parent (or, if applicable, the Successor Obligor with respect thereto) could Incur at least £1.00 of additional Indebtedness under

Clause 29.1 (*Ratio Debt*) or (y) the Consolidated Total Leverage Ratio of the Parent (or, if applicable, the Successor Obligor) would equal or exceed the Consolidated Total Leverage Ratio immediately prior to giving effect to such transaction;

- (d) each Guarantor (other than any Guarantor that will be released from its obligations under Clause 23 (*Guarantee and Indemnity*) in connection with such transaction) shall have delivered such documents or instruments in form reasonably satisfactory to the Agent and/or the Security Agent, confirming its guarantee under Clause 23 (*Guarantee and Indemnity*) and, if applicable (but without prejudice to Clause 27.22 (*Further assurance*) or any equivalent provision in any Transaction Security Document), the Security granted by it pursuant to the Transaction Security Documents (unless such guarantee or Transaction Security will be discharged or terminated in connection with such transaction);
- (e) the Parent will have delivered to the Agent and Security Agent a certificate signed by a Responsible Officer and a legal opinion, each to the effect that such consolidation, merger or transfer complies with the provisions described in this Clause 35.1, *provided that* in giving such opinion such counsel may rely on such certificate of a Responsible Officer as to compliance with paragraphs (b) and (c) of this Clause 35.1 and as to any matters of fact; and
- (f) if the Initial Obligor is the Parent or the Company, the Agent and the Security Agent are satisfied (acting reasonably) that, after giving effect to such transaction, the Finance Parties continue to benefit from Security which is equivalent to the Transaction Security immediately prior to such transaction.

35.2 **Incurrence of Indebtedness upon Merger**

Any Indebtedness that becomes an obligation of an Obligor (or, if applicable, any Successor Obligor with respect thereto) or any other member of the Group (or that is deemed to be Incurred by any other member of the Group that becomes a member of the Group) as a result of any such transaction undertaken in compliance with this Clause 35, and any Refinancing Indebtedness with respect thereto, shall be deemed to have been Incurred in compliance with Clause 29 (*Limitation on Indebtedness*).

35.3 **Successors**

Upon any transaction under Clause 35.1 (*Restriction on Merger*) involving the Parent, the Company, a Borrower, the Obligors' Agent or any other Obligor in which the Parent, the Company, such Borrower, the Obligors' Agent or such Obligor (as applicable) is not the Successor Obligor, the successor to the Parent, the Company, such Borrower, the Obligors' Agent or such Obligor (as applicable) will, upon its accession as party to this Agreement and the other relevant Senior Finance Documents, succeed to, and be substituted for, and may exercise every right and power of, the Parent, the Company, such Borrower, the Obligors' Agent or such Obligor (as applicable) under the Senior Finance Documents, and shall become the "**Parent**", the "**Company**", the "**Obligors' Agent**" or an "**Obligor**" (as applicable) for all purposes of the Senior Finance Documents, and thereafter the predecessor Parent, Company, Borrower, Obligors' Agent or Obligor (as applicable) shall be discharged from all obligations and covenants under the Senior Finance Documents, and shall cease to constitute the "**Parent**", the "**Company**", the "**Obligors' Agent**" or an "**Obligor**" (as applicable) for all purposes of the Senior Finance Documents, except that the predecessor of any Obligor in the case of a lease of all or substantially all its assets will not be released from the obligation to pay the principal of and interest on the Term Loans.

36. LIMITATION ON LINES OF BUSINESS

The Parent shall not, and shall not permit any member of the Group to, directly or indirectly, enter into any business, either directly or through any member of the Group, except for those businesses of the same general type as those in which the Group is engaged in on the Closing Date or which are reasonably related thereto and any business related or complementary thereto.

37. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 37 is an Event of Default (save for Clause 37.18 (*Acceleration and Cancellation*), Clause 37.19 (*Loans Due on Demand*) and Clause 37.20 (*Clean-up Period*)).

37.1 Failure to pay

Any sum due from an Obligor under this Agreement (including, for the avoidance of doubt, any Accession Deed) or any Ancillary Facility is not paid at the time, in the currency and in the manner specified herein or therein unless such failure to pay relates to an interest payment or any other payment hereunder (not being a repayment of principal) and payment is made within five days of the due date.

37.2 Financial Covenant

The Parent fails duly to perform or comply with any of the obligations expressed to be assumed by it in Clause 26.1 (*Financial Covenant*) subject to the time period for the exercise of equity cure rights referred to in Clause 26.3 (*Debt Cure*) having first expired and such rights not having been exercised (a “**Financial Covenant Event of Default**”).

37.3 Other obligations

An Obligor fails duly to comply with:

- (a) Clause 25 (*Information Undertakings*), Clause 27.15 (*Holding Companies*), Clause 29 (*Limitation on Indebtedness*), Clause 30 (*Limitation on Restricted Payments*), Clause 31 (*Limitation on Restrictive Agreements*), Clause 32 (*Limitation on Sales of Assets and Shares*), Clause 33 (*Limitation on Transactions with Affiliates*), Clause 34 (*Limitation on Security*), Clause 35 (*Limitation on Fundamental Changes*) or Clause 36 (*Limitation on Lines of Business*) and such failure, if capable of remedy, is not remedied within 15 days after the earlier of the date on which the relevant Obligor becomes aware of such breach and the date on which the relevant Obligor receives written notice from the Agent to remedy such breach;
- (b) Clause 27.10 (*Security Preservation*) and, if such failure is capable of remedy, the relevant Obligor has not within seven days of the earlier of the date on which it became aware of such breach and the date on which it receives written notice from the Agent to remedy such breach, taken all steps reasonably necessary to remedy such failure or such failure is not, within 21 days, thereafter duly remedied; or
- (c) any other obligation expressed to be assumed by it in the Senior Finance Documents and such failure, if capable of remedy, is not remedied within 30 days after the earlier of the date on which such Obligor becomes aware of such failure and the date on which such Obligor receives written notice from the Agent to remedy such failure.

37.4 **Misrepresentation**

Any representation or statement made or deemed to be made by an Obligor in the Senior Finance Documents or in any certificate delivered by it pursuant thereto or in connection therewith is or proves to have been incorrect or misleading in any material respect when made or deemed to be made and the circumstances giving rise to such misrepresentation, if capable of alteration, are not altered so as to make such representation or statement correct or not misleading by the date falling 30 days after the earlier of the date upon which such Obligor becomes aware of such misrepresentation and the date on which such Obligor receives notice of such misrepresentation from the Agent.

37.5 **Cross default**

Any Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period, any Indebtedness of any member of the Group is by reason of an event of default (howsoever described) declared to be or otherwise becomes due and payable prior to its specified maturity, or any creditor of any member of the Group becomes entitled (after satisfaction of any condition required to be satisfied before such event of default arises and any relevant grace period having elapsed) by reason of an event of default (howsoever described) to declare any Indebtedness of any member of the Group due and payable prior to its specified maturity, *provided that* it shall not constitute an Event of Default if the aggregate amount of all such Indebtedness at any one time outstanding is less than £6,000,000 (or its equivalent in other currencies) and **provided further that** any such Indebtedness in relation to which the relevant Group member is contesting its liability in good faith by appropriate proceedings shall be excluded for the purposes of this Clause 37.5 and **provided further that** Indebtedness of one member of the Group to another member of the Group shall not constitute Indebtedness for these purposes. For the avoidance of doubt, indebtedness arising pursuant to a Special Purpose Financing or a Financing Disposition if and to the extent permitted under this Agreement shall not constitute Indebtedness for these purposes.

37.6 **Insolvency**

- (a) Any Obligor or other Material Company is unable or admits its inability to pay (or an intention not to pay) its debts as they fall due or, by reason of actual or anticipated financial difficulties, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (other than negotiations with the Senior Finance Parties under the Senior Finance Documents) with a view to rescheduling any of its indebtedness.
- (b) A moratorium or equivalent event in other jurisdictions is declared with respect to creditors generally in respect of any Indebtedness of any Obligor or other Material Company.

37.7 **Insolvency proceedings**

- (a) Any corporate action, legal proceedings or other procedure or formal step is taken in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution or administration (by way of voluntary arrangement, scheme of arrangement or otherwise), of any Obligor or other Material Company;
 - (ii) a composition, compromise, assignment or arrangement with any material creditor of any Obligor or other Material Company by reason of financial

difficulties of that Obligor or other Material Company with a view to avoiding, reducing or rescheduling a payment which is not capable of being contested in good faith and which would otherwise be due and payable by that Obligor or other Material Company;

- (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not an Obligor), receiver, administrative receiver, administrator, in respect of any Obligor or other Material Company or any of its material assets, or
 - (i) the enforcement of any Security over any assets (the aggregate value of which exceeds £10,000,000) of any Material Company, unless it is frivolous or vexatious and is discharged within 21 days,

or any analogous corporate action, legal proceeding, procedure or formal step is taken in any jurisdiction.

(b) Paragraph (a) above shall not apply to:

- (i) (other than the actual appointment of an administrator) any corporate action, legal proceeding, procedure or formal step which is frivolous or vexatious and is discharged, stayed or dismissed within 30 days of commencement; or
- (ii) any corporate action, legal proceeding, procedure or formal step which is permitted under Clause 35 (*Limitation on Fundamental Changes*).

37.8 Execution or Distress

Any execution or distress is levied against, or an encumbrancer takes possession of, the whole or any part (the value of which exceeds £10,000,000 (or its equivalent in other currencies)) of, the property, undertaking or assets of any member of the Group or any event occurs which under the laws of any jurisdiction has a similar or analogous effect, and which is frivolous or vexatious and is not discharged within 21 days.

37.9 Litigation

Any litigation, arbitration, administrative, governmental or regulatory investigations, proceedings or disputes are commenced against any member of the Group or its assets which are reasonably likely to be adversely determined and which, if so adversely determined, have or are reasonably likely to have a Material Adverse Effect.

37.10 Expropriation

The authority or ability of any Obligor or Material Company to conduct its business is significantly limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation or other similar action by or on behalf of any governmental, regulatory or similar authority or other person in relation to any member of the Group or any of its material assets.

37.11 Ownership of the Obligors

Any Obligor ceases to be a direct or indirect Subsidiary of the Parent other than as a result of a Qualifying Listing, or a transaction which is permitted pursuant to Clause 35 (*Limitation on Fundamental Changes*) or Clause 30 (*Limitation on Restricted Payments*) or a Disposal permitted under Clause 32 (*Limitation on Sales of Assets and Shares*).

37.12 **Repudiation**

An Obligor or Holding Company of the Parent repudiates any Senior Finance Document.

37.13 **Illegality**

At any time or, in the case of the Acquisition Agreement, at any time prior to the last date of the Certain Funds Period, it is or becomes unlawful for an Obligor or Holding Company of the Parent or any of the Vendors to perform or comply with any or all of its material obligations under the Senior Finance Documents or the Acquisition Agreement, or any of the material obligations of an Obligor or Holding Company of the Parent or any of the Vendors thereunder are not or cease to be legal, valid, binding and enforceable in accordance with the terms thereof, subject in each case to applicable bankruptcy or insolvency laws or other similar laws affecting creditors' rights generally and the Legal Reservations.

37.14 **The Group's Business**

Any Material Company ceases to carry on business (save pursuant to a Disposal permitted under Clause 32 (*Limitation on Sales of Assets and Shares*) or a transaction permitted under Clause 35 (*Limitation on Fundamental Changes*)).

37.15 **Material Adverse Change**

Any event or circumstance occurs which would reasonably be expected to have a Material Adverse Effect.

37.16 **Auditor's Qualification**

The Parent's Auditors qualify their annual audit report to the consolidated accounts of the Group on the grounds that the business is not able to be carried on as a going concern, or on the basis of material misstatement or materially inadequate disclosure or access *provided that* it shall not constitute an Event of Default if that qualification arises solely as a result of the activities, operations, financial results, assets or liabilities of any Unrestricted Subsidiary.

37.17 **Intercreditor Agreement**

- (a) Any Holding Company of the Parent, Shareholder Creditor (as defined in the Intercreditor Agreement) or any member of the Group party to the Intercreditor Agreement fails to comply with the material provisions of, or does not perform its material obligations under, the Intercreditor Agreement; or
- (b) a representation or warranty given by such Holding Company of the Parent, Shareholder Creditor (as defined in the Intercreditor Agreement) or member of the Group in the Intercreditor Agreement is incorrect in any material respect,

and, if the non-compliance or circumstances giving rise to the misrepresentation are capable of remedy, it is not remedied within 30 days of the earlier of the Agent giving notice to that party or that party becoming aware of the non-compliance or misrepresentation.

37.18 **Acceleration and Cancellation**

Upon the occurrence of an Event of Default and at any time thereafter whilst the Event of Default is continuing, the Agent may without any other judicial or extra judicial step, (and, if so instructed by the Majority Lenders, shall) by notice to the Parent:

- (a) declare all or any part of the Utilisations to be immediately due and payable (whereupon the same shall become so payable together with accrued interest thereon and any other sums then owed by the Borrowers hereunder); and/or
- (b) declare all or any part of the Utilisations to be due and payable on demand of the Agent; and/or
- (c) require the Borrowers to procure that the liabilities of each of the Lenders and the Issuing Bank under each Letter of Credit and Bank Guarantee are promptly reduced to zero and/or provide cash cover for each Letter of Credit and Bank Guarantee (whereupon the Borrowers shall do so); and/or
- (d) declare that cash cover in respect of each Letter of Credit or Bank Guarantee is immediately due and payable or payable on demand at which time it shall become immediately due and payable or payable on demand (as the case may be); and/or
- (e) declare all or any part of the amounts (or cash cover in respect of those amounts) outstanding under the Ancillary Facilities to be immediately due and payable (whereupon the same shall become so payable together with accrued interest thereon and any other sums then owed by the Borrowers hereunder); and/or
- (f) declare all or any part of the amounts (or cash cover in respect of those amounts) outstanding under the Ancillary Facilities to be due and payable on demand of the Agent; and/or
- (g) declare that any unutilised portion of the Facilities shall be cancelled, whereupon the same shall be cancelled and the Available Commitments of each Lender shall be reduced to zero; and/or
- (h) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Senior Finance Documents.

37.19 **Loans Due on Demand**

If, pursuant to Clause 37.18 (Acceleration and Cancellation), the Agent declares all or any part of the Utilisations to be due and payable on demand of the Agent, then, and at any time thereafter whilst an Event of Default is continuing, the Agent may (and, if so instructed by the Majority Lenders, shall) by notice to the Parent:

- (a) require repayment of all or such part of the Utilisations or any other payment due hereunder on such date as it may specify in such notice (whereupon the same shall become due and payable on the date specified together with accrued interest thereon and any other sums then owed by the Borrowers hereunder) or withdraw its declaration with effect from such date as it may specify; and/or
- (b) select as the duration of any Interest Period which begins whilst such declaration remains in effect a period of six Months or less.

37.20 **Clean-up Period**

- (a) Notwithstanding any other provision of any Senior Finance Document:
 - (i) any breach of representation or warranty made or deemed to have been made or repeated under Clause 24 (*Representations*);

- (ii) any breach of covenant; or
- (iii) any Event of Default,

will be deemed not to be a breach of representation or warranty, a breach of covenant or an Event of Default (as the case may be) if:

- (A) it would have been (if it were not for this provision) a breach of representation or warranty, a breach of covenant or an Event of Default only by reason of circumstances relating exclusively to any member of the Target Group (or any obligation to procure or ensure in relation to a member of the Target Group);
- (B) it is capable of remedy and reasonable steps are being taken to remedy it;
- (C) the circumstances giving rise to it have not been procured by or approved by the Parent or any Original Obligor; and
- (D) it is not reasonably likely to have a Material Adverse Effect.

If the relevant circumstances are continuing on or after the Clean-up Date, there shall be a breach of representation or warranty, breach of covenant or Event of Default, as the case may be notwithstanding the above (and without prejudice to the rights and remedies of the Senior Finance Parties).

- (b) Notwithstanding any other provision of any Senior Finance Document, for the period from the date of any Future Acquisition permitted under the terms of this Agreement until the date which falls 120 days after the date of such Future Acquisition (the “**Acquisition Clean-up Period**”):

- (i) any breach of representation or warranty made or deemed to have been made or repeated under Clause 24 (*Representations*);
- (ii) any breach of covenant; or
- (iii) any Event of Default,

will be deemed not to be a breach of representation or warranty, a breach of covenant or an Event of Default (as the case may be) if:

- (A) it would have been (if it were not for this provision) a breach of representation or warranty, a breach of covenant or an Event of Default only by reason of circumstances relating exclusively to the entity or business which is the target of the Future Acquisition (or any obligation to procure or ensure in relation to such entity or business);
- (B) it is capable of remedy and reasonable steps are being taken to remedy it;
- (C) the circumstances giving rise to it have not been procured by or approved by any member of the Group (other than the entity or business which is the target of the Future Acquisition); and
- (D) it is not reasonably likely to have a Material Adverse Effect.

If the relevant circumstances are continuing after the relevant Future Acquisition Clean-up Period, there shall be a breach of representation or warranty, breach of covenant or Event of Default, as the case may be, notwithstanding the above (and without prejudice to the rights and remedies of the Senior Finance Parties).

37.21 **Withdrawal Event**

Notwithstanding the above or any other provision of any Senior Finance Document to the contrary, a Withdrawal Event shall not of itself constitute a breach of representation or warranty, a breach of covenant, a Default or an Event of Default (as the case may be) under any Senior Finance Document.

**SECTION 9
CHANGES TO PARTIES**

38. CHANGES TO THE LENDERS

38.1 Assignments and transfers by the Lenders

Subject to this Clause 38 and to Clause 39 (*Debt Purchase Transactions*), a Lender (the “**Existing Lender**”) may:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

under any Senior Finance Document to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the “**New Lender**”).

38.2 Conditions of assignment or transfer

- (a) Unless otherwise agreed by the Obligors’ Agent and the Agent, an assignment or transfer of any Lender’s Commitments:
 - (i) shall be in a minimum Base Currency Amount of £2,000,000 or, if less, the total amount of its Commitments under that Facility; and
 - (ii) must be in an amount such that the Base Currency Amount of that Lender’s remaining Commitments (when aggregated with its Affiliates’ and Related Funds’ Commitments) is in a minimum Base Currency Amount of £2,000,000 unless that Lender assigns or transfers all of its Commitments.
- (b) For the purposes of calculating the minimum amounts specified in paragraph (a) above, where the New Lender is a fund, such amounts shall, at the option of the relevant Lender(s), be calculated by reference to the aggregate portion of the Facilities held by that fund together with all its Related Funds.
- (c) On and prior to the Closing Date, transfers, assignments or any sub-participation or similar sub-contract (each a “**Transfer**”) will only be permitted if with the prior consent of the Parent, not to be unreasonably withheld or delayed (and, for the avoidance of doubt, it will not be deemed to be unreasonable to withhold or delay consent where the Parent has made reasonable requests for information about the proposed New Lender, sub-participant or sub-contractee and that information has not been provided).
- (d) After the Closing Date, Transfers will only be permitted:
 - (i) with the prior consent of the Parent, not to be unreasonably withheld or delayed (and, for the avoidance of doubt, it will not be deemed to be unreasonable to withhold or delay consent where the Parent has made reasonable requests for information about the proposed New Lender, sub-participant or sub-contractee and that information has not been provided); and if the Parent does not, within 10 Business Days (or such other period as the Parent and Agent may agree), respond to a request by a Lender then (unless reasonable requests for information have been made and the relevant

information has not been provided) the Parent will be deemed to have given consent to such assignment or transfer;

- (ii) in relation to any Commitment under a Revolving Facility, to a bank on the Approved Lender List which is an Acceptable Bank under paragraph (a) of the definition thereof or any of its Affiliates;
- (iii) in relation to a Term Facility:
 - (A) to an entity on the Approved Lender List which is specified as approved for the purposes of an assignment, transfer, sub-participation or similar sub-contract to such entity under a Term Facility or any of their respective Affiliates; or
 - (B) if the Existing Lender is a fund, to a fund which is a Related Fund of such Existing Lender; or
- (iv) in relation to any Facility:
 - (A) to another Lender or an Affiliate of a Lender (and for the purposes of this sub-paragraph in the case of a transfer in relation to a Revolving Facility references to Lender shall be construed to mean a Lender under a Revolving Facility only); or
 - (B) made at a time when an Event of Default is continuing,

provided that each Financial Year, the Agent (upon the request of a Lender or Lenders) may add not more than five additional banks, (and/or in respect of a Term Facility only) financial institutions, trusts or funds to the Approved Lender List with the prior written consent of the Parent (such consent not to be unreasonably withheld or delayed *provided that*, for the avoidance of doubt, it shall not be unreasonable to withhold or delay consent where the Parent has made reasonable requests for information about the proposed person to be added to the Approved Lender List and that information has not been provided) and the Parent will have the right at any time to remove entities (and their Affiliates) from the Approved Lender List, *provided that* the Parent may not remove an entity from the Approved Lender List if it would result in the number of persons on the Approved Lender List being more than five fewer than the number on the initial Approved Lender List.

- (e) Notwithstanding paragraphs (c) and (d) above:
 - (i) no Transfer may be made to any Business Competitor at any time (for the avoidance of doubt, a bank or other financial institution shall not be deemed to be a Business Competitor solely by reason of it owning securities in, or engaging in underwriting activities in relation to, a Business Competitor by reason of ordinary course market making or underwriting activities);
 - (ii) unless an Event of Default has occurred and is continuing pursuant to Clause 37.1 (*Failure to pay*), Clause 37.6 (*Insolvency*), Clause 37.7 (*Insolvency Proceedings*), or Clause 37.8 (*Execution or Distress*), no Transfer may be made to an Unacceptable Lender at any time; and
 - (iii) no Transfer in respect of any unutilised Facility B Commitment shall reallocate, reduce or release the obligation of the Original Lenders to fund the

entire Facility B Commitment as set out in Part 2 (*The Original Lenders*) of Schedule 1 (*The Original Parties*) in the event that any New Lender, sub-participant or sub-contractee fails to do so when requested in accordance with the terms of this Agreement.

- (f) The consent of the Issuing Bank, to the extent appointed (such consent not to be unreasonably withheld, conditioned or delayed), is required for any Transfer by an Existing Lender of any of its rights and/or obligations under the Original Revolving Facility.
- (g) (Other than in the case of an assignment permitted by paragraph (b) of Clause 39.1 (*Permitted Debt Purchase Transactions*)) an assignment will only be effective on:
 - (i) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Senior Finance Parties and the other Secured Parties as it would have been under if it was an Original Lender;
 - (ii) the New Lender entering into the documentation required for it to accede as a party to the Intercreditor Agreement and, if applicable, any Other Intercreditor Agreement; and
 - (iii) the performance by the Agent and Security Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify (for itself and on behalf of the Security Agent) to the Existing Lender and the New Lender.
- (h) A transfer will only be effective if the New Lender enters into the documentation required for it to accede as a party to the Intercreditor Agreement and, if applicable, any Other Intercreditor Agreement (in each case if not already party thereto in that capacity) and if the procedure set out in Clause 38.6 (*Procedure for transfer*) is complied with.
- (i) If:
 - (i) a Lender assigns, transfers, sub-participates or sub-contracts any of its rights or obligations under the Senior Finance Documents, changes its Facility Office or designates a Substitute Affiliate Lender; and
 - (ii) as a result of circumstances existing at the date the assignment, transfer, sub-participation, sub-contract, change or designation occurs, an Obligor would be obliged to make a payment to the New Lender, Substitute Affiliate Lender or Lender acting through its new Facility Office, sub-participant or sub-contractee under Clause 18 (*Tax Gross Up and Indemnities*) or Clause 19 (*Increased Costs*),

then the New Lender, Substitute Affiliate Lender or Lender acting through its new Facility Office, sub-participant or sub-contractee is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office or sub-participant or sub-contractee or Designating Lender would have been entitled if the assignment, transfer, sub-participation, sub-contract, change or designation had not occurred. This paragraph (i) shall not apply in relation to Clause 18.2 (*Tax gross-up*), to a Treaty Lender that has included a confirmation of its scheme reference number and its

jurisdiction of tax residence in accordance with paragraph (g)(ii) of Clause 18.2 (*Tax gross-up*) if the Borrower making the payment has not made a Borrower DTTP Filing in respect of that Treaty Lender. This paragraph (i) shall not apply in respect of an assignment or transfer made in the ordinary course of the primary syndication of any Facility.

- (j) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.
- (k) Notwithstanding any other provision in the Senior Finance Documents, no Obligor or other member of the Group shall bear any costs, fees, Taxes or other amounts payable in connection with any re-taking, re-notarisation, perfection, presentation, novation or re-registration of any Security in connection with an assignment, transfer or sub-participation of Commitments under a Facility, with such costs to be payable by the transferee of the relevant assignment or transfer or the sub-participant (as applicable).
- (l) If any transfer or assignment is completed in breach of the provisions of this Clause 38.2 the right to vote in respect of the Commitments so transferred or assigned shall be suspended and such Commitments shall be excluded when determining decisions requiring a vote by some or all of the Lenders, or a class of Lenders, until such time as the conditions set out in this Clause have been complied with.

38.3 Assignments by Lenders

Upon an assignment becoming effective, the Existing Lender will be released from its obligations under the Senior Finance Documents to the extent they are assumed by the New Lender.

38.4 Assignment or transfer fee

- (a) Unless the Agent otherwise agrees and excluding an assignment or transfer (i) made in connection with primary syndication of the Facilities or (ii) by a Lender to an Affiliate or a Related Fund, the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of £2,500 (or, in relation to a Facility denominated in euro, €3,000).
- (b) If any New Lender fails to pay any assignment or transfer fee payable by it pursuant to paragraph (a) above on the due date therefor, the Agent may at any time deduct an amount equal to such fee from any moneys from time to time held by the Agent for the account of such New Lender (other than any such amounts that are being held pending distribution to an Obligor).

38.5 Limitation of responsibility of Existing Lenders

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

- (i) the legality, validity, effectiveness, adequacy or enforceability of the Transaction Documents, the Transaction Security or any other documents;
 - (ii) the financial condition of any Obligor;
 - (iii) the performance and observance by any Obligor of its obligations under the Transaction Documents or any other documents; or
 - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Transaction Document or any other document,
- and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender, the other Senior Finance Parties and the Secured Parties that it:
 - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Senior Finance Party in connection with any Transaction Document or the Transaction Security; and
 - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Senior Finance Documents or any Commitment is in force.
 - (c) Nothing in any Senior Finance Document obliges an Existing Lender to:
 - (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 38; or
 - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Transaction Documents or otherwise.

38.6 Procedure for transfer

- (a) Subject to the conditions set out in Clause 38.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
- (b) The Agent and Security Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once they are each satisfied that they have complied with all necessary “know your customer” or similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) Subject to Clause 38.13 (*Pro rata interest settlement*), on the Transfer Date:

- (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Senior Finance Documents and in respect of the Transaction Security each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Senior Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Senior Finance Documents and in respect of the Transaction Security shall be cancelled (being the “**Discharged Rights and Obligations**”);
- (ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other member of the Group and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;
- (iii) the Agent, the Arrangers, the Security Agent, the New Lender, the other Lenders, the Issuing Bank and any relevant Ancillary Lender shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Arrangers, the Security Agent, the Issuing Bank and any relevant Ancillary Lender and the Existing Lender shall each be released from further obligations to each other under the Senior Finance Documents; and
- (iv) the New Lender shall become a Party as a “Lender”.

38.7 Procedure for assignment

- (a) Subject to the conditions set out in Clause 38.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
- (b) The Agent and Security Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once they are each satisfied that they have complied with all necessary “know your customer” or similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) Subject to Clause 38.13 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) the Existing Lender will assign absolutely to the New Lender its rights under the Senior Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
 - (ii) the Existing Lender will be released from the obligations (the “**Relevant Obligations**”) expressed to be the subject of the release in the Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security); and

- (iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.
- (d) Lenders may utilise procedures other than those set out in this Clause 38.7 to assign their rights under the Senior Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with Clause 38.6 (*Procedure for transfer*), to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) *provided that* they comply with the conditions set out in Clause 38.2 (*Conditions of assignment or transfer*).

38.8 **Copy of Transfer Certificate, Assignment Agreement, Accession Deed, Increase Confirmation, Incremental Facility Accession Certificate or Senior Loan Refinancing Facility Accession Certificate to Parent**

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate, an Assignment Agreement, an Accession Deed, an Increase Confirmation, an Incremental Facility Accession Certificate or a Senior Loan Refinancing Facility Accession Certificate send to the Parent a copy of that Transfer Certificate, Assignment Agreement, Accession Deed, Increase Confirmation, Incremental Facility Accession Certificate or Senior Loan Refinancing Facility Accession Certificate.

38.9 **The Register**

- (a) The Agent, acting for this purpose as the agent of the Obligors, shall maintain at its address referred to in Clause 46.2 (*Addresses*):
 - (i) a copy of each Transfer Certificate referred to in Clause 38.6 (*Procedure for transfer*) and a copy of each Assignment Agreement referred to in Clause 38.7 (*Procedure for assignment*) and a copy of each Increase Confirmation, Incremental Facility Accession Certificate and Senior Loan Refinancing Facility Accession Certificate delivered to and accepted by it; and
 - (ii) with respect to each Facility, a register for the recording of the names and addresses of the Lenders and the Commitment of, and principal amount owing to, each Lender from time to time (the “**Register**”) under such Facility, which may be kept in electronic form.

The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Obligors, the Agent and the Lenders shall treat each person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement. The Agent shall provide a copy of the Register to the Parent upon reasonable prior written notice from the Parent.

- (b) Each party to this Agreement irrevocably authorises the Agent to make the relevant entry in the Register (and which the Agent shall do promptly) on its behalf for the purposes of this Clause 38.9 without any further consent of, or consultation with, such Party.
- (c) The Agent shall, upon request by an Existing Lender or a New Lender, confirm to that Existing Lender or New Lender whether a transfer or assignment from that Existing Lender or (as the case may be) to that New Lender has been recorded on the Register (including details of the Commitment of that Existing Lender or New Lender in each Facility).

- (d) Each Lender that sells a participation, sub-contract or sub-participation shall, acting solely for this purpose as a non-fiduciary agent of the Obligors, maintain a register on which it enters the name and address of each participant in the participation, sub-contract or sub-participation (a “**Participant**”), and the principal amounts (and stated interest) of each Participant’s interest in the Facilities or other obligations under the Senior Finance Documents (the “**Participant Register**”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any Commitments, Facilities, Letters of Credit or its other obligations under any Senior Finance Document) to any person except to the extent that such disclosure is necessary to establish that such Commitment, Facility, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation, sub-contract or sub-participation for all purposes of the Senior Finance Documents notwithstanding any notice to the contrary. For the avoidance of doubt, the Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

38.10 Accession of Incremental Facility Lender

Any person which provides Incremental Facility Commitments or an Incremental Facility Loan shall become a party to the Intercreditor Agreement (to the extent it is not already a party in that capacity) as an Initial Senior Lender (as defined in the Intercreditor Agreement) and, if applicable, any Other Intercreditor Agreement and shall, at the same time, become a Party to this Agreement as a Lender by executing an Incremental Facility Accession Certificate.

38.11 Accession of Senior Loan Refinancing Facility Lender

Any person which provides Senior Loan Refinancing Facility Commitments or a Senior Loan Refinancing Facility Loan shall become a party to the Intercreditor Agreement (to the extent it is not already a party in that capacity) as an Initial Senior Lender or Second Lien Lender (as applicable and each as defined in the Intercreditor Agreement) and, if applicable, any Other Intercreditor Agreement and shall, at the same time, become a Party to this Agreement as a Lender by executing a Senior Loan Refinancing Facility Accession Certificate.

38.12 Security over Lenders’ rights

In addition to the other rights provided to Lenders under this Clause 38, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Senior Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (i) release a Lender from any of its obligations under the Senior Finance Documents or substitute the beneficiary of the relevant charge, assignment or other Security for the Lender as a party to any of the Senior Finance Documents; or
- (ii) require any payments to be made by an Obligor or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Senior Finance Documents.

38.13 Pro rata interest settlement

If the Agent has notified the Lenders that it is able to distribute interest payments on a “*pro rata* basis” to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 38.6 (*Procedure for transfer*) or any assignment pursuant to Clause 38.7 (*Procedure for assignment*) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):

- (a) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date (“**Accrued Amounts**”) and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at six Monthly intervals after the first day of that Interest Period); and
- (b) the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts so that, for the avoidance of doubt:
 - (i) when the Accrued Amounts become payable, those Accrued Amounts will be payable for the account of the Existing Lender; and
 - (ii) the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 38.13, have been payable to it on that date, but after deduction of the Accrued Amounts.

39. DEBT PURCHASE TRANSACTIONS

39.1 Permitted Debt Purchase Transactions

- (a) The Parent shall not, and shall procure that each other member of the Group shall not, (i) enter into any Debt Purchase Transaction other than in accordance with the other provisions of this Clause 39 or (ii) (save for Cash Equivalent Investments) beneficially own all or any part of the share capital of a company that is a Lender or a party to a Debt Purchase Transaction of the type referred to in paragraph (b) or (c) of the definition of “Debt Purchase Transaction”.
- (b) A Borrower may purchase by way of assignment, pursuant to Clause 38 (*Changes to the Lenders*), a participation in any Term Loan in respect of which it is the borrower and any related Commitment where:
 - (i) such purchase is made for a consideration of less than par;
 - (ii) such purchase is made using one of the processes set out at paragraphs (c) and (d) below;

- (iii) the consideration for such purchase is funded from New Shareholder Injections and/or any amounts held by the Group which may, at that time, be paid to one or more of the Investors in accordance with the terms of this Agreement; and
 - (iv) such purchase is made at a time when no Default is continuing.
- (c)
- (i) A Debt Purchase Transaction referred to in paragraph (b) above may be entered into pursuant to a solicitation process (a “**Solicitation Process**”) which is carried out as follows.
 - (ii) Prior to 11.00 a.m. on a given Business Day (the “**Solicitation Day**”) the Parent or a financial institution acting on its behalf (the “**Purchase Agent**”) will approach at the same time each Lender which participates in the relevant Term Facilities to enable them to offer to sell to the relevant Borrower(s) an amount of their participation in one or more Term Facilities. Any Lender wishing to make such an offer shall, by 11.00 a.m. on the second Business Day following such Solicitation Day, communicate to the Purchase Agent details of the amount of its participations, and in which Term Facilities, it is offering to sell and the price at which it is offering to sell such participations. Any such offer shall be irrevocable until 11.00 a.m. on the third Business Day following such Solicitation Day and shall be capable of acceptance by the Parent on behalf of the relevant Borrower(s) on or before such time by communicating its acceptance in writing to the Purchase Agent or, if it is the Purchase Agent, the relevant Lenders. The Purchase Agent (if someone other than the Parent) will communicate to the relevant Lenders which offers have been accepted by 12 noon on the third Business Day following such Solicitation Day. In any event by 11.00 a.m. on the fourth Business Day following such Solicitation Day, the Parent shall notify the Agent of the amounts of the participations purchased through the relevant Solicitation Process, the identity of the Term Facilities to which they relate and the average price paid for the purchase of participations in each relevant Term Facility. The Agent shall disclose such information to any Lender that requests such disclosure.
 - (iii) Any purchase of participations in the Term Facilities pursuant to a Solicitation Process shall be completed and settled on or before the fifth Business Day after the relevant Solicitation Day.
 - (iv) In accepting any offers made pursuant to a Solicitation Process the Parent shall be free to select which offers and in which amounts it accepts but on the basis that in relation to a participation in a particular Term Facility it accepts offers in inverse order of the price offered (with the offer or offers at the lowest price being accepted first) and that if in respect of participations in a particular Term Facility it receives two or more offers at the same price it shall only accept such offers on a *pro rata* basis.
- (d)
- (i) A Debt Purchase Transaction referred to in paragraph (b) above may also be entered into pursuant to an open order process (an “**Open Order Process**”) which is carried out as follows.

- (ii) The Parent (on behalf of the relevant Borrower(s)) may by itself or through another Purchase Agent place an open order (an “**Open Order**”) to purchase participations in one or more of the Term Facilities up to a set aggregate amount at a set price by notifying at the same time all the Lenders participating in the relevant Term Facilities of the same. Any Lender wishing to sell pursuant to an Open Order will, by 11.00 a.m. on any Business Day following the date on which the Open Order is placed but no earlier than the first Business Day, and no later than the fifth Business Day, following the date on which the Open Order is placed, communicate to the Purchase Agent details of the amount of its participations, and in which Term Facilities, it is offering to sell. Any such offer to sell shall be irrevocable until 11.00 a.m. on the Business Day following the date of such offer from the Lender and shall be capable of acceptance by the Parent on behalf of the relevant Borrower(s) on or before such time by it communicating such acceptance in writing to the relevant Lender.
- (iii) Any purchase of participations in the Term Facilities pursuant to an Open Order Process shall be completed and settled by the relevant Borrower(s) on or before the fourth Business Day after the date of the relevant offer by a Lender to sell under the relevant Open Order.
- (iv) If in respect of participations in a Term Facility the Purchase Agent receives on the same Business Day two or more offers at the set price such that the maximum amount of such Term Facility to which an Open Order relates would be exceeded, the Parent shall only accept such offers on a *pro rata* basis.
- (v) The Parent shall, by 11.00 a.m. on the sixth Business Day following the date on which an Open Order is placed, notify the Agent of the amounts of the participations purchased through such Open Order Process and the identity of the Term Facilities to which they relate. The Agent shall disclose such information to any Lender that requests the same.
- (e) For the avoidance of doubt, there is no limit on the number of occasions a Solicitation Process or an Open Order Process may be implemented.
- (f) In relation to any Debt Purchase Transaction entered into pursuant to this Clause 39.1, notwithstanding any other term of this Agreement or the other Senior Finance Documents:
 - (i) on completion of the relevant assignment pursuant to Clause 38 (*Changes to the Lenders*), the portions of the Term Loans to which it relates shall be extinguished;
 - (ii) such Debt Purchase Transaction and the related extinguishment referred to in sub-paragraph (i) above shall not constitute a prepayment of the Facilities;
 - (iii) the Borrower which is the assignee shall be deemed to be an entity which fulfils the requirements of Clause 38.1 (*Assignments and transfers by the Lenders*) to be a New Lender (as defined in such Clause);
 - (iv) no member of the Group shall be deemed to be in breach of any provision of Clause 27 (*General Undertakings*) solely by reason of such Debt Purchase Transaction;

- (v) Clause 43 (*Sharing among the Senior Finance Parties*) shall not be applicable to the consideration paid under such Debt Purchase Transaction; and
- (vi) for the avoidance of doubt, any extinguishment of any part of the Term Loans shall not affect any amendment or waiver which prior to such extinguishment had been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement.

39.2 Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates

- (a) For so long as a Sponsor Affiliate (i) beneficially owns a Commitment or (ii) has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated:
 - (i) in ascertaining the Majority Lenders, the Required Release Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Senior Finance Documents such Commitment shall be deemed to be zero; and
 - (ii) for the purposes of Clause 50.3 (*Exceptions*), such Sponsor Affiliate or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Lender (unless in the case of a person not being a Sponsor Affiliate it is a Lender by virtue otherwise than by beneficially owning the relevant Commitment).

~~unless the relevant consent, waiver, amendment or other vote is discriminatory towards the Sponsor Affiliate (in its capacity as a beneficial owner of a Commitment or party to a sub-participation agreement relating to a Commitment) when compared to the Lenders as a whole.~~

- (b) Each Lender shall, unless such Debt Purchase Transaction is an assignment or transfer, promptly notify the Agent in writing if it knowingly enters into a Debt Purchase Transaction with a Sponsor Affiliate (a “**Notifiable Debt Purchase Transaction**”), such notification to be substantially in the form set out in Part 1 (*Form of Notice on entering into Notifiable Debt Purchase Transaction*) of Schedule 16 (*Forms of Notifiable Debt Purchase Transaction Notice*).
- (c) A Lender shall promptly notify the Agent if a Notifiable Debt Purchase Transaction to which it is a party:
 - (i) is terminated; or
 - (ii) ceases to be with a Sponsor Affiliate,such notification to be substantially in the form set out in Part 1 of Schedule 16 (*Forms of Notifiable Debt Purchase Transaction Notice*).
- (d) Each Sponsor Affiliate that is a Lender agrees that:
 - (i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, it shall not attend or participate in the same if

so requested by the Agent or, unless the Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and

- (ii) in its capacity as Lender, unless the Agent otherwise agrees, it shall not be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Agent or one or more of the Lenders.

40. CHANGES TO THE OBLIGORS

40.1 Assignment and transfers by Obligors

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Senior Finance Documents.

40.2 Additional Borrowers

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 25.9 (“*Know your customer*” checks), the Parent may request that any of its wholly owned Subsidiaries which is not a Dormant Subsidiary becomes a Borrower. That Subsidiary shall become a Borrower if:
 - (i) in the case of Facility B, it is a wholly-owned Subsidiary of the Parent and incorporated in England & Wales and is referred to as a borrower of Facility B at or around Completion in the Structure Memorandum or is incorporated in any other jurisdiction approved by all the Facility B Lenders and the Agent;
 - (ii) in the case of the Original Revolving Facility:
 - (A) it is incorporated in a Permitted Borrower Jurisdiction and it is a wholly-owned Subsidiary of the Parent; or
 - (B) it is approved by all the Original Revolving Facility Lenders and the Agent;
 - (iii) in the case of any Incremental Facility Commitments, it is incorporated in any jurisdiction approved by all Lenders providing the relevant Incremental Facility Commitments and the Agent;
 - (iv) in the case of any Senior Loan Refinancing Facility Commitments, it is incorporated in any jurisdiction approved by all Lenders providing the relevant Senior Loan Refinancing Facility Commitments and the Agent;
 - (v) the Parent and that Subsidiary deliver to the Agent a duly completed and executed Accession Deed;
 - (vi) the Subsidiary is (or becomes) a Guarantor on or prior to becoming a Borrower;
 - (vii) save in the case of Facility B, the Parent confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and
 - (viii) the Agent has received all of the documents and other evidence listed in Part 4 (*Conditions Precedent required to be delivered by an Additional Obligor*)

of Schedule 2 (*Conditions Precedent*) in relation to that Additional Borrower, each in form and substance reasonably satisfactory to the Agent.

- (b) The Agent shall notify the Parent and the Lenders promptly upon being satisfied that it has received (in form and substance reasonably satisfactory to it) all the documents and other evidence listed in Part 4 (*Conditions Precedent required to be delivered by an Additional Obligor*) of Schedule 2 (*Conditions Precedent*).
- (c) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (b) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

40.3 **Resignation of a Borrower**

- (a) In this Clause 40.3, Clause 40.5 (*Resignation of a Guarantor*) and Clause 40.7 (*Resignation and release of security*), “**Third Party Disposal**” means the disposal of an Obligor to a person which is not a member of the Group where that disposal is permitted under Clause 32 (*Limitation on Sales of Assets and Shares*) or made with the approval of the Majority Lenders (and the Parent has confirmed this is the case).
- (b) If a Borrower is the subject of a Third Party Disposal or is to be designated as an Unrestricted Subsidiary or Special Purpose Subsidiary, the Parent may request that such Borrower (other than the Company) and any of its Subsidiaries ceases to be a Borrower by delivering to the Agent a Resignation Letter.
- (c) The Agent shall accept a Resignation Letter and notify the Parent and the other Senior Finance Parties of its acceptance if:
 - (i) the Parent has confirmed that no Event of Default is continuing or would result from the acceptance of the Resignation Letter;
 - (ii) neither the relevant Borrower nor any of its Subsidiaries is under any actual or contingent obligations as a Borrower under any Senior Finance Document;
 - (iii) where the relevant Borrower is also a Guarantor (unless its resignation has been accepted in accordance with Clause 40.5 (*Resignation of a Guarantor*)), its obligations in its capacity as Guarantor and any Transaction Security granted by or in respect of such Guarantor continue to be legal, valid, binding and enforceable and in full force and effect (subject to the Legal Reservations); and
 - (iv) if applicable, the Parent has confirmed that it shall ensure that any relevant Disposal Proceeds will be applied in accordance with Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*).
- (d) Upon notification by the Agent to the Parent of its acceptance of the resignation of a Borrower, that company and any of its relevant Subsidiaries shall cease to be a Borrower and shall have no further rights or obligations under the Senior Finance Documents as a Borrower except that the resignation shall not take effect (and the relevant Borrower will continue to have rights and obligations under the Senior Finance Documents) until the date on which the Third Party Disposal or designation as an Unrestricted Subsidiary or Special Purpose Subsidiary (as applicable) takes effect.

- (e) The Agent may, at the reasonable cost and expense of the Parent (which cost may be paid by the Company), require a legal opinion from counsel to the Agent confirming the matters set out in sub-paragraph (c)(iii) above which opinion may be subject to customary assumptions and reservations and the Agent shall be under no obligation to accept a Resignation Letter until it has obtained such opinion in form and substance reasonably satisfactory to it.

40.4 Additional Guarantors

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 25.9 (“*Know your customer*” checks), the Parent may request that any member of the Group become a Guarantor.
- (b) Prior to the occurrence of a Qualifying Listing or a Qualifying Ratings Event, the Parent shall procure that any member of the Group which is not an Original Obligor or a Special Purpose Subsidiary or not required to accede as an Additional Obligor pursuant to Clause 27.14 (*Guarantors*) which:
 - (i) constitutes a Material Company in accordance with the tests set out in the definition of “Material Company” shall, as soon as reasonably practicable after becoming a Material Company, and in any event:
 - (A) in the case of a Material Company which is incorporated in the United Kingdom within 90 days of (a) the delivery of the audited financial statements which show that such entity is a Material Company or (b) if earlier, the date of its acquisition by a member of the Group; and
 - (B) in the case of a Material Company which is not incorporated in the United Kingdom within ~~150~~120 days of (a) the delivery of the audited financial statements which show that such entity is a Material Company or (b) if earlier, the date of its acquisition by a member of the Group; or
 - (ii) provides a guarantee in respect of any Second Lien Facility (as defined in the Intercreditor Agreement)

shall, subject to the Agreed Security Principles, become an Additional Guarantor (in the case of sub-paragraph (ii) above, subject to the Agreed Security Principles, on or prior to the date it enters into such guarantee in respect of the Second Lien Facility (as defined in the Intercreditor Agreement)) and irrespective of any existing Security which is permitted pursuant to paragraph (k)(iv) or (l) of the definition of “Permitted Security”, grant Security as the Agent may reasonably require and shall accede to the Intercreditor Agreement and, if applicable, to any Other Intercreditor Agreement.

- (c) A member of the Group shall become an Additional Guarantor if:
 - (i) the Parent and the proposed Additional Guarantor deliver to the Agent a duly completed and executed Accession Deed; and
 - (ii) the Agent has received all of the documents and other evidence listed in Part 4 (*Conditions Precedent required to be delivered by an Additional Obligor*) of Schedule 2 (*Conditions Precedent*) in relation to that Additional Guarantor, each in form and substance reasonably satisfactory to the Agent.

- (d) The Agent shall notify the Parent and the Lenders promptly upon being satisfied that it has received (in form and substance reasonably satisfactory to it) all the documents and other evidence listed in Part 4 (*Conditions Precedent required to be delivered by an Additional Obligor*) of Schedule 2 (*Conditions Precedent*).
- (e) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (d) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

40.5 Resignation of a Guarantor

- (a) The Parent may request that a Guarantor (other than the Parent or the Company) ceases to be a Guarantor by delivering to the Agent a Resignation Letter if:
 - (i) that Guarantor or any Holding Company of that Guarantor is being disposed of by way of a Third Party Disposal (as defined in Clause 40.3 (*Resignation of a Borrower*)) and the Parent has confirmed this is the case;
 - (ii) the Majority Lenders have consented to the resignation of that Guarantor;
 - (iii) that Guarantor becomes a Dormant Subsidiary (*provided that* if, at any time, it ceases to be a Dormant Subsidiary and constitutes a Material Company in accordance with the tests set out in the definition of “Material Company”, it will become an Additional Guarantor in accordance with paragraph (b) of Clause 40.4 (*Additional Guarantors*));
 - (iv) prior to the occurrence of a Qualifying Listing or a Qualifying Ratings Event and other than in respect of any Guarantor incorporated in England and Wales, that Guarantor is listed in Schedule 13 (*Material Companies*) or otherwise constitutes or becomes a Material Company and, in each case, subsequently ceases to satisfy the test in paragraphs (a) and (d) of the definition of “Material Company” (tested, for the avoidance of doubt, by reference to the latest audited financial statements of that member of the Group and the latest annual audited consolidated financial statements of the Group); or
 - (v) that Guarantor is to be designated as an Unrestricted Subsidiary or a Special Purpose Subsidiary.
- (b) The Agent shall accept a Resignation Letter and notify the Parent and the Lenders of its acceptance if:
 - (i) the Parent has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;
 - (ii) no payment is due from the relevant Guarantor under Clause 23.1 (*Guarantee and indemnity*);
 - (iii) where the relevant Guarantor is also a Borrower, it is under no actual or contingent obligations as a Borrower and has resigned and ceased to be a Borrower under Clause 40.3 (*Resignation of a Borrower*);
 - (iv) if applicable, the Parent has confirmed that it shall ensure that the Disposal Proceeds will, to the extent required, be applied in accordance with

Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*);

- (v) in the case of a resignation of a Guarantor pursuant to paragraph (a)(iv) prior to the occurrence of a Qualifying Listing or a Qualifying Ratings Event, the Agent is satisfied that the Parent would have been in compliance with Clause 27.14 (*Guarantors*) on the most recent test date on a pro forma basis taking account of the resignation of the relevant Guarantor; and
 - (vi) at the same time that the Agent receives a Resignation Letter, the Security Agent has also received a Debtor Resignation Request (as defined in the Intercreditor Agreement) and its equivalent under any Other Intercreditor Agreement and the Security Agent has accepted such Debtor Resignation Request and equivalent, in accordance with clause 24.16 (*Resignation of a Debtor*) of the Intercreditor Agreement and the applicable Other Intercreditor Agreement.
- (c) In the case of a resignation in accordance with paragraph (a)(i) or (a)(v) above, the resignation of that Guarantor shall not be effective until the date of the relevant Third Party Disposal or designation as an Unrestricted Subsidiary or a Special Purpose Subsidiary (as applicable) at which time that company shall cease to be a Guarantor and shall have no further rights or obligations under the Senior Finance Documents as a Guarantor.
- (d) In the case of a resignation in accordance with paragraph (a)(ii), (a)(iii) or (a)(iv) above, the resignation of that Guarantor will be effective as at the date specified in the Resignation Letter relating to that Guarantor or such later date on which the Agent notifies the Parent of its acceptance of the Resignation Letter in accordance with this Clause 40.5.

40.6 **Repetition of Representations**

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the Repeating Representations referred to in Clause 24.36 (*Repetition of Representations*) are true and correct in all material respects in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

40.7 **Resignation and release of security**

- (a) If the requirements of Clause 40.3 (*Resignation of a Borrower*), with respect to a Borrower, or Clause 40.5 (*Resignation of a Guarantor*), with respect to a Guarantor, are satisfied then:
- (i) where that Borrower or Guarantor or any of its Subsidiaries created Transaction Security over any of its assets or business in favour of the Security Agent and/or any other Secured Party, or Transaction Security in favour of the Security Agent and/or any other Secured Party was created over the shares (or equivalent) of that Borrower or Guarantor or any of its Subsidiaries, the Security Agent may, at the cost and request of the Parent, (which cost may be paid by the Company), release for and on its own behalf and for and on behalf of the other Secured Parties those assets, business or shares (or equivalent) and issue certificates of non-crystallisation of any floating charge;
 - (ii) where the release is in respect of a Third Party Disposal or Unrestricted Subsidiary or Special Purpose Subsidiary designation, the resignation of that

Borrower or Guarantor and related release of Transaction Security referred to in sub-paragraph (i) above shall not become effective until the date of that disposal or designation (as applicable) and, to the extent effective in a jurisdiction, the release of the Transaction Security shall occur automatically on the date of such disposal or designation without delivery of any further instrument or performance of any act by any Party; and

- (iii) where the release is in respect of a Third Party Disposal or Unrestricted Subsidiary or Special Purpose Subsidiary designation, if the disposal or designation (as applicable) of that Borrower or Guarantor is not made, the Resignation Letter of that Borrower or Guarantor and the related release of Transaction Security referred to in sub-paragraph (i) above shall have no effect and the obligations of the Borrower or Guarantor and the Transaction Security created or intended to be created by or over that Borrower or Guarantor shall continue in such force and effect as if that release had not been effected.
- (b) Subject to the Intercreditor Agreement and any Other Intercreditor Agreement, the Security Agent will, at the request and cost of the Parent, (which cost may be paid by the Company), release, for and on its own behalf and for and on behalf of the other Secured Parties, from the Transaction Security Documents, and issue certificates of non-crystallisation of any floating charge in respect of, any Security granted over any asset, the release of which is necessary to allow a Disposal which is permitted under the Senior Finance Documents.

SECTION 10 THE SENIOR FINANCE PARTIES

41. ROLE OF THE AGENT, THE ARRANGERS, THE ISSUING BANK AND OTHERS

41.1 Appointment of the Agent

- (a) Each of the Arrangers, the Lenders and the Issuing Bank appoints the Agent to act as its agent under and in connection with the Senior Finance Documents.
- (b) Each of the Arrangers, the Lenders and the Issuing Bank authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Senior Finance Documents together with any other incidental rights, powers, authorities and discretions.

41.2 Duties of the Agent

- (a) The Agent's duties under the Senior Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- (c) Without prejudice to Clause 38.8 (*Copy of Transfer Certificate, Assignment Agreement, Accession Deed, Increase Confirmation, Incremental Facility Accession Certificate or Senior Loan Refinancing Facility Accession Certificate to Parent*) and paragraph (e) of Clause 7.5 (*Cash collateral by Non-Acceptable Lender*),

paragraph (a) above shall not apply to any Transfer Certificate, any Assignment Agreement or any Increase Confirmation.

- (d) Except where a Senior Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Senior Finance Parties.
- (f) The Agent shall have only those duties, obligations and responsibilities expressly specified in the Senior Finance Documents to which it is expressed to be a party (and no other shall be implied).
- (g) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Senior Finance Party (other than the Agent, the Arrangers or the Security Agent) under this Agreement it shall promptly notify the other Senior Finance Parties.
- (h) The Agent shall maintain a register of Lenders and provide to the Parent, within five Business Days of a request by the Parent (but no more frequently than once per calendar month), a list (which may be in electronic form) setting out the names of the Lenders as at the date of that request, their respective Commitments, the address and fax number (and the department or officer, if any, for whose attention any communication is to be made) of each Lender for any communication to be made or document to be delivered under or in connection with the Senior Finance Documents, the electronic mail address and/or any other information required to enable the sending and receipt of information by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the Senior Finance Documents may be made by that means.

41.3 Role of the Arrangers

Except as specifically provided in the Senior Finance Documents, the Arrangers have no obligations of any kind to any other Party under or in connection with any Senior Finance Document.

41.4 No fiduciary duties

- (a) Nothing in any Senior Finance Document constitutes the Agent, the Arrangers and/or the Issuing Bank as a trustee or fiduciary of any other person.
- (b) None of the Agent, the Security Agent, the Arrangers, the Issuing Bank or any Ancillary Lender shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

41.5 Business with the Group

The Agent, the Security Agent, the Arrangers, the Issuing Bank and each Ancillary Lender may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

41.6 Rights and discretions

- (a) The Agent and the Issuing Bank may:
- (i) rely on:
 - (A) any representation, communication, notice or document (including, without limitation, any notice given by a Lender pursuant to paragraph (b) or (c) of Clause 39.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates*)) believed by it to be genuine, correct and appropriately authorised; and
 - (B) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify;
 - (ii) assume that:
 - (A) any instructions received by it from the Majority Lenders, any Lenders or any group of Lenders are duly given in accordance with the terms of the Senior Finance Documents; and
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
 - (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
- (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 37.1 (*Failure to pay*));
 - (ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised;
 - (iii) any notice or request made by the Parent (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors;
 - (iv) Clause 27.25 (*Sanctions*) confers rights to each Senior Finance Party (including voting rights where the amendment or waivers related to Clause 27.25 (*Sanctions*)); and
 - (v) no Notifiable Debt Purchase Transaction:
 - (A) has been entered into;
 - (B) has been terminated; or

- (C) has ceased to be with a Sponsor Affiliate.
- (c) The Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) Without prejudice to the generality of paragraph (c) above, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be desirable.
- (e) The Agent may act in relation to the Senior Finance Documents through its officers, employees and agents and in respect of actions through its agents, the Agent shall not:
- (i) be liable for any error of judgment made by any such agent; or
- (ii) be bound to supervise, or be in any way responsible for, any loss incurred by reason of misconduct, omission or default on the part of any such agent,
- unless such error or such loss was directly caused by the Agent's gross negligence or wilful misconduct.
- (f) The Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (g) Without prejudice to the generality of paragraph (e) above, the Agent may disclose the identity of a Defaulting Lender to the other Senior Finance Parties and the Parent and shall disclose the same upon the written request of the Parent or the Majority Lenders.
- (h) Notwithstanding any other provision of any Senior Finance Document to the contrary, none of the Agent, the Arrangers or the Issuing Bank is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (i) Notwithstanding any provision of any Senior Finance Document to the contrary, the Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has reasonable grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

41.7 **Majority Lenders' instructions**

- (a) The Agent shall:
- (i) unless a contrary indication appears in a Senior Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
- (A) all Lenders if the relevant Senior Finance Document stipulates the matter is an all Lender decision;

- (B) the Required Release Lenders if the relevant Senior Finance Document stipulates the matter is a Required Release Lender decision;
 - (C) in all other cases, the Majority Lenders; and
- (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Senior Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
 - (c) Unless a contrary indication appears in a Senior Finance Document, any instructions given by the Majority Lenders will be binding on all the Senior Finance Parties other than the Security Agent.
 - (d) The Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders or the Required Release Lenders) (including, without limitation, bringing any legal action or proceeding arising out of or in connection with the Senior Finance Documents) until it has received such indemnification and/or security from such Lenders as it may in its sole discretion require (which may be greater in extent than that contained in the Senior Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any associated VAT or similar tax) which it may incur in so acting.
 - (e) The Agent may refrain from doing anything which might, in its sole opinion, constitute a breach of any law or regulation or be otherwise actionable at the suit of any person, and may do anything which, in its sole opinion, is necessary or desirable to comply with any applicable law or regulation.
 - (f) In the absence of instructions from the Majority Lenders, (or, if appropriate, the Lenders or the Required Release Lenders) the Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.
 - (g) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Senior Finance Document. This paragraph (g) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.

41.8 **Responsibility for documentation**

None of the Agent, the Arrangers, the Issuing Bank or any Ancillary Lender is responsible or liable for:

- (a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Agent, the Arrangers, the Issuing Bank, an Ancillary Lender, an Obligor or any other person given in or in connection with any Senior Finance

Document or the Information Memorandum or the Reports or the transactions contemplated in the Senior Finance Documents;

- (b) the legality, validity, effectiveness, adequacy or enforceability of any Senior Finance Document or the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Senior Finance Document or the Transaction Security; or
- (c) any determination as to whether any information provided or to be provided to any Senior Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

41.9 No duty to monitor

The Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Senior Finance Document; or
- (c) whether any other event specified in any Senior Finance Document has occurred.

41.10 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to the provisions of paragraph (e) of Clause 44.11 (*Disruption to Payment Systems etc.*)), none of the Agent, the Issuing Bank, or any Ancillary Lender will be liable (including, without limitation, for negligence or any other category of liability whatsoever) for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Senior Finance Document or the Transaction Security, unless directly caused by its gross negligence, wilful misconduct or material breach of the terms of the Senior Finance Documents;
 - (ii) exercising, or not exercising, any rights, power, authority or discretion given to it by, or in connection with, any Senior Finance Documents, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Senior Finance Document or the Transaction Security, unless directly caused by its gross negligence, wilful misconduct or material breach of the terms of the Senior Finance Documents; or
 - (iii) without prejudice to the generality of paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising solely and directly as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency

restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No Party (other than the Agent, the Issuing Bank or an Ancillary Lender (as applicable)) may take any proceedings against any officer, employee or agent of the Agent, the Issuing Bank or any Ancillary Lender, in respect of any claim it might have against the Agent, the Issuing Bank or an Ancillary Lender or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Senior Finance Document or any Transaction Document and any officer, employee or agent of the Agent, the Issuing Bank or any Ancillary Lender may rely on this Clause subject to Clause 1.3 (*Third party rights*) and the provisions of the Third Parties Act.
- (c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Senior Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Agent or the Arrangers to carry out:
 - (i) any “know your customer” or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender,

on behalf of any Lender and each Lender confirms to the Agent and the Arrangers that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Arrangers.

- (e) Without prejudice to any provision of any Senior Finance Document excluding or limiting the Agent's liability, any liability of the Agent arising under or in connection with any Senior Finance Document or the Transaction Security shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent at any time which increase the amount of that loss. In no event shall the Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent has been advised of the possibility of such loss or damages.

41.11 Lenders' indemnity to the Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 44.11 (*Disruption to Payment Systems etc.*)) notwithstanding the Agent's negligence,

gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent in acting as Agent under the Senior Finance Documents (unless the Agent has been reimbursed by an Obligor pursuant to a Senior Finance Document).

41.12 Resignation of the Agent

- (a) The Agent may resign (after consultation with the Parent) and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving notice to the Lenders and the Parent.
- (b) Alternatively the Agent may resign by giving 30 days' notice to the Lenders and the Parent, in which case the Majority Lenders (with the consent of the Parent, such consent not to be unreasonably withheld or delayed, *provided that*, for the avoidance of doubt, it shall not be unreasonable to withhold or delay consent where the Parent has made reasonable requests for information about the proposed successor Agent and that information has not been provided or the proposed successor Agent is a Business Competitor) may appoint a successor Agent.
- (c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Agent (with the consent of the Parent, such consent not to be unreasonably withheld or delayed, *provided that*, for the avoidance of doubt, it shall not be unreasonable to withhold or delay consent where the Parent has made reasonable requests for information about the proposed successor Agent and that information has not been provided or the proposed successor Agent is a Business Competitor) may appoint a successor Agent.
- (d) If the Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent, and the Agent is entitled to appoint a successor Agent under paragraph (c) above, the Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent to become a party to this Agreement as Agent) agree with the proposed successor Agent amendments to this Clause 41 and any other term of this Agreement (with the consent of the Parent, such consent not to be unreasonably withheld or delayed) dealing with the rights or obligations of the Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this Agreement which are consistent with the successor Agent's normal fee rates and those amendments will bind the Parties.
- (e) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Senior Finance Documents.
- (f) The Agent's resignation notice shall only take effect upon the appointment of a successor Agent.
- (g) Upon the appointment of a successor Agent, the retiring Agent shall be discharged from any further obligation in respect of the Senior Finance Documents but shall remain entitled to the benefit of Clause 20.3 (*Indemnity to the Agent*) and this Clause 41. Any successor Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor Agent had been an original Party.

- (h) For the purposes of paragraphs (a) to (d) above, the consent of the Parent is not required where an Event of Default under Clause 37.1 (*Failure to pay*) or Clause 37.7 (*Insolvency proceedings*) has occurred and is continuing.
- (i) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to promptly appoint a successor Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Agent under the Senior Finance Documents, either:
 - (i) the Agent fails to respond to a request under Clause 18.8 (*FATCA Information*) and the Parent or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
 - (ii) the information supplied by the Agent pursuant to Clause 18.8 (*FATCA Information*) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
 - (iii) the Agent notifies the Parent and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) the Parent or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and the Parent or that Lender, by notice to the Agent, requires it to resign.

41.13 Replacement of the Agent

- (a) With the consent of the Company (not to be unreasonably withheld), the Majority Lenders may, by giving 30 days' notice to the Agent (or, at any time the Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Lenders) replace the Agent by appointing a successor Agent.
- (b) The retiring Agent shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Lenders) make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Senior Finance Documents.
- (c) The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Lenders to the retiring Agent. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Senior Finance Documents but shall remain entitled to the benefit of this Clause 41 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).
- (d) Any successor Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor Agent had been an original Party.

41.14 Confidentiality

- (a) In acting as agent for the Senior Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any of its other divisions or departments.
- (b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Senior Finance Document to the contrary, neither the Agent nor the Arrangers is obliged to disclose to any other person:
 - (i) any confidential information; or
 - (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

41.15 Relationship with the Lenders

- (a) Subject to Clause 38.13 (*Pro rata interest settlement*), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Senior Finance Parties from time to time) as the Lender acting through its Facility Office:
 - (i) entitled to or liable for any payment due under any Senior Finance Document on that day; and
 - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Senior Finance Document made or delivered on that day,

unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

- (b) Each Lender shall supply the Agent with any information that the Security Agent may reasonably specify (through the Agent) as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent. Each Lender shall deal with the Security Agent exclusively through the Agent and shall not deal directly with the Security Agent.
- (c) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Senior Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 46.6 (*Electronic communication*)) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention the communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Lender for the purposes of Clause 46.2 (*Addresses*) and sub-paragraph (a)(ii) of Clause 46.6 (*Electronic communication*) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

41.16 Credit appraisal by the Lenders, Issuing Bank and Ancillary Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Senior Finance Document, each Lender, Issuing Bank and Ancillary Lender confirms to the Agent, the Arrangers, the Issuing Bank and each Ancillary Lender that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Senior Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Senior Finance Document and the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Senior Finance Document or the Transaction Security;
- (c) whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Senior Finance Document, the Transaction Security, the transactions contemplated by the Senior Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Senior Finance Document;
- (d) the adequacy, accuracy and/or completeness of the Information Memorandum, the Reports and any other information provided by the Agent, any Party or by any other person under or in connection with any Senior Finance Document, the transactions contemplated by the Senior Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Senior Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

41.17 **Agent's management time**

- (a) Any amount payable to the Agent under Clause 20.3 (*Indemnity to the Agent*), Clause 22 (*Costs and Expenses*) and Clause 41.11 (*Lenders' indemnity to the Agent*) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Parent and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 17 (*Fees*).
- (b) Any cost of utilising the Agent's management time or other resources shall include, without limitation, any such costs in connection with Clause 39.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates*).

41.18 **Deduction from amounts payable by the Agent**

If any Party owes an amount to the Agent under the Senior Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Senior Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Senior Finance Documents that Party shall be regarded as having received any amount so deducted.

41.19 **Reliance and engagement letters**

Each Senior Finance Party and Secured Party confirms that each of the Arrangers and the Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Arrangers or Agent) the terms of any reliance letter or engagement letters relating to the Reports or any reports or letters provided by accountants in connection with the Senior Finance Documents or the transactions contemplated in the Senior Finance Documents and to bind it in respect of those Reports, reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

41.20 **Role of Reference Banks**

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Senior Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Senior Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 41.20 subject to Clause 1.3 (*Third party rights*) and the provisions of the Third Parties Act.

41.21 **Third party Reference Banks**

A Reference Bank which is not a Party may rely on Clause 41.20 (*Role of Reference Banks*), paragraph (f) of Clause 50.3 (*Exceptions*), Clause 51.8 (*Confidentiality and disclosure of Funding Rates and Reference Bank Quotations*) and Clause 51.9 (*Related obligations*) subject to Clause 1.3 (*Third party rights*) and the provisions of the Third Parties Act.

42. **CONDUCT OF BUSINESS BY THE SENIOR FINANCE PARTIES**

No provision of this Agreement will, save to the extent expressly provided otherwise in this Agreement (including in Clause 18 (*Tax Gross Up and Indemnities*)):

- (a) interfere with the right of any Senior Finance Party to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Senior Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Senior Finance Party to disclose any information relating to its affairs (Tax or otherwise) or any computations in respect of Tax.

43. **SHARING AMONG THE SENIOR FINANCE PARTIES**

43.1 **Payments to Senior Finance Parties**

- (a) Subject to paragraph (b) below, if a Senior Finance Party (a “**Recovering Senior Finance Party**”) receives or recovers any amount from an Obligor other than in

accordance with Clause 44 (*Payment Mechanics*) (a “**Recovered Amount**”) and applies that amount to a payment due under the Senior Finance Documents then:

- (i) the Recovering Senior Finance Party shall, within three Business Days, notify details of the Recovered Amount, to the Agent;
 - (ii) the Agent shall determine whether the Recovered Amount is in excess of the amount the Recovering Senior Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 44 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
 - (iii) the Recovering Senior Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the “**Sharing Payment**”) equal to the Recovered Amount less any amount which the Agent determines may be retained by the Recovering Senior Finance Party as its share of any payment to be made, in accordance with Clause 44.6 (*Partial payments*).
- (b) Paragraph (a) above shall not apply to any amount received or recovered by an Issuing Bank or an Ancillary Lender in respect of any cash cover provided for the benefit of that Issuing Bank or that Ancillary Lender.

43.2 **Redistribution of payments**

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Senior Finance Parties (other than the Recovering Senior Finance Party) (the “**Sharing Senior Finance Parties**”) in accordance with Clause 44.6 (*Partial payments*) towards the obligations of that Obligor to the Sharing Senior Finance Parties.

43.3 **Recovering Senior Finance Party’s rights**

On a distribution by the Agent under Clause 43.2 (*Redistribution of payments*) of a payment received by a Recovering Senior Finance Party from an Obligor, as between the relevant Obligor and the Recovering Senior Finance Party, an amount equal to the Sharing Payment will be treated as not having been paid by that Obligor.

43.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Senior Finance Party becomes repayable and is repaid by that Recovering Senior Finance Party, then:

- (a) each Sharing Senior Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Senior Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Senior Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Senior Finance Party is required to pay) (the “**Redistributed Amount**”); and
- (b) as between the relevant Obligor and each relevant Sharing Senior Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.

43.5 **Exceptions**

- (a) This Clause 43 shall not apply to the extent that the Recovering Senior Finance Party would not, after making any payment pursuant to this Clause 43, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Senior Finance Party is not obliged to share with any other Senior Finance Party any amount which the Recovering Senior Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified the other Senior Finance Party of the legal or arbitration proceedings; and
 - (ii) the other Senior Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

43.6 Ancillary Lenders

- (a) This Clause 43 shall not apply to any receipt or recovery by a Lender in its capacity as an Ancillary Lender at any time prior to service of notice under Clause 37.18 (*Acceleration and Cancellation*).
- (b) Following service of notice under Clause 37.18 (*Acceleration and Cancellation*), this Clause 43 shall apply to all receipts or recoveries by Ancillary Lenders except to the extent that the receipt or recovery represents a reduction from the Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Net Outstandings.

SECTION 11 ADMINISTRATION

44. PAYMENT MECHANICS

44.1 Payments to the Agent

- (a) On each date on which an Obligor or a Lender is required to make a payment under a Senior Finance Document excluding a payment under the terms of an Ancillary Document or a Hedging Agreement, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Senior Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London) with such bank as the Agent specifies.

44.2 Distributions by the Agent

Each payment received by the Agent under the Senior Finance Documents for another Party shall, subject to Clause 44.3 (*Distributions to an Obligor*) and Clause 44.4 (*Clawback*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London).

44.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with Clause 45 (*Set-Off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Senior Finance Documents or in or towards purchase of any amount of any currency to be so applied.

44.4 Clawback

- (a) Where a sum is to be paid to the Agent under the Senior Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

44.5 Impaired Agent

- (a) If, at any time, the Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Senior Finance Documents to the Agent in accordance with Clause 44.1 (*Payments to the Agent*) may instead either pay that amount direct to the required recipient or pay that amount to an interest-bearing account held with an Acceptable Bank within the meaning of paragraph (a) of the definition of “Acceptable Bank” and in relation to which no Insolvency Event to the Parent’s knowledge has occurred and is continuing, in the name of the Obligor or the Lender making the payment and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Senior Finance Documents. In each case such payments must be made on the due date for payment under the Senior Finance Documents.
- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the beneficiaries of that trust account *pro rata* to their respective entitlements.
- (c) A Party which has made a payment in accordance with this Clause 44.5 shall be discharged of the relevant payment obligation under the Senior Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.
- (d) Promptly upon the appointment of a successor Agent in accordance with Clause 41.13 (*Replacement of the Agent*), each Party which has made a payment to a trust account in accordance with this Clause 44.5 shall give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution in accordance with Clause 44.2 (*Distributions by the Agent*).

44.6 Partial payments

- (a) If the Agent receives a payment for application against amounts due in respect of any Senior Finance Documents that is insufficient to discharge all the amounts then due and payable by an Obligor under those Senior Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under those Senior Finance Documents in the following order:
 - (i) *first*, in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Agent, the Issuing Bank (other than any amount under Clause 7.2 (*Claims under a Letter of Credit or Bank Guarantee*) or, to the extent relating to the reimbursement of a claim (as defined in Clause 7 (*Letters of Credit and Bank Guarantees*)), Clause 7.4 (*Indemnities related to Letters of Credit or Bank Guarantees*)) or the Security Agent under those Senior Finance Documents;
 - (ii) *secondly*, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under those Senior Finance Documents;
 - (iii) *thirdly*, in or towards payment *pro rata* of any principal due but unpaid under those Senior Finance Documents and any amount due but unpaid under Clause 7.2 (*Claims under a Letter of Credit or Bank Guarantee*) and Clause 7.4 (*Indemnities related to Letters of Credit or Bank Guarantees*); and
 - (iv) *fourthly*, in or towards payment *pro rata* of any other sum due but unpaid under the Senior Finance Documents.

- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

44.7 **Set-off by Obligors**

All payments to be made by an Obligor under the Senior Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

44.8 **Business Days**

- (a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

44.9 **Currency of account**

- (a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Senior Finance Document.
- (b) A repayment of a Utilisation or Unpaid Sum or a part of a Utilisation or Unpaid Sum shall be made in the currency in which that Utilisation or Unpaid Sum is denominated on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.
- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

44.10 **Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Senior Finance Documents to, and any obligations arising under the Senior Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Parent); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).
- (b) If a change in any currency of a country occurs (including, but not limited to, a Withdrawal Event), this Agreement will, to the extent the Agent (acting reasonably

and after consultation with the Parent) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency and to ensure that the Senior Finance Documents are on terms no less favourable to all parties thereto than those terms applicable immediately prior to such change.

44.11 Disruption to Payment Systems etc.

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Parent that a Disruption Event has occurred:

- (a) the Agent may, and shall if requested to do so by the Parent, consult with the Parent with a view to agreeing with the Parent such changes to the operation or administration of the Facilities as the Agent may deem necessary in the circumstances;
- (b) the Agent shall not be obliged to consult with the Parent in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Agent may consult with the Senior Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Agent and the Parent shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Senior Finance Documents notwithstanding the provisions of Clause 50 (*Amendments and Waivers*);
- (e) the Agent shall not be liable for any damages, costs or losses whatsoever (including, without limitation for negligence or any other category of liability whatsoever but not including any claim based on the fraud, gross negligence or wilful misconduct of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 44.11; and
- (f) the Agent shall notify the Senior Finance Parties of all changes agreed pursuant to paragraph (d) above.

45. SET-OFF

- (a) A Senior Finance Party may set off any matured obligation due from an Obligor under the Senior Finance Documents (to the extent beneficially owned by that Senior Finance Party) against any matured obligation owed by that Senior Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation if:
 - (i) subject to Clause 4.5 (*Utilisations during the Certain Funds Period*) and Clause 4.6 (*Utilisations for Limited Condition Acquisitions on a Certain Funds Basis*), an Event of Default is continuing; or
 - (ii) such set off relates to a matured obligation due from an Obligor to (x) Royal Bank of Canada (or its Affiliate) under a Multi-account Overdraft.

If the obligations are in different currencies, the Senior Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

- (b) Any credit balances taken into account by an Ancillary Lender when operating a net limit in respect of any overdraft under an Ancillary Facility shall on enforcement of the Senior Finance Documents be applied first in reduction of the overdraft provided under that Ancillary Facility in accordance with its terms.

46. NOTICES

46.1 Communications in writing

Any communication to be made under or in connection with the Senior Finance Documents shall be made in writing or by way of electronic communication pursuant to Clause 46.6 (*Electronic Communications*) and, unless otherwise stated, may be made by fax or letter.

46.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Senior Finance Documents is:

- (a) in the case of the Parent, the Company or any Original Obligor, that identified on the signature pages with its name below;
- (b) in the case of each Lender, the Issuing Bank, each Ancillary Lender or any other Obligor, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and
- (c) in the case of the Agent or the Security Agent, that identified on the signature pages with its name below,

or any substitute address, fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

46.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Senior Finance Documents will only be effective:
 - (i) if by way of fax, when received in legible form; or
 - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 46.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's or Security Agent's signature below (or any substitute department or officer as the Agent or Security Agent shall specify for this purpose).

- (c) All notices from or to an Obligor shall be sent through the Agent.
- (d) Any communication or document made or delivered to the Parent in accordance with this Clause 46.3 will be deemed to have been made or delivered to each of the Obligors.

46.4 Notification of address and fax number

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 46.2 (*Addresses*) or changing its own address or fax number, the Agent shall notify the other Parties.

46.5 Communication when Agent is Impaired Agent

If the Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Agent, communicate with each other directly and (while the Agent is an Impaired Agent) all the provisions of the Senior Finance Documents which require communications to be made or notices to be given to or by the Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Agent has been appointed.

46.6 Electronic communication

- (a) Any communication to be made between any two Parties under or in connection with the Senior Finance Documents may be made by electronic mail (including by way of unencrypted communication) or other electronic means (including, without limitation, by way of posting to a secure website), if those two Parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above to be made between an Obligor and a Senior Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above to be made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Agent only if it is addressed in such a manner as the Agent shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in a Senior Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 46.6 unless expressly stated otherwise.

46.7 Use of websites

- (a) The Parent or the Company may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the “**Website Lenders**”) who accept this method of communication by posting this information onto an electronic website designated by the Parent and the Agent (the “**Designated Website**”) if:
- (i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
 - (ii) both the Parent and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and
 - (iii) the information is in a format previously agreed between the Parent and the Agent.

If any Lender (a “**Paper Form Lender**”) does not agree to the delivery of information electronically then the Agent shall notify the Parent accordingly and the Parent shall at its own cost, (which cost may be paid by the Company), supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Parent shall at its own cost, (which cost may be paid by the Company), supply the Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Parent and the Agent.
- (c) The Parent shall promptly upon becoming aware of its occurrence notify the Agent if:
- (i) the Designated Website cannot be accessed due to technical failure;
 - (ii) the password specifications for the Designated Website change;
 - (iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
 - (iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
 - (v) the Parent becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Parent notifies the Agent under sub-paragraph (c)(i) or (c)(v) above, all information to be provided by the Parent under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

- (d) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Parent shall at its own cost, (which cost may be paid by the Company), comply with any such request within ten Business Days.

46.8 **English language**

- (a) Any notice given under or in connection with any Senior Finance Document must be in English.
- (b) All other documents provided under or in connection with any Senior Finance Document must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

47. **CALCULATIONS AND CERTIFICATES**

47.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Senior Finance Document, the entries made in the accounts maintained by a Senior Finance Party are *prima facie* evidence of the matters to which they relate.

47.2 **Certificates and determinations**

Any certification or determination by a Senior Finance Party of a rate or amount under any Senior Finance Document is *prima facie* evidence of the matters to which it relates.

47.3 **Day count convention**

Any interest, commission or fee accruing under a Senior Finance Document will accrue from day-to-day and is calculated on the basis of the actual number of days elapsed and a year of 360 days (in the case of amounts denominated in euro or an Optional Currency other than sterling) and 365 days (in the case of amounts denominated in sterling) or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.

48. **PARTIAL INVALIDITY**

If, at any time, any provision of the Senior Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

49. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Senior Finance Party or Secured Party, any right or remedy under the Senior Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

50. **AMENDMENTS AND WAIVERS**

50.1 **Intercreditor Agreement**

This Clause 50 is subject to the terms of the Intercreditor Agreement.

50.2 Required consents

- (a) Subject to Clause 50.3 (*Exceptions*), any term of the Senior Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Parent and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Senior Finance Party, any amendment or waiver permitted by this Clause 50.
- (c) Each Obligor agrees (i) to any such amendment or waiver permitted by this Clause 50 which is agreed to by the Parent and (ii) that the Obligors' Agent may, in such capacity and as its agent, effect any amendment or waiver permitted by this Clause 50. This includes any amendment or waiver which would, but for this paragraph (c), require the consent of all or any of the Guarantors.
- (d) If any Lender gives a consent in relation to, or agrees to a waiver or amendment of, any provisions of the Senior Finance Documents and subsequently transfers, assigns or effects a sub-participation (which requires the sub-participant to vote in accordance with the instructions of the sub-participant) of any of that Lender's Commitments, the New Lender (or sub-participant, as applicable) shall be deemed to have given such consent or agreement in respect of the transferred, assigned or sub-participated Commitments.

50.3 Exceptions

- (a) In this Clause 50, "**Facility Change**" means an amendment or waiver that has the effect of changing or which relates to:
 - (i) the introduction of an additional loan, commitment, tranche or facility into the Senior Finance Documents (in any currency or currencies) ranking *pari passu* with or subordinate to the Facilities;
 - (ii) an increase in, addition to or an extension of any Commitment or the Total Commitments (including with respect to any availability period or maturity date) (other than any increase, addition or extension pursuant to Clause 2.2 (*Increase*), Clause 2.3 (*Incremental Facility*), Clause 2.4 (*Senior Loan Refinancing Facility*) or Clause 2.5 (*Extension*));
 - (iii) a reduction in, deferral of or extension to the availability or date of payment of or redenomination into another currency of any amount under the Senior Finance Documents;
 - (iv) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission or other amount payable (other than in accordance with the ratchets set out in the definition of "Margin" or as a result of a Qualifying Listing or a Qualifying Ratings Event); or
 - (v) any amendment to the Senior Finance Documents (including changes to, the taking of or the release coupled with the immediate re-taking of, Security) consequential on or required by applicable law to implement anything described in sub-paragraphs (i) to (iv) above.

- (b) Subject as otherwise provided in this Clause 50.3, an amendment or waiver that has the effect of changing or which relates to:
- (i) the definitions of “Majority Lenders”, “Required Release Lenders”, or “Change of Control” (including the definition of “Relevant Holders”) in Clause 1.1 (*Definitions*) or “Facility Change” in paragraph (a) above;
 - (ii) a change to the Borrowers or Guarantors other than in accordance with Clause 40 (*Changes to the Obligors*);
 - (iii) an increase in or extension of any Commitment or the Total Commitments other than any increase, addition or extension pursuant to Clause 2.2 (*Increase*), Clause 2.3 (*Incremental Facility*), Clause 2.4 (*Senior Loan Refinancing Facility*) or Clause 2.5 (*Extension*);
 - (iv) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable (other than any amendment made in accordance with Clause 50.4 (*Replacement of Screen Rate*), which shall be made only with the consent of the Majority Lenders);
 - (v) an extension to the date of payment of any amount under the Senior Finance Documents (other than in relation to Clause 12 (*Exit, Qualifying Listing or Qualifying Ratings Event and Mandatory Prepayment*)) (except for Clause 12.1 (*Exit*)), *provided that* with respect to any Lender that has issued a Cancellation Notice pursuant to paragraph (b) of Clause 12.1 (*Exit*), such Lender and the Parent may unilaterally agree a longer period for payment than that prescribed in paragraph (b) of Clause 12.1 (*Exit*));
 - (vi) any provision which expressly requires the consent of all the Lenders;
 - (vii) the order of priority or subordination under the Intercreditor Agreement *provided that* the entry into any Other Intercreditor Agreement shall not be deemed to have the effect of changing or relate to the order of priority or subordination of the Intercreditor Agreement if the Initial Senior Facilities Liabilities remain (alone or together with other Indebtedness permitted to be Incurred under the Senior Finance Documents) first ranking liabilities in right of payment and in right of security with respect to the Charged Property of the Obligors;
 - (viii) Clause 2.6 (*Senior Finance Parties’ rights and obligations*), Clause 12.1 (*Exit*), Clause 38 (*Changes to the Lenders*), Clause 43 (*Sharing among the Senior Finance Parties*) or this Clause 50; ~~or~~
 - (ix) [Clause 56 \(Governing Law\)](#),

in each case other than as a result of, or to the extent necessary to implement, a Facility Change, shall not be made without the prior consent of all the Lenders; *provided that* (A) an amendment or waiver described in sub-paragraph (iv) above shall only require the consent of those Lenders to whom any amount is owing is being reduced and no other Lenders, (B) an amendment or waiver described in sub-paragraph (v) shall only require the consent of the Lenders whose date for payment is being extended and no other Lenders and (C) an amendment or waiver described in sub-paragraph (vii) or sub-paragraph (viii) above shall only require the consent of those Lenders which will be prejudiced by the proposed amendment or waiver and no other Lenders.

- (c) An amendment or waiver that has the effect of changing or which relates to:
- (i) the guarantee and indemnity granted under Clause 23 (*Guarantee and Indemnity*) but not, for the avoidance of doubt, any release of a guarantee or indemnity granted under Clause 23 (*Guarantee and Indemnity*) pursuant to release provisions set out in the Senior Finance Documents;
 - (ii) the nature or scope of the Charged Property or the release of any Transaction Security created pursuant to any Transaction Security Document, including the release of Guarantors accounting for all or substantially all of the value of the guarantee of the Initial Senior Facilities Liabilities, or, in the aggregate (in a single transaction or a series of related transactions), all or substantially all of the Security, except to the extent such change to the nature or scope or release is expressly permitted by a Senior Finance Document; or
 - (iii) any provision which expressly requires the consent of the Required Release Lenders,

shall not be made without the prior consent of the Required Release Lenders.

- (d) A Facility Change shall not be made without the prior consent of the Majority Lenders and each Lender that is assuming an increased or additional Commitment in the relevant Loan or Facility or whose Commitment is being extended or redenominated or to whom any amount owing is being reduced, deferred or redenominated (as the case may be) and, upon the granting of any consent in relation to a Facility Change, the Agent and Security Agent shall enter into any documentation necessary to implement such Facility Change on behalf of the Senior Finance Parties.
- (e) The Transaction Security Documents may be amended, varied, waived or modified with the agreement of the relevant Obligor and the Security Agent acting in accordance with the Intercreditor Agreement.
- (f) An amendment or waiver which relates to the rights or obligations of the Agent, an Arranger, the Issuing Bank, the Security Agent, a Reference Bank or any Ancillary Lender (each in their capacity as such) may not be effected without the consent, as applicable, of the Agent, that Arranger, the Issuing Bank, the Security Agent, that Reference Bank or that Ancillary Lender.
- (g) Any amendment or waiver which relates to the rights or obligations applicable to a particular Utilisation, Facility or class of Lenders and which does not adversely affect the rights or interests of Lenders in respect of other Utilisations, Facilities or another class of Lender shall only require the consent of the Majority Lenders or the Lenders (as applicable) in each case as if references in this paragraph (g) to “Lenders” (or the requisite majority) were only to Lenders (or the requisite majority) participating in that Utilisation, Facility or forming part of that class.
- (h) If any Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any of the terms of any Senior Finance Document or other vote of Lenders under the terms of this Agreement within ten Business Days (unless the Parent and the Agent agree to a longer time period in relation to any request) of that request being made, its Commitment and/or participation shall not be included for the purpose of calculating the Total Commitments or participations under the relevant Facility or Facilities when ascertaining whether any relevant percentage (including,

for the avoidance of doubt, unanimity) of Total Commitments and/or participations has been obtained to approve that request.

- (i) The Agent may agree with the Parent and relevant Lender at any time any amendment to or modification of a name or other details of an Original Lender as set out in Part II (*The Original Lenders*) of Schedule 1 (*The Original Parties*), which is technical in nature or which is necessary to correct a manifest error.
- (j) Notwithstanding any provision in the Senior Finance Documents to the contrary, this Agreement and the other Senior Finance Documents (other than any Hedging Agreement, Ancillary Document or Fee Letter) may be amended or waived by the Obligors' Agent and the Agent or, to the extent such amendment or waiver relates to the Transaction Security Documents, the Obligors' Agent and the Security Agent without the consent of any other Party if that amendment or waiver is:
 - (i) to cure any defects, errors or omissions, or inconsistencies or reflect changes of a minor, technical or administrative nature;
 - (ii) in accordance with paragraphs (g) and (h) of Clause 2.3 (*Incremental Facility*) to incorporate the terms of and amendments necessary for the implementation of any Incremental Facility (including any amendments of the type contemplated in paragraphs (v) and (vi) below);
 - (iii) in accordance with paragraphs (g) and (h) of Clause 2.4 (*Senior Loan Refinancing Facility*) to incorporate the terms of and amendments necessary for the implementation of any Senior Loan Refinancing Facility (including any amendments of the type contemplated in paragraphs (v) and (vi) below);
 - (iv) in accordance with paragraphs (j) and (k) of Clause 2.5 (*Extension*) to incorporate the terms of and amendments necessary for the implementation of any Extended Tranche (including any amendments of the type contemplated in paragraphs (v) and (vi) below);
 - (v) to the extent that any provision of any Pari Passu Indebtedness would result in Pari Passu Indebtedness being prepaid on more than a rateable basis with the Facility B Loans pursuant to Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*), Clause 12.4 (*Listing*) or Clause 12.5 (*Excess Cash Flow*), amendments to provide for mandatory prepayment of Facility B Loans such that the prepayments made in respect of such Pari Passu Indebtedness are not on more than a rateable basis;
 - (vi) to the extent that any Pari Passu Indebtedness would result in Pari Passu Indebtedness being prepaid on less than a rateable basis with the Facility B Loans pursuant to Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*), Clause 12.4 (*Listing*) or 12.5 (*Excess Cash Flow*), amendments to reflect the non *pro rata* treatment of such Pari Passu Indebtedness; or
 - (vii) to the Transaction Security Documents, the Intercreditor Agreement, any Other Intercreditor Agreement or other intercreditor agreements in connection with the incurrence by any Obligor or any Subsidiary of an Obligor of Additional Senior Secured Financing Liabilities, Second Lien Liabilities or Unsecured Notes Liabilities (each as defined in the Intercreditor Agreement) or other Indebtedness permitted to be incurred by the Senior Finance Documents (including, in the case of the Transaction Security Documents, any release and retaking of Transaction Security to implement the relative

priority of such Additional Senior Secured Financing Liabilities, Second Lien Liabilities or other Indebtedness permitted by the Senior Finance Documents to have the benefit of a Security Interest in respect of the Charged Property), to permit such Additional Senior Secured Financing Liabilities, Second Lien Liabilities or other Indebtedness permitted by the Senior Finance Documents to take the benefit of a Security Interest in respect of the Charged Property to be secured by a valid, perfected Security Interest (with such priority as may be designated by the Parent or relevant Subsidiary, to the extent such priority is permitted by the Senior Finance Documents).

The Agent and the Security Agent hereby agree (if requested by the Parent), and the Secured Parties hereby authorise and empower the Agent and the Security Agent, to execute any amendment referred to above in this paragraph (j) or any acknowledgement thereof.

For the avoidance of doubt, and notwithstanding any provision in the Senior Finance Documents to the contrary, the Agent and the Security Agent are authorised and empowered by the Secured Parties, without the consent of any other Party (except the Parent), to enter into any new or additional Transaction Security Documents, Other Intercreditor Agreement or other intercreditor agreements (or amendments to the Intercreditor Agreement) that reflect the then current market terms and that are required in connection with the Incurrence by any Obligor or any Subsidiary of an Obligor of any Pari Passu Indebtedness, Subordinated Indebtedness, Junior Secured Indebtedness, Refinancing Indebtedness or other Indebtedness permitted under the Senior Finance Documents and hereby agree, if requested by the Parent, to do so.

- (k) If a change in any currency of a country occurs (including, but not limited to, a Withdrawal Event), the Senior Finance Documents will be amended to the extent the Agent (acting reasonably and after consultation with the Parent) determines to be necessary to comply with any generally accepted conventions and market practice in the Relevant Market, to otherwise reflect the change in currency and to ensure that the Senior Finance Documents are on terms no less favourable to all of the Parties than those terms applicable immediately prior to such change.

50.4 Replacement of Screen Rate

Subject to paragraph (f) of Clause 50.3 (*Exceptions*), if a Screen Rate Replacement Event has occurred in relation to any Screen Rate for a currency which can be selected for a Loan, any amendment or waiver which relates to:

- (a) providing for the use of a Replacement Benchmark in relation to that currency in place of that Screen Rate; and
- (b)
 - (i) aligning any provision of any Senior Finance Document to the use of that Replacement Benchmark;
 - (ii) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);
 - (iii) implementing market conventions applicable to that Replacement Benchmark;

- (iv) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
- (v) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Obligors' Agent.

50.5 Replacement of Lender

- (a) If at any time:
 - (i) any Lender becomes a Non-Consenting Lender (as defined in paragraph (d) below); or
 - (ii) an Obligor becomes obliged to repay any amount in accordance with Clause 11.1 (*Illegality*) or Clause 11.2 (*Illegality in relation to Issuing Bank*) or to pay additional amounts pursuant to Clause 18.2 (*Tax gross-up*), Clause 18.3 (*Tax indemnity*) or Clause 19.1 (*Increased costs*) to any Lender in excess of amounts payable to the other Lenders generally,
 - (iii) any Lender notifies the Agent that it requires prepayment and cancellation of its outstanding Commitment under Clause 12.1 (*Exit*); or
 - (iv) any Lender becomes a Non-Extending Lender,

then the Parent may, on five Business Days' prior written notice to the Agent and such Lender (or such shorter period as the Agent and such Lender may agree), either (x) replace such Lender by requiring such Lender to (and such Lender shall) transfer pursuant to Clause 38 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement and under any Ancillary Document to which it is a party to a Lender or other bank, financial institution, trust, fund or other entity (a "**Replacement Lender**") selected by the Parent, and approved by the Agent (acting reasonably and such approval not to be unreasonably withheld, conditioned or delayed) and (in the case of any transfer of an Original Revolving Facility Commitment), the Issuing Bank (acting reasonably and such approval not to be unreasonably withheld or delayed), which confirms its willingness to assume and does assume all the obligations of the transferring Lender (including the assumption of the transferring Lender's participations on the same basis as the transferring Lender) for a purchase price in cash payable at the time of transfer equal to the outstanding principal amount of such Lender's participation in the outstanding Utilisations and Ancillary Outstandings and all accrued interest and/or Letter of Credit or Bank Guarantee fees, Break Costs and other amounts payable in relation thereto under the Senior Finance Documents or (y) in relation to paragraph (a)(i), (a)(ii) or (a)(iv) above only, cancel the Commitment of such Lender and procure the repayment of that Lender's participation in the Utilisation in accordance with Clause 11.6 (*Right of cancellation and repayment in relation to a single Lender or Issuing Bank*).

- (b) The replacement of a Lender pursuant to this Clause 50.5 shall be subject to the following conditions:
- (i) the Parent shall have no right to replace the Agent or Security Agent;
 - (ii) neither the Agent nor the Lender shall have any obligation to the Parent to find a Replacement Lender;
 - (iii) in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than 20 Business Days after the date the Non-Consenting Lender notifies the Parent and the Agent of its failure or refusal to give a consent in relation to, or agree to any waiver or amendment to the Senior Finance Documents requested by the Parent; and
 - (iv) in no event shall the Lender replaced under this paragraph (b) be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Senior Finance Documents.
- (c) If the Lender being replaced pursuant to this Clause 50.5 does not execute any necessary Transfer Certificate or other formalities required pursuant to Clause 38 (*Changes to the Lenders*) by the date which is two Business Days after the date that the Transfer Certificate is delivered to that Lender having been executed by all other relevant parties (the “**Deemed Transfer Date**”) and all other conditions have been satisfied (including the payment of all relevant amounts to the Agent and satisfaction of the Agent’s and Security Agent’s “know your customer” checks), the transfer shall be deemed to have taken place on the Deemed Transfer Date.
- (d) In the event that:
- (i) the Parent or the Agent (at the request of the Parent) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Senior Finance Documents;
 - (ii) the consent, waiver or amendment in question requires the approval of all the Lenders or of Lenders other than the Majority Lenders (including, for the avoidance of doubt, Lenders other than the Majority Lenders under a specific Utilisation, Facility or of a particular class); and
 - (iii) Lenders (including, for the avoidance of doubt, Lenders under a specific Utilisation, Facility or of a particular class) whose Commitments aggregate more than 50 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 50 per cent. of the Total Commitments prior to that reduction or, in relation to Lenders under a specific Utilisation, Facility or of a particular class, more than 50 per cent. of the relevant total Commitments in respect of that Utilisation, Facility or class) have consented or agreed to such waiver or amendment,

then any Lender who does not, within ten Business Days (or such other period as the Parent and the Agent shall agree) and continues not to consent or agree to such waiver or amendment, shall be deemed a “**Non-Consenting Lender**”.

50.6 Disenfranchisement of Defaulting Lenders

- (a) For so long as a Defaulting Lender has any Available Commitment, in ascertaining the Majority Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments or Total Original Revolving Facility

Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Senior Finance Documents, that Defaulting Lender's Commitments will be reduced by the amount of its Available Commitments.

- (b) For the purposes of this Clause 50.6, the Agent may assume that the following Lenders are Defaulting Lenders:
- (i) any Lender which has notified the Agent that it has become a Defaulting Lender;
 - (ii) any Lender in relation to which it is aware that any of the events or circumstances referred to in paragraph (a), (b), (c) or (d) of the definition of "Defaulting Lender" has occurred,

unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

50.7 Replacement of a Defaulting Lender

- (a) The Parent may, at any time a Lender has become and continues to be a Defaulting Lender, by giving five Business Days' prior written notice to the Agent and such Lender:
- (i) replace such Lender by requiring such Lender to (and such Lender shall) transfer pursuant to Clause 38 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement;
 - (ii) require such Lender to (and such Lender shall) transfer pursuant to Clause 38 (*Changes to the Lenders*) all (and not part only) of the undrawn Original Revolving Facility Commitment of the Lender; or
 - (iii) require such Lender to (and such Lender shall) transfer pursuant to Clause 38 (*Changes to the Lenders*) all (and not part only) of its rights and obligations in respect of the Original Revolving Facility,

to a Lender or other bank, financial institution, trust, fund or other entity (a "**Defaulting Lender Replacement Lender**") selected by the Parent, and which (unless the Agent is an Impaired Agent) is acceptable to the Agent (acting reasonably) and (in the case of any transfer of an Original Revolving Facility Commitment) to the Issuing Bank (acting reasonably), which confirms its willingness to assume and does assume all the obligations or all the relevant obligations of the transferring Lender (including the assumption of the transferring Lender's participations or unfunded participations (as the case may be) on the same basis as the transferring Lender) for a purchase price in cash payable at the time of transfer equal to the outstanding principal amount of such Lender's participation in the outstanding Utilisations and all accrued interest and/or Letter of Credit or Bank Guarantee fees, Break Costs and other amounts payable in relation thereto under the Senior Finance Documents.

- (b) Any transfer of rights and obligations of a Defaulting Lender pursuant to this Clause 50.7 shall be subject to the following conditions:
- (i) the Parent shall have no right to replace the Agent or Security Agent;

- (ii) neither the Agent nor the Defaulting Lender shall have any obligation to the Parent to find a Defaulting Lender Replacement Lender;
 - (iii) the transfer must take place no later than 20 Business Days after the notice referred to in paragraph (a) above; and
 - (iv) in no event shall the Defaulting Lender be required to pay or surrender to the Defaulting Lender Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Senior Finance Documents.
- (c) If that Defaulting Lender does not execute any necessary Transfer Certificate or other formalities required pursuant to Clause 38 (*Changes to the Lenders*) by the date which is two Business Days after the date that the Transfer Certificate is delivered to the Defaulting Lender having been executed by all other relevant parties (the “**Defaulting Lender Deemed Transfer Date**”) and all other conditions have been satisfied (including the payment of all relevant amounts to the Agent and satisfaction of the Agent’s “know your customer” checks), the transfer shall be deemed to have taken place on the Defaulting Lender Deemed Transfer Date.

51. CONFIDENTIALITY

51.1 Confidential Information

Each Senior Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 51.2 (*Disclosure of Confidential Information*) and Clause 51.3 (*Disclosure to numbering service providers*), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

51.2 Disclosure of Confidential Information

Any Senior Finance Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, [insurers, service providers](#), auditors, partners and Representatives such Confidential Information as that Senior Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it assigns or transfers [and any of its insurers](#) (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Senior Finance Documents and to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;
 - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Senior Finance Documents and/or one or more

Obligors and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;

- (iii) appointed by any Senior Finance Party or by a person to whom sub-paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Senior Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (c) of Clause 41.15 (*Relationship with the Lenders*));
- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisors;
- (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vi) to whom or for whose benefit that Senior Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 38.12 (*Security over Lenders' rights*) and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisors;
- (vii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (viii) who is a Party; ~~or~~
- (ix) with the consent of the Parent; or
- (x) who is an existing or prospective funding source of a Lender (which may include the limited partners or clients of the KKR lending entities);

in each case, such Confidential Information as that Senior Finance Party shall consider appropriate if:

- (A) in relation to sub-paragraphs (b)(i), (b)(ii) and (b)(iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
- (B) in relation to ~~paragraph~~ sub-paragraphs (b)(iv) and b(x) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by equivalent requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
- (C) in relation to ~~paragraphs~~ sub-paragraphs (b)(v), (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information

except that there shall be no requirement to so inform if, in the opinion of that Senior Finance Party, it is not practicable so to do in the circumstances;

- (c) to any person appointed by that Senior Finance Party or by a person to whom subparagraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Senior Finance Documents including without limitation, in relation to the trading of participations in respect of the Senior Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers (with such changes to it as the Parent may reasonably require) or such other form of confidentiality undertaking agreed between the Parent and the relevant Senior Finance Party;
- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Senior Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.
- (e) A copy of any Confidentiality Undertaking signed by any person pursuant to subparagraph (b)(A) above shall be provided by the relevant Senior Finance Party to the Parent within ten Business Days of request by the Parent.
- (f) The Parent will consent to any reasonable request by Arrangers to publicise the Facilities after completion of the Acquisition if given at least five Business Days' prior written notice of any such proposed publication.

51.3 Disclosure to numbering service providers

- (a) Any Senior Finance Party may disclose to any national or international numbering service provider appointed by that Senior Finance Party to provide identification numbering services in respect of this Agreement, the Facilities and/or one or more Obligors the following information:
 - (i) names of Obligors;
 - (ii) country of domicile of Obligors;
 - (iii) place of incorporation of Obligors;
 - (iv) date and governing law of this Agreement;
 - (v) the names of the Agent and the Arrangers;
 - (vi) date of each amendment and restatement of this Agreement;
 - (vii) amount of Total Commitments;
 - (viii) currencies of the Facilities;

- (ix) type of Facilities;
- (x) ranking of Facilities;
- (xi) Termination Date for Facilities;
- (xii) changes to any of the information previously supplied pursuant to sub-paragraphs (i) to (xi) above; and
- (xiii) such other information agreed between such Senior Finance Party and the Parent,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
- (c) The Parent will on request of the Agent advise whether in its opinion any of the information set out in sub-paragraphs (a)(i) to (a)(xiii) above is unpublished price-sensitive information.
- (d) The Agent shall notify the Parent and the other Senior Finance Parties of:
 - (i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facilities and/or one or more Obligors; and
 - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facilities and/or one or more Obligors by such numbering service provider.

51.4 **Entire agreement**

Save as expressly agreed otherwise after the date of this Agreement between the relevant Parties, this Clause 51 constitutes the entire agreement between the Parties in relation to the obligations of the Senior Finance Parties under the Senior Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

51.5 **Inside information**

Each of the Senior Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Senior Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

51.6 **Notification of disclosure**

Each of the Senior Finance Parties agrees (to the extent permitted by law and regulation) to inform the Parent:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to sub-paragraph (b)(v) of Clause 51.2 (*Disclosure of Confidential Information*) except

where such disclosure is made to any of the persons referred to in that subparagraph during the ordinary course of its supervisory or regulatory function; and

- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 51.

51.7 **Continuing obligations**

The obligations in this Clause 51 are continuing and, in particular, shall survive and remain binding on each Senior Finance Party for a period of twelve months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with the Senior Finance Documents have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Senior Finance Party otherwise ceases to be a Senior Finance Party.

51.8 **Confidentiality and disclosure of Funding Rates and Reference Bank Quotations**

- (a) The Agent and each Obligor agree to keep each Funding Rate (and, in the case of the Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c) and (d) below.
- (b) The Agent may disclose:
 - (i) any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to the Company pursuant to Clause 14.4 (*Notification of rates of interest*); and
 - (ii) any Funding Rate or any Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Senior Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use with Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Agent may disclose any Funding Rate or any Reference Bank Quotation, and each Obligor may disclose any Funding Rate, to:
 - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
 - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock

exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;

- (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and
 - (iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.
- (d) The Agent's obligations in this Clause 51.8 relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 14.4 (*Notification of rates of interest*) provided that the Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.

51.9 Related obligations

- (a) The Agent acknowledges that each Funding Rate and each Reference Bank Quotation is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and each Obligor undertake not to use any Funding Rate or, in the case of the Agent, any Reference Bank Quotation for any unlawful purpose.
- (b) The Agent agrees (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
 - (i) of the circumstances of any disclosure made pursuant to paragraph (c)(ii) of Clause 51.8 (*Confidentiality and disclosure of Funding Rates and Reference Bank Quotations*) above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
 - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 51.9 or Clause 51.8 (*Confidentiality and disclosure of Funding Rates and Reference Bank Quotations*).

51.10 No Event of Default

No Event of Default will occur under Clause 37.3 (*Other obligations*) by reason only of an Obligor's failure to comply with Clause 51.8 (*Confidentiality and disclosure of Funding Rates and Reference Bank Quotations*) or Clause 51.9 (*Related obligations*).

52. REGULATORY POSITION

The Agent is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Nothing in this

Agreement shall require the Agent to carry on an activity of the kind specified by any provision of Part II (other than article 5 (accepting deposits)) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or to lend money to any Borrower in its capacity as Agent.

53. MONEY HELD AS BANKER

The Agent shall be entitled to deal with money paid to it by any person for the purposes of this Agreement in the same manner as other money paid to a banker by its customers except that it shall not be liable to account to any person for any interest (save in respect of the Mandatory Prepayment Accounts) or other amounts in respect of the money.

54. ABATEMENT OF FEES

The fees, commissions and expenses payable to the Agent for services rendered and the performance of its obligations under this Agreement shall not be abated by any remuneration or other amounts or profits receivable by the Agent (or by any of its associates) in connection with any transaction effected by the Agent with or for the Lenders or the Company.

55. COUNTERPARTS

Each Senior Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Senior Finance Document.

**SECTION 12
GOVERNING LAW AND ENFORCEMENT**

56. GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

57. ENFORCEMENT

57.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising from or connected with this Agreement (a “**Dispute**”) (including a dispute regarding the existence, validity or termination of this Agreement or relating to any non-contractual or other obligation arising out of or in connection with this Agreement) or the consequences of its nullity.
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle any Dispute and, accordingly, that they will not argue to the contrary.
- (c) Each Obligor (other than an Obligor incorporated in England and Wales) agrees that the documents which start any proceedings relating to a Dispute (“**Proceedings**”) and any other documents required to be served in relation to those Proceedings may be served on the Parent, on its behalf. These documents may, however, be served in any other manner allowed by law. This Clause applies to Proceedings in England and to Proceedings elsewhere.

57.2 Service of Process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):
 - (i) irrevocably appoints the Parent as its agent for service of process in relation to any proceedings before the English courts in connection with any Senior Finance Document; and
 - (ii) agrees that failure by an agent for service of process to notify the relevant Obligor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Parent (on behalf of all the Obligors) must immediately (and in any event within ten Business Days of such event taking place) appoint another agent on terms reasonably acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.
- (c) Each Obligor expressly agrees and consents to the provisions of Clause 56 (*Governing Law*) and this Clause 57.

57.3 Contractual Recognition of Bail-In

Notwithstanding any other term of any Senior Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Senior Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Senior Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

THE ORIGINAL PARTIES

**Part 1
The Original Obligors**

Name of Original Borrower	Registration number (or equivalent, if any) Jurisdiction of Incorporation
Jewel BidCo Limited	Incorporated in England and Wales with registration number 12204354

Name of Original Guarantors	Registration number (or equivalent, if any) Jurisdiction of Incorporation
Jewel MidCo Limited	Incorporated in England and Wales with registration number 12204276
Jewel BidCo Limited	Incorporated in England and Wales with registration number 12204354

**Part 2
The Original Lenders**

Name of Original Lender	Facility B Commitment (£)	Original Revolving Facility Commitment (£)	Treaty Passport scheme reference number and jurisdiction of tax residence (if applicable)	Status (UK Non-Bank Lender Yes/No)
Royal Bank of Canada	150,000,000	20,000,000 <u>30,000,000</u>	N/A	No
Total	<u>150,000,000</u>	20,000,000 <u>30,000,000</u>		

SCHEDULE 2

CONDITIONS PRECEDENT

Part 1 – Conditions precedent to be satisfied before the issue of the Scheme Press Release

1. OBLIGORS

- (a) A copy of the constitutional documents of the Original Obligors.
- (b) A copy of a resolution of the board of directors (or equivalent body) of the Original Obligors:
 - (i) approving the terms of, and the transactions contemplated by, the Senior Finance Documents to which it is a party and resolving that it execute, deliver and perform the Senior Finance Documents to which it is a party;
 - (ii) authorising a specified person or persons to execute the Senior Finance Documents to which it is a party on its behalf; and
 - (iii) in the case of an Obligor other than the Parent, authorising the Parent to act as its agent in connection with the Senior Finance Documents.
- (c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above in relation to the Senior Finance Documents and related documents.
- (d) If required by law, a shareholders' resolution of the shareholders of an Original Obligor (other than the Parent).
- (e) A certificate signed by a director of the Parent certifying that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on any Original Obligor to be exceeded.
- (f) A certificate that each copy document specified in this Part 1 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement.

2. TRANSACTION DOCUMENTS

A copy of the final draft form of the Scheme Press Release provided that the form and substance of the Scheme Press Release will be satisfactory to the Agent if the Scheme Press Release is, in form and substance, substantially the same as the final version or draft (as applicable) received by the Arranger prior to the date of this Agreement, save for any changes which are not materially adverse to the interests of the Original Lenders (taken as a whole) under the Senior Finance Documents or any other changes approved by the Arranger(s) (acting reasonably).

3. FINANCE DOCUMENTS

Copies of the following Senior Finance Documents, executed by the relevant parties thereto:

- (a) This Agreement
- (b) The Intercreditor Agreement

- (c) The following Transaction Security Documents executed by the Original Obligors together with a certified copy of all documents evidencing that any consents or other perfection requirements, subject to the Agreed Security Principles, required (including, without limitation, any appropriate notices, share certificates, copies of shareholder registers and stock transfer forms which, subject to the Agreed Security Principles, are required to be given or executed at that time under the terms of such Transaction Security Documents) for the creation and enforceability of any Transaction Security created by the Transaction Security Documents which are required to be executed by the Original Obligors have been duly obtained or satisfied:

<u>Name of Original Obligor</u>	<u>Transaction Security Document</u>	<u>Governing law of document</u>
The Parent	First ranking English law debenture	English
The Company	First ranking English law debenture	English

- (d) The Fee Letters

4. LEGAL OPINIONS

Legal opinion of White & Case LLP addressed to the Senior Finance Parties on the validity and enforceability of the Senior Finance Documents and on status, authority, power and capacity of the Original Obligors to enter into the Senior Finance Documents, in the form agreed by the Senior Finance Parties as at the date of this Agreement.

5. OTHER DOCUMENTS AND EVIDENCE

- (a) The Base Case Model.
- (b) Customary and reasonably required “know your customer” information in respect of the Original Obligors, as notified to the Parent prior to the date of this Agreement.
- (c) The following reports (the “**Reports**”)
- (i) the Structure Memorandum provided that the form and substance of the Structure Memorandum will be satisfactory to the Agent if the final Structure Memorandum is, in form and substance, substantially the same as the final versions or draft (as applicable) received by the Arranger(s) prior to the date of this Agreement, save for any changes which are not materially adverse to the interests of the Original Lenders (taken as a whole) under the Senior Finance Documents or any other changes approved by the Arranger(s) (acting reasonably);
 - (ii) the red flag legal due diligence report prepared by Debevoise & Plimpton LLP and Travers Smith LLP; and
 - (iii) Project Freeway Draft red flag report.
- (d) To the extent a Report is not re-addressed to a member of the Group prior to the Closing Date, a letter from the addressee of such Report, in each case addressed to a member of the Group (copying the Agent and the Security Agent) under which all proceeds received from any report provider in respect of such Reports are required to be turned over to a member of the Group.

- (e) Group Structure Chart.
- (f) The Approved Lender List.
- (g) The Original Financial Statements set out in paragraph (a) of the definition thereof.

Part 2: Conditions precedent to be satisfied before the issue of the Offer Press Release

Any conditions precedent listed this Part 2 of Schedule 2 (*Conditions precedent to be satisfied before the issue of the Offer Press Release*) marked with an asterisk are not required to be in form and substance satisfactory to the Agent.

1. OBLIGORS

- (a) A copy of a resolution of the board of directors of each Original Obligor:
 - (i) approving the terms of, and the transactions contemplated by, the Offer Press Release, the Receiving Bankers' Agreements updated to reflect the Offer Conversion (to the extent it is party to them) and resolving that it execute, deliver and perform each of those documents; and
 - (ii) approving the release of the Offer Press Release.
- (b) A certificate of an authorised signatory of each Original Obligor certifying that:
 - (i) each copy document relating to it specified in this Part 2 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded; and
 - (ii) its constitutional documents delivered to the Agent under Part 1 of Schedule 2 remain in full force and effect and have not subsequently been amended or superseded.

2. OFFER-RELATED DOCUMENTS

- (a) * Certified copies of the final forms of the Offer Press Release, the Receiving Bankers' Agreements executed by the parties to those documents.
- (b) * Evidence that the Offer is recommended by the board of directors of the Target.
- (c) * A letter from the Parent to the Agent specifying the Squeeze-Out Account including details of the account name, account number and the name and address of the bank where the account is held.
- (d) A certified copy of an undertaking, in the agreed form, from the Receiving Bankers to the Security Agent regarding the Target Shares.

Part 3: Conditions precedent to be satisfied on or before first Utilisation

Any conditions precedent listed this Part 3 of Schedule 2 (*Conditions precedent to be satisfied before first Utilisation*) marked with an asterisk are not required to be in form and substance satisfactory to the Agent.

1. THE ACQUISITION AND RELATED MATTERS

- (a) * Scheme Documents and other Transaction Documents: A letter from the Parent (signed by a director) addressed to the Agent attaching copies of the following documents:
 - (i) the issued Scheme Press Release (including a recommendation of the Acquisition by the independent directors of the Target);
 - (ii) the Scheme Circular;
 - (iii) the Scheme Court Order; and
 - (iv) the prints of the resolutions passed at the Court Meeting and the General Meeting of the Target.
- (b) * If Offer Conversion has occurred, a letter from the Parent (signed by a director) addressed to the Agent in the agreed form:
 - (i) attaching certified copies of the issued Offer Press Release;
 - (ii) confirming that the Offer has been declared unconditional in all respects without any breach of Clause 28.2(c) (*Terms of the Offer*) (other than Clause 28.2(c)(iv)); and
 - (iii) confirming that no material term of any condition of the Offer has been waived or amended in any respect in breach of Clause 28.2(c)(iii) (*Terms of the Offer*) without the consent of the Agent;
 - (iv) attaching certified copies of Receiving Bankers' Agreements in relation to the Offer.
- (c) Investment documents
 - (i) A certificate of the Parent (signed by a director) certifying that:
 - (1) the Group has received or will receive the aggregate of (i) the total equity contributions and/or Subordinated Shareholder Funding made or caused to be made by the Original Investors and/or other direct or indirect shareholders of the Parent and (ii) the total equity contributions and/or shareholder loans and/or roll over of investments (including any preference shares) (directly or indirectly) by Management and/or the selling shareholders in an amount equal to no less than 40 per cent. of the total funding requirement of the Acquisition and the refinancing of certain indebtedness of the Target Group (including, without limitation, the refinancing of the Existing Facilities Agreements) (the "**Equity Amount**") and such Equity Amount has or will be made available to the Group on or before the

Closing Date in the manner described in the Structure Memorandum;
and

- (2) each copy document listed in this Part 3 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the Closing Date.

2. OTHER DOCUMENTS AND EVIDENCE

- (a) Evidence that the fees then due from the Company pursuant to Clause 17 (*Fees*), have been paid or will be paid by the Closing Date, provided that this condition may be satisfied by a reference to the payment of such fees in a Utilisation Request or the Funds Flow Statement.
- (b) The Funds Flow Statement detailing the proposed movement of funds on or before the Closing Date (which shall not be required to be in form and substance satisfactory to the Agent).
- (c) A Utilisation Request in relation to the Utilisation to be made of Facility B on the Closing Date.
- (d) A certificate of the Parent (signed by a director):
- (i) certifying that it and each member of the Group (other than a member of the Target Group) has complied within the relevant timeframe with any notice it has received pursuant to Part 21A of the Companies Act 2006 from each company (a “**Charged Company**”) incorporated in the United Kingdom whose shares are secured pursuant to the Security Documents;
 - (ii) certifying that no “warning notice” or “restrictions notice” (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of the shares of a Charged Company (other than a member of the Target Group);
 - (iii) attaching a copy of the “PSC Register” (within the meaning of section 790C(10) of the Companies Act 2006) of each Charged Company (other than a member of the Target Group); and
 - (iv) confirming that no term of the Acquisition Documents has been amended or waived except as permitted by the terms of this Agreement or otherwise with the consent of the Agent.

(e)

Part 4– Conditions Precedent required to be delivered by an Additional Obligor

1. An Accession Deed executed by the Additional Obligor and the Parent.
2. A copy of the constitutional documents of the Additional Obligor.
3. If applicable, a copy of a resolution of the board of directors (or equivalent corporate body including, if applicable, a committee of the board of directors) of the Additional Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Deed and the Senior Finance Documents to which it will accede and resolving that it execute, deliver and perform the Accession Deed and any other Senior Finance Document to which it is a party;
 - (b) authorising a specified person or persons to execute the Accession Deed and other Senior Finance Documents to which it is party on its behalf;
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices (including, in relation to an Additional Borrower, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Senior Finance Documents to which it is a party; and
 - (d) authorising the Parent to act as its agent in connection with the Senior Finance Documents.
4. If applicable, a copy of a resolution of the board of directors of the Additional Obligor, establishing the committee referred to in paragraph 3 above.
5. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.
6. If applicable, a copy of a resolution signed by all the holders of the issued shares of the Additional Guarantor, approving the terms of, and the transactions contemplated by, the Senior Finance Documents to which the Additional Guarantor is a party.
7. A certificate of the Additional Obligor (signed by director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on it to be exceeded.
8. A certificate of an authorised signatory of the Additional Obligor certifying that each copy document listed in this Part 4 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed.
9. Any other evidence required by the Agent or Security Agent under paragraph (d) of Clause 25.9 (“*Know your customer*” checks).
10. If the proposed Additional Obligor is incorporated in a jurisdiction other than England & Wales, a copy of any other Authorisation or other document, opinion or assurance which the Agent (acting reasonably) considers to be necessary or customary (if it has notified the Parent accordingly) in connection with the entry into and performance of the transactions contemplated by the Accession Deed or for the validity and enforceability of any Senior Finance Document.

11. If available, the latest audited financial statements of the Additional Obligor.
12. The following legal opinions, each addressed to the Agent, the Security Agent and the Lenders:
 - (a) A legal opinion of the legal advisers to the Agent in England, as to English law in the form distributed to the Lenders prior to signing the Accession Deed.
 - (b) If the Additional Obligor is incorporated in or has its “centre of main interest” or “establishment” (as referred to in Clause 24.30 (*Centre of main interests and establishments*)) in a jurisdiction other than England and Wales or is executing a Senior Finance Document which is governed by a law other than English law a legal opinion of the legal advisers to the Agent in the jurisdiction of the governing law of that Senior Finance Document (the “**Applicable Jurisdiction**”) as to the law of the Applicable Jurisdiction and in the form distributed to the Lenders prior to signing the Accession Deed.
13. If the proposed Additional Obligor is incorporated in a jurisdiction other than England and Wales, evidence that the process agent specified in Clause 57.2 (*Service of Process*), if not an Obligor, has accepted its appointment in relation to the proposed Additional Obligor.
14. Any security documents which, subject to the Agreed Security Principles, are reasonably required by the Agent to be executed by the proposed Additional Obligor.
 - i) In respect of each Additional Obligor incorporated in the United Kingdom whose shares are the subject of the Transaction Security (a “**Charged Company**”), either:
 - (a) a certificate of an authorised signatory of the Company certifying that to the best of their knowledge and belief:
 - (i) each member of the Group has complied within the relevant timeframe with any notice it has received pursuant to Part 21A of the Companies Act 2006 from that Charged Company;
 - (ii) no “warning notice” or “restrictions notice” (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of those shares of that Charged Company incorporated in England and Wales; and
 - (iii) together with a copy of the “PSC register” (within the meaning of section 790C(10) of the Companies Act 2006) of that Charged Company, which, in the case of the Charged Company that is a member of the Group, is certified by an authorised signatory of the Company to be correct, complete and not amended or superseded as at a date no earlier than the date of the relevant accession.
 - (b) a certificate of an authorised signatory of the Company certifying that such Charged Company is not required to comply with Part 21A of the Companies Act 2006.

SCHEDULE 3
REQUESTS AND NOTICES

Part 1
UTILISATION REQUEST LOANS

From: [Borrower] [Parent]*

To: [Agent]

Dated:

Dear Sirs

£170180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
2. We wish to borrow a Loan on the following terms:
 - (a) Borrower: [●]
 - (b) Proposed Utilisation Date: [●] (or, if that is not a Business Day, the next Business Day)
 - (c) Facility to be utilised: [Facility B]/[Original Revolving Facility]/[revolving Extended Tranche]/[Incremental Facility]/ [Senior Loan Refinancing Facility]**
 - (d) Currency of Loan: [●]
 - (e) Amount: [●] or, if less, the Available Facility
 - (f) Interest Period: [●]
3. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) [/Clause 4.5 (*Utilisations during the Certain Funds Period*)]*** is satisfied on the date of this Utilisation Request.
4. [The proceeds of this Loan should be credited to [account]].
5. This Utilisation Request is irrevocable.

Yours faithfully

.....
authorised signatory for
[the Parent on behalf of [insert name of relevant Borrower]]/ [insert name of Borrower]

NOTES:

|

* Amend as appropriate. The Utilisation Request can be given by the Borrower or by the Parent.

** Select the Facility to be utilised and delete references to the other Facilities.

*** Delete as applicable.

Part 2
UTILISATION REQUEST LETTERS OF CREDIT

From: [Borrower] [Parent]*

To: [Agent]

Dated:

Dear Sirs

£~~170~~180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
2. We wish to arrange for a Letter of Credit to be issued by the Issuing Bank specified below (which has agreed to do so) on the following terms:
 - (a) Borrower: [●]
 - (b) Issuing Bank: [●]
 - (c) Proposed Utilisation Date: [●] (or, if that is not a Business Day, the next Business Day)
 - (d) Currency of Letter of Credit: [●]
 - (e) Amount: [●] or, if less, the Available Facility in relation to the relevant Revolving Facility
 - (f) Beneficiary: [●]
 - (g) Term: [●]
3. We confirm that each condition specified in paragraph (b) [/paragraph (c)]**, of Clause 6.5 (*Issue of Letters of Credit or Bank Guarantees*) is satisfied on the date of this Utilisation Request.
4. We attach a copy of the proposed Letter of Credit.
5. The purpose of this proposed Letter of Credit is [●].
6. This Utilisation Request is irrevocable.
7. [Specify delivery instructions].

Yours faithfully

.....
authorised signatory for
[the Parent on behalf of *[insert name of relevant Borrower]]/ [insert name of relevant Borrower]**

NOTES:

* Amend as appropriate. The Utilisation Request can be given by the Borrower or by the Parent.

** Delete as applicable.

**Part 3
Selection Notice**

Applicable to a Term Loan

From: [Borrower] [Parent]*

To: [Agent]

Dated:

Dear Sirs

**£~~170~~180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)**

1. We refer to the Facilities Agreement. This is a Selection Notice. Terms defined in the Facilities Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.
2. We refer to the following [Facility B]/[Extended Term]/[term Incremental]/[term Refinancing] Loan[s] with an Interest Period ending on [●]**.
3. We request that the above [Facility B]/[Extended Term]/[term Incremental]/[term Refinancing] Loan[s] be divided into [●] [Facility B]/[Extended Term]/[term Incremental]/[term Refinancing] Loans with the following Base Currency Amounts and Interest Periods:]***

or

4. [We request that the next Interest Period for the above [Facility B]/[Extended Term]/[term Incremental]/[term Refinancing] Loan[s] is [●]].****
5. This Selection Notice is irrevocable.

Yours faithfully

.....
authorised signatory for
[the Parent on behalf of *[insert name of relevant Borrower]*]*

NOTES:

- * Amend as appropriate. The Selection Notice can be given by the Borrower or the Parent.
- ** Insert details of all Term Loans for the relevant Facility which have an Interest Period ending on the same date.
- *** Use this option if division of Loans is requested.
- **** Use this option if sub-division is not required.

SCHEDULE 4

FORM OF TRANSFER CERTIFICATE

To: [●] as Agent and [[●] as] Security Agent and [●] as Parent, for and on behalf of each Obligor

From: [*The Existing Lender*] (the “Existing Lender”) and [*The New Lender*] (the “New Lender”)

Dated:

£~~170~~180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement).^{*} This agreement (the “Agreement”) shall take effect as a Transfer Certificate for the purpose of the Facilities Agreement and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
2. We refer to Clause 38.6 (*Procedure for transfer*) of the Facilities Agreement:
 - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all or part of the Existing Lender’s Commitment, rights and obligations referred to in the Schedule in accordance with Clause 38.6 (*Procedure for transfer*).
 - (b) The proposed Transfer Date is [●].
 - (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 46.2 (*Addresses*) are set out in the Schedule.
3. The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in paragraph (c) of Clause 38.5 (*Limitation of responsibility of Existing Lenders*).
4. [The New Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:
 - (a) [a Qualifying Lender (other than a Treaty Lender);]
 - (b) [a Treaty Lender;]
 - (c) [not a Qualifying Lender].^{**}]

^{*} Transfer Certificate to be updated for any applicable Other Intercreditor Agreement in existence when it is signed.

^{**} Delete as applicable. Each New Lender is required to confirm whether it falls within one of these categories or not.

5. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Senior Finance Document is either:
- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
 - (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
 - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]****
6. [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [●]) and is tax resident in [●]****, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify:
- (a) each Borrower which is a Party as a Borrower as at the Transfer Date; and
 - (b) each Additional Borrower which becomes an Additional Borrower after the Transfer Date,
- that it wishes that scheme to apply to the Facilities Agreement.]*****
7. The New Lender confirms that it [is]/[is not]***** a Sponsor Affiliate.
8. The New Lender confirms that it is not a Business Competitor or an Affiliate of a Business Competitor or an Unacceptable Lender.
9. [The New Lender confirms that it [is]/[is not]***** a Non-Acceptable Lender.]*****

**** Include if New Lender comes within paragraph (a)(ii) of the definition of Qualifying Lender in Clause 18.1 (*Definitions*)

**** Insert jurisdiction of tax residence.

***** Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.

***** Delete as applicable.

***** Delete as applicable.

***** Include only if the transfer includes the transfer of a Revolving Facility Commitment/a participation in the Revolving Facility.

10. [The New Lender confirms that it is an Affiliate of the Existing Lender and is a commercial bank with a consolidated combined capital and surplus of at least USD 5 billion.]
11. We refer to clause 23.3 (Accession of Credit Facility Lenders and Creditor Representatives) of the Intercreditor Agreement. In consideration of the New Lender being accepted as an Initial Senior Lender for the purposes of the Intercreditor Agreement (and as defined therein), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as an Initial Senior Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Initial Senior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.
12. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
13. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
14. This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

**THE SCHEDULE
COMMITMENT/RIGHTS AND OBLIGATIONS TO BE TRANSFERRED**

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments,]

[Existing Lender]

[New Lender]

By:

By:

This Agreement is accepted as a Transfer Certificate for the purposes of the Facilities Agreement by the Agent, and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Transfer Date is confirmed as [●].

[Agent]

By:

[Security Agent]

By:

SCHEDULE 5

FORM OF ASSIGNMENT AGREEMENT

To: [●] as Agent and as Security Agent, [●] as Parent, for and on behalf of each Obligor

From: [the *Existing Lender*] (the “**Existing Lender**”) and [the *New Lender*] (the “**New Lender**”)

Dated:

£170180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement).^{*} This is an Assignment Agreement. This agreement (the “**Agreement**”) shall take effect as an Assignment Agreement for the purpose of the Facilities Agreement and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
2. We refer to Clause 38.7 (*Procedure for assignment*) of the Facilities Agreement:
 - (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Facilities Agreement, the other Senior Finance Documents and in respect of the Transaction Security which correspond to that portion of the Existing Lender’s Commitments and participations in Utilisations under the Facilities Agreement as specified in the Schedule.
 - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender’s Commitments and participations in Utilisations under the Facilities Agreement specified in the Schedule.
 - (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.
3. The proposed Transfer Date is [●].
4. On the Transfer Date the New Lender becomes:
 - (a) Party to the relevant Senior Finance Documents (other than the Intercreditor Agreement) as a Lender; and
 - (b) Party to the Intercreditor Agreement as an Initial Senior Lender.
5. The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 46.2 (*Addresses*) are set out in the Schedule.

^{*} Assignment Agreement to be updated for any applicable Other Intercreditor Agreement in existence when it is signed.

6. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 38.5 (*Limitation of responsibility of Existing Lenders*).
7. The New Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:
 - (a) [a Qualifying Lender (other than a Treaty Lender);]
 - (b) [a Treaty Lender;]
 - (c) [not a Qualifying Lender].¹
8. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Senior Finance Document is either:
 - (a) a company resident in the United Kingdom for United Kingdom tax purposes;
 - (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
 - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]****
9. [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [●]) and is tax resident in [●]****, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify:
 - (a) each Borrower which is a Party as a Borrower as at the Transfer Date; and
 - (b) each Additional Borrower which becomes an Additional Borrower after the Transfer Date,
 that it wishes that scheme to apply to the Facilities Agreement.]*****

¹ Delete as applicable. Each New Lender is required to confirm whether it falls within one of these categories or not.

**** Include if New Lender comes within paragraph (a)(ii) of the definition of "Qualifying Lender" in Clause 18.1 (*Definitions*).

***** Insert jurisdiction of tax residence.

***** Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.

10. The New Lender confirms that it [is]/[is not]^{*****} a Sponsor Affiliate.
11. The New Lender confirms that it is not a Business Competitor or an Affiliate of a Business Competitor or an Unacceptable Lender.
12. [The New Lender confirms that it [is]/[is not]^{2*****} a Non-Acceptable Lender.]*****
13. [The New Lender confirms that it is an Affiliate of the Existing Lender and is a commercial bank with a consolidated combined capital and surplus of at least USD 5 billion.]
14. We refer to clause 23.3 (Accession of Credit Facility Lenders and Creditor Representatives) of the Intercreditor Agreement:

In consideration of the New Lender being accepted as an Initial Senior Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as an Initial Senior Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Initial Senior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.
15. This Agreement acts as notice to the Agent (on behalf of each Senior Finance Party) and, upon delivery in accordance with Clause 38.8 (*Copy of Transfer Certificate, Assignment Agreement, Accession Deed, Increase Confirmation, Incremental Facility Accession Certificate or Senior Loan Refinancing Facility Accession Certificate to Parent*), to the Parent (on behalf of each Obligor) of the assignment referred to in this Agreement.
16. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
17. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
18. This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Assignment Agreement may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

***** Delete as applicable.

²***** Delete as applicable.

***** Include only if the assignment includes the assignment of a Revolving Facility Commitment / a participation in the Revolving Facility.

**THE SCHEDULE
COMMITMENT/RIGHTS AND OBLIGATIONS TO BE TRANSFERRED BY
ASSIGNMENT, RELEASE AND ACCESSION**

[insert relevant details]

[Facility office address, fax number and attention details for notices and account details for payments]

[Existing Lender]
By:

[New Lender]
By:

This Agreement is accepted as an Assignment Agreement for the purposes of the Facilities Agreement by the Agent, and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Transfer Date is confirmed as [●].

Signature of this Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to in this Agreement, which notice the Agent receives on behalf of each Senior Finance Party.

[Agent]

By:

[Security Agent]

By:

SCHEDULE 6

FORM OF ACCESSION DEED

To: [●] as Agent and [●] as] Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below

From: [Subsidiary] and [[●]]

Dated:

Dear Sirs

£~~170~~180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement.³ This deed (the “**Accession Deed**”) shall take effect as an Accession Deed for the purposes of the Facilities Agreement and as a Debtor Accession Deed for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in paragraphs 1-3 of this Accession Deed unless given a different meaning in this Accession Deed.
2. [Subsidiary] agrees to become an Additional [Borrower]/[Guarantor] and to be bound by the terms of the Facilities Agreement and the other Senior Finance Documents (other than the Intercreditor Agreement) as an Additional [Borrower]/[Guarantor] pursuant to Clause [40.2 (*Additional Borrowers*)]/[Clause 40.4 (*Additional Guarantors*)] of the Facilities Agreement. [Subsidiary] is a company duly incorporated under the laws of [name of relevant jurisdiction] and is a limited liability company and registered number [●].

[Insert details of any legal limitations to guarantees]

3. [Subsidiary’s] administrative details for the purposes of the Facilities Agreement and the Intercreditor Agreement are as follows:

Address:

Fax No.:

Attention:

4. [Subsidiary] (for the purposes of this paragraph 4, the “**Acceding Debtor**”) intends to [incur Initial Senior Facilities Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Initial Senior Facilities Liabilities under the following documents]:

[Insert details (date, parties and description) of relevant documents]

³ Accession Deed to be updated for any applicable Other Intercreditor Agreement in existence when it is signed. Seek prior French law advice regarding the accession of a French Borrower.

the “**Relevant Documents**”.

IT IS AGREED as follows:

- (a) Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Accession Deed, bear the same meaning when used in this paragraph 4.
- (b) The Acceding Debtor and the Security Agent agree that the Security Agent shall hold:
 - (i) [any Security in respect of Initial Senior Facilities Liabilities created or expressed to be created pursuant to the Relevant Documents;
 - (ii) all proceeds of that Security; and]⁴
 - (iii) all obligations expressed to be undertaken by the Acceding Debtor to pay amounts in respect of the Initial Senior Facilities Liabilities to the Security Agent as trustee for the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee for the Secured Parties,

on trust for the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.

- 5. The Acceding Debtor confirms that it intends to be party to the Intercreditor Agreement as a Debtor, undertakes to perform all the obligations expressed to be assumed by a Debtor under the Intercreditor Agreement and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement.
- 6. [In consideration of the Acceding Debtor being accepted as an Intra-Group Lender for the purposes of the Intercreditor Agreement, the Acceding Debtor also confirms that it intends to be party to the Intercreditor Agreement as an Intra-Group Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Intra-Group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement].⁵

[6]/[7] This Accession Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS ACCESSION DEED has been signed on behalf of the Security Agent (for the purposes of paragraph 4 above only), signed on behalf of the Parent and executed as a deed by [*Subsidiary*] and is delivered on the date stated above.

[*Subsidiary*]

[EXECUTED as a DEED

⁴ Include to the extent that the Security created in the Relevant Documents is expressed to be granted to the Security Agent as trustee for the Secured Parties.

⁵ Include this paragraph in this Accession Deed if the Subsidiary is also to accede as an Intra-Group Lender to the Intercreditor Agreement.

By: [*Subsidiary*]

..... Director

..... Director/Secretary

OR

[EXECUTED as a DEED

By: [*Subsidiary*]

..... Signature of Director

..... Name of Director

in the presence of

..... Signature of witness

..... Name of witness

..... Address of witness

.....

.....

.....

..... Occupation of witness]

The Parent

[●]

By:

The Security Agent

[*Full Name of Current Security Agent*]

By:

Date:

SCHEDULE 7

FORM OF RESIGNATION LETTER

To: [●] as Agent

From: [resigning Obligor] and [●]]

Dated:

Dear Sirs

**£170180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)**

1. We refer to the Facilities Agreement. This is a Resignation Letter. Terms defined in the Facilities Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
2. Pursuant to [Clause 40.3 (*Resignation of a Borrower*)]/[Clause 40.5 (*Resignation of a Guarantor*)], we request that [resigning Obligor] be released from its obligations as a [Borrower]/[Guarantor] under the Facilities Agreement and the Senior Finance Documents (other than the Intercreditor Agreement).
3. We confirm that:
 - (a) no Default is continuing or would result from the acceptance of this request; and
 - (b) *[[this request is given in relation to a [Third Party Disposal]/[Unrestricted Subsidiary designation] of [resigning Obligor];
 - (c) [the Disposal Proceeds have been or will be applied in accordance with Clause 12.3 (*Disposal, Insurance, Recovery and Special Purpose Financing Proceeds*);]**]
 - (d) [●]***

This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[Parent]

[resigning Obligor]

By:

By:

NOTES:

* Insert where resignation only permitted in case of a Third Party Disposal or Unrestricted Subsidiary designation.

** Insert where resignation only permitted in case of a Third Party Disposal, Amend as appropriate, e.g. to reflect agreed procedure for payment of proceeds into a specified account.

*** Insert any other conditions required by the Facilities Agreement.

SCHEDULE 8

FORM OF COMPLIANCE CERTIFICATE

To: [●] as Agent

From: [●]

Dated:

Dear Sirs

**£170180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)**

1. We refer to the Facilities Agreement. This is a Compliance Certificate. Terms defined in the Facilities Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2. We confirm that:

[Insert details of covenants to be certified].

We confirm that the Consolidated Senior Secured Leverage Ratio is [●]:1 and that, therefore, the Original Revolving Facility Margin should be [●] per cent. and the Facility B Margin should be [●] per cent.

3. *[We confirm that no Default is continuing.]**

4. *[We confirm that the following companies constitute Material Companies for the purposes of the Facilities Agreement: [●].]***

*[We confirm that the aggregate of the earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA (calculated on an unconsolidated basis and excluding intra-Group items)) of the Covenant Group represents not less than 80] per cent. of Consolidated EBITDA and that, subject to the Agreed Security Principles, the requirements of Clause 27.14 (Guarantors) have been met.])***

*[We confirm that Excess Cash Flow is [●] [include reasonable detail as to how calculated] ***

Signed

.....

Director

of

[Parent]

Signed

.....
Director

of

[Parent]

[insert applicable certification language]

for and on behalf of

[name of Parent's Auditors]**

NOTES:

* Only to be provided in accordance with Clause 25.8 (*Notification of default*). If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

** Only applicable if the Compliance Certificate accompanies the audited financial statements.

SCHEDULE 9

FORM OF CONFIDENTIALITY UNDERTAKING

THIS CONFIDENTIALITY UNDERTAKING is dated [●] and made between:

From: [●] (the “**Seller**”);

To: [●] (the “**Purchaser**”).

Dear Sirs

We understand that you are considering acquiring an interest in the senior facilities agreement dated [●] (the “**Agreement**”) between, amongst others, [●] as parent, [●] as company (the “**Company**”) and [●] as agent which, subject to the Agreement, may be by way of novation, assignment, the entering into, whether directly or indirectly, of a sub-participation or any other transaction under which payments are to be made or may be made by reference to one or more Senior Finance Documents and/or one or more Obligors or by way of investing in or otherwise financing, directly or indirectly, any such novation, assignment, sub-participation or other transaction (the “**Acquisition**”). In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

1. CONFIDENTIALITY UNDERTAKING

You undertake (a) to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by paragraph 2 below and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information, and (b) until the Acquisition is completed to use the Confidential Information only for the Permitted Purpose.

2. PERMITTED DISCLOSURE

We agree that you may disclose:

2.1 to any of your Affiliates and any of your or their officers, directors, employees, professional advisers and auditors such Confidential Information as you shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph 2.1 is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

2.2 subject to the requirements of the Agreement, to any person:

- (a) to (or through) whom you assign or transfer (or may potentially assign or transfer) all or any of your rights and/or obligations which you may acquire under the Agreement such Confidential Information as you shall consider appropriate if the person to whom the Confidential Information is to be given pursuant to this subparagraph (a) of paragraph 2.2 has delivered a letter to you in equivalent form to this letter;
- (b) with (or through) whom you enter into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to the Agreement or any Obligor such Confidential Information as you shall consider appropriate if the person to whom the

Confidential Information is to be given pursuant to this sub-paragraph (b) of paragraph 2.2 has delivered a letter to you in equivalent form to this letter;

(c) to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation such Confidential Information as you shall consider appropriate; and

2.3 notwithstanding paragraphs 2.1 and 2.2. above, Confidential Information to such persons to whom, and on the same terms as, a Senior Finance Party is permitted to disclose Confidential Information under the Agreement, as if such permissions were set out in full in this letter and as if references in those permissions to Finance Party were references to you.

3. NOTIFICATION OF DISCLOSURE

You agree (to the extent permitted by law and regulation) to inform us:

3.1 of the circumstances of any disclosure of Confidential Information made pursuant to sub-paragraph (c) of paragraph 2.2 above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

3.2 upon becoming aware that Confidential Information has been disclosed in breach of this letter.

4. RETURN OF COPIES

If you do not enter into the Acquisition and we so request in writing, you shall return or destroy all Confidential Information supplied to you by us and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made by you and use your reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the Confidential Information has been disclosed under sub-paragraph (c) of paragraph 2.2 above.

5. CONTINUING OBLIGATIONS

The obligations in this letter are continuing and, in particular, shall survive and remain binding on you until (a) if you become a party to the Agreement as a lender of record, the date on which you become such a party to the Agreement; (b) if you enter into the Acquisition but it does not result in you becoming a party to the Agreement as a lender of record, the date falling [twelve] months after the date on which all of your rights and obligations contained in the documentation entered into to implement that Acquisition have terminated; or (c) in any other case the date falling [twelve] months after the date of your final receipt (in whatever manner) of any Confidential Information.

6. NO REPRESENTATION; CONSEQUENCES OF BREACH, ETC

You acknowledge and agree that:

6.1 neither we, nor any member of the Group nor any of our or their respective officers, employees or advisers (each a “**Relevant Person**”) (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or

completeness of any of the Confidential Information or any other information supplied by us or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or be otherwise liable to you or any other person in respect of the Confidential Information or any such information; and

6.2 we or members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

7. ENTIRE AGREEMENT: NO WAIVER; AMENDMENTS, ETC

7.1 This letter constitutes the entire agreement between us in relation to your obligations regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

7.2 No failure to exercise, nor any delay in exercising, any right or remedy under this letter will operate as a waiver of any such right or remedy or constitute an election to affirm this letter. No election to affirm this letter will be effective unless it is in writing. No single or partial exercise of any right or remedy will prevent any further or other exercise or the exercise of any other right or remedy under this letter.

7.3 The terms of this letter and your obligations under this letter may only be amended or modified by written agreement between us.

8. INSIDE INFORMATION

You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and you undertake not to use any Confidential Information for any unlawful purpose.

9. NATURE OF UNDERTAKINGS

The undertakings given by you under this letter are given to us and are also given for the benefit of the Company and each other member of the Group.

10. THIRD PARTY RIGHTS

10.1 Subject to this paragraph 10 and to paragraphs 6 and 9, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or to enjoy the benefit of any term of this letter.

10.2 The Relevant Persons may enjoy the benefit of the terms of paragraphs 6 and 9 subject to and in accordance with this paragraph 10 and the provisions of the Third Parties Act.

10.3 Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person to rescind or vary this letter at any time.

11. GOVERNING LAW AND JURISDICTION

11.1 This letter (including the agreement constituted by your acknowledgement of its terms) (the “**Letter**”) and any non-contractual obligations arising out of or in connection with it

(including any non-contractual obligations arising out of the negotiation of the transaction contemplated by this Letter)⁶ are governed by English law.

11.2 The courts of England have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Letter (including a dispute relating to any non-contractual obligation arising out of or in connection with either this Letter or the negotiation of the transaction contemplated by this Letter).

12. DEFINITIONS

In this letter (including the acknowledgement set out below) terms defined in the Agreement shall, unless the context otherwise requires, have the same meaning and:

“**Confidential Information**” means all information relating to the Company, any Obligor, the Group, the Senior Finance Documents, a Facility and/or the Acquisition which is provided to you in relation to the Finance Documents or a Facility by us or any of our affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (a) is or becomes public information other than as a direct or indirect result of any breach by you of this letter; or
- (b) is identified in writing at the time of delivery as non-confidential by us or our advisers; or
- (c) is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you after that date, from a source which is, as far as you are aware, unconnected with the Group and which, in either case, as far as you are aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

“**Group**” means the Company and its subsidiaries for the time being (as such term is defined in the Companies Act).

“**Permitted Purpose**” means considering and evaluating whether to enter into the Acquisition.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

SIGNATURES

[●]

On behalf of the Seller

By:

⁶ The reference to non-contractual obligations arising out of the negotiation of the contemplated transaction is intended to specifically apply the governing law (and jurisdiction) clause to any non-contractual obligations arising out of negotiations where the transaction breaks down before the documentation documenting the debt trade is entered into.

[●]

On behalf of the Purchaser

By:

SCHEDULE 10

TIMETABLES

Part 1 Loans

	<u>Loans in euro</u>	<u>Loans in sterling</u>	<u>Loans in other currencies</u>
Agent notifies the Parent if a currency is approved as an Optional Currency in accordance with Clause 4.3 (<i>Conditions relating to Optional Currencies</i>)	-	-	U-5
Delivery of a duly completed Utilisation Request (Clause 5.1 (<i>Delivery of a Utilisation Request</i>)) or a Selection Notice (Clause 15.1 (<i>Selection of Interest Periods and Terms</i>))	U-3 11.a.m.	U-1 11.00 a.m. (or U-1 for any Utilisation on the Closing Date)	U-3 11.00 a.m.
Agent determines (in relation to a Utilisation) the Base Currency Amount of the Loan, if required under Clause 5.4 (<i>Lenders' participation</i>) and notifies the Lenders of the Loan in accordance with Clause 5.4 (<i>Lenders' participation</i>)	U-3 Noon	U-1 Noon	U-3 Noon
Agent receives a notification from a Lender under Clause 8.2 (<i>Unavailability of a currency</i>)	Quotation Day 9.30 a.m.	-	Quotation Day 9.30 a.m.
Agent gives notice in accordance with Clause 8.2 (<i>Unavailability of a currency</i>)	Quotation Day 5.30 p.m.	-	Quotation Day 5.30 p.m.
LIBOR or EURIBOR is fixed	Quotation Day as of 11:00 a.m. in respect of LIBOR and as of 11.00 a.m. (Brussels time) in respect of EURIBOR	Quotation Day as of 11:00 a.m.	Quotation Day as of 11:00 a.m.
Each Lender makes its participation in a Loan available in accordance with Clause 5.4 (<i>Lenders' participation</i>)	U 2.00 p.m.	U 2.00 p.m.	U 2.00 p.m.
Reference Bank Rate calculated by reference to available quotations in accordance with Clause 16.2 (<i>Calculation of Reference Bank Rate</i>)	Quotation Day as of 11:00 a.m. in respect of LIBOR and as of 11.00 a.m. (Brussels time) in respect of EURIBOR	Quotation Day as of 11:00 a.m.	Quotation Day as of 11:00 a.m.

“U” = date of utilisation or, if applicable, in the case of a Term Loan that has already been borrowed, the first day of the relevant Interest Period for that Term Loan.

“U — X” = X Business Days prior to date of utilisation

Part 2
Letters of Credit and Bank Guarantees

**Letters of Credit and
Bank Guarantees**

Delivery of a duly completed Utilisation Request (Clause 6.2 (*Delivery of a Utilisation Request for Letters of Credit or Bank Guarantee*)) U-3
11.00 a.m.

Agent determines (in relation to a Utilisation) the Base Currency Amount of the Letter of Credit or Bank Guarantee if required under paragraph (g) of Clause 6.5 (*Issue of Letters of Credit or Bank Guarantees*) and notifies the Issuing Bank and Lenders of the Letter of Credit or Bank Guarantee in accordance with paragraph (g) of Clause 6.5 (*Issue of Letters of Credit or Bank Guarantees*). U-3
Noon

Delivery of duly completed Renewal Request (Clause 6.6 (*Renewal of a Letter of Credit or Bank Guarantee*)) U-3
11.00 a.m.

“U” = date of utilisation, or, if applicable, in the case of a Letter of Credit or Bank Guarantee to be renewed in accordance with Clause 6.6 (*Renewal of a Letter of Credit or Bank Guarantee*), the first day of the proposed term of the renewed Letter of Credit or Bank Guarantee

“U — X” = Business Days prior to date of utilisation

SCHEDULE 11

FORM OF LETTER OF CREDIT

To: [Beneficiary] (the “**Beneficiary**”)

Date:

Irrevocable Standby Letter of Credit no. [●]

At the request of [Applicant], (the “**Applicant**”), we [Issuing Bank] (the “**Issuing Bank**”) issues this irrevocable standby Letter of Credit (“**Letter of Credit**”) in your favour on the following terms and conditions:

1. DEFINITIONS

In this Letter of Credit:

“**Business Day**” means a day (other than a Saturday or a Sunday) on which banks are open for general business in Brussels and [London].*

“**Demand**” means a demand for a payment under this Letter of Credit in the form of the schedule to this Letter of Credit.

“**Expiry Date**” means [insert date].

“**Total L/C Amount**” means [insert currency and amount].

2. UNDERLYING AGREEMENT

The Applicant and the Beneficiary have entered into an agreement on [●] [date of agreement] for the delivery of ... [type of product]. This Letter of Credit covers the payment by the Applicant of the invoices of the Beneficiary relating to this agreement.

3. ISSUING BANK’S AGREEMENT

- (a) The Beneficiary may request a drawing or drawings under this Letter of Credit by giving to the Issuing Bank a duly completed Demand. A Demand must be received by the Issuing Bank by no later than [●] p.m. (Brussels time) on the Expiry Date.
- (b) Subject to the terms of this Letter of Credit, the Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that, within [ten] Business Days of receipt by it of a Demand, it must pay to the Beneficiary the amount demanded in that Demand.
- (c) The Issuing Bank will not be obliged to make a payment under this Letter of Credit if as a result the aggregate of all payments made by it under this Letter of Credit would exceed the Total L/C Amount.

4. EXPIRY

- (a) The Issuing Bank will be released from its obligations under this Letter of Credit on the date (if any) notified by the Beneficiary to the Issuing Bank as the date upon which the obligations of the Issuing Bank under this Letter of Credit are released.

- (b) Unless previously released under paragraph (a) above, on [●] p.m.(Brussels time) on the Expiry Date the obligations of the Issuing Bank under this Letter of Credit will cease with no further liability on the part of the Issuing Bank except for any Demand validly presented under the Letter of Credit that remains unpaid.

5. PAYMENTS

All payments under this Letter of Credit shall be made in [●] [*must be same currency as under Total L/C Amount*] and for value on the due date to the account of the Beneficiary specified in the Demand.

6. DELIVERY OF DEMAND

Each Demand shall be in writing, and must be made by registered letter or express courier and must be received in legible form by the Issuing Bank at its address and by the particular department or office (if any) as follows:

[

]

Presentation by facsimile is not permitted.

7. ASSIGNMENT

The Beneficiary's rights under this Letter of Credit may not be assigned or transferred.

8. ISP

Except to the extent it is inconsistent with the express terms of this Letter of Credit, this Letter of Credit is subject to the International Standby Practices (ISP 98), International Chamber of Commerce Publication No. 590.

9. GOVERNING LAW

This Letter of Credit and any non-contractual obligations arising out of or in connection with it are governed by English law.

10. JURISDICTION

The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Letter of Credit (including a dispute relating to any non-contractual obligation arising out of or in connection with this Letter of Credit).

Yours faithfully
[Issuing Bank]

By:

NOTES:

- * This may need to be amended depending on the currency of payment under the Letter of Credit.

SCHEDULE
FORM OF DEMAND

To: [ISSUING BANK]

[Date]

Dears Sirs

Standby Letter of Credit no. [●] issued in favour of [BENEFICIARY] (the “Letter of Credit”)

We refer to the Letter of Credit. Terms defined in the Letter of Credit have the same meaning when used in this Demand.

1. We certify that the sum of [●] is due [and has remained unpaid for at least [●] Business Days] [under [set out underlying agreement stated in the Letter of Credit]]. We therefore demand payment of the sum of [●].
2. Payment should be made to the following account:

Name:

Account Number:

Bank:

3. The date of this Demand is not later than the Expiry Date.

Yours faithfully

.....

(*Authorised Signatory*)

.....

(*Authorised Signatory*)

For

[BENEFICIARY]

SCHEDULE 12

FORM OF BANK GUARANTEE

To: [Beneficiary] (the “Beneficiary”)

[Date]

Irrevocable Bank Guarantee No. [●]

At the request of [Applicant], (the “Applicant”), we [Issuing bank] (the “Issuing Bank”) issues this irrevocable bank guarantee (the “Bank Guarantee”) in your favour on the following terms and conditions:

1. DEFINITIONS

In this Bank Guarantee:

“Business Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in Brussels and of (in relation to any date for payment or purchase of a currency) the principal financial centre of the country of that currency.

“Demand” means a demand for a payment under this Bank Guarantee in the form of the schedule to this Bank Guarantee.

“Expiry Date” means [insert date].

“Total Bank Guarantee Amount” means [insert currency and amount].

2. UNDERLYING AGREEMENT

The Applicant and the Beneficiary have entered into an agreement on [●] [date of agreement] for the delivery of [●] [type of product]. This Bank Guarantee covers the payment by the Applicant of the invoices of the Beneficiary relating to this agreement.

3. ISSUING BANK’S AGREEMENT

- (a) The Beneficiary may make a demand under this Bank Guarantee by giving to the Issuing Bank a duly completed Demand. A Demand must be received by the Issuing Bank by [●] p.m. (Brussels’ time) on the Expiry Date.
- (b) Subject to the terms of this Bank Guarantee, the Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that, within [10] Business Days of receipt by it of a Demand, it must pay to the Beneficiary the amount demanded in that Demand.
- (c) The Issuing Bank will not be obliged to make a payment under this Bank Guarantee if as a result the aggregate of all payments made by it under this Bank Guarantee would exceed the Total Bank Guarantee Amount.

4. EXPIRY

- (a) The Issuing Bank will be released from its obligations under this Bank Guarantee on the date (if any) notified by the Beneficiary to the Issuing Bank as the date upon which the obligations of the Issuing Bank under this Bank Guarantee are released.
- (b) Unless previously released under paragraph (a) above, on [●] p.m. (Brussels' time) on the Expiry Date the obligations of the Issuing Bank under this Bank Guarantee will cease with no further liability on the part of the Issuing Bank except for any Demand validly presented under the Bank Guarantee that remains unpaid.

5. PAYMENTS

All payments under this Bank Guarantee shall be made in [●] [*must be same currency as under Total Bank Guarantee Amount*] and for value on the due date to the account of the Beneficiary specified in the Demand.

6. DELIVERY OF DEMAND

Each Demand shall be in writing, must be made by registered letter or express courier and must be received in legible form by the Issuing Bank at its address and by the particular department or officer (if any) as follows:

[
]

Presentation by facsimile is not permitted.

A bank in the Beneficiary's country must confirm on the Demand itself, or on a separate letter accompanying the demand, that the signatures on the Demand are genuine, and that the signatories are empowered to sign for account of the Beneficiary.

7. ASSIGNMENT

The Beneficiary's rights under this Bank Guarantee may not be assigned or transferred.

8. GOVERNING LAW

This Bank Guarantee and any non-contractual obligations arising out of or in connection with it are governed by English law.

9. JURISDICTION

The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Bank Guarantee (including a dispute relating to any non-contractual obligation arising out of or in connection with this Bank Guarantee).

Yours faithfully

For and on behalf of:

[*Issuing Bank*]

By:

**SCHEDULE TO BANK GUARANTEE
FORM OF DEMAND**

To: [ISSUING BANK]

[Date]

Dear Sirs

Bank Guarantee. No. [●] issued in favour of [BENEFICIARY] (the “Bank Guarantee”)

We refer to the Bank Guarantee. Terms defined in the Bank Guarantee have the same meaning when used in this Demand.

1. We certify that the sum of [●] is due [and has remained unpaid for at least [●] Business Days] [under [set out underlying agreement stated in the Bank Guarantee]]. We therefore demand payment of the sum of [●].
2. Payment should be made to the following account:

Name:

Account Number:

Bank:

3. The date of this Demand is not later than the Expiry Date.

Yours faithfully

[*Authorised signatory*]

For

[BENEFICIARY]

SCHEDULE 13
MATERIAL COMPANIES

None

SCHEDULE 14

AGREED SECURITY PRINCIPLES

1. SECURITY PRINCIPLES

- 1.1 The guarantees and security to be provided in support of the Facilities will be given in accordance with certain security principles (the “**Security Principles**”). This Schedule addresses the manner in which the Security Principles will impact on the guarantees and security proposed to be taken in relation to this transaction. It is agreed, however, that in relation to Obligors incorporated in England & Wales and to the extent practicable, at least a floating charge will be granted over substantially all of the assets of that Obligor.
- 1.2 The Security Principles embody recognition by all parties that there may be certain legal and practical difficulties in obtaining effective guarantees and security from members of the Group in jurisdictions in which they are organised or conduct business. In particular:
- (a) general statutory limitations, financial assistance, capital maintenance corporate benefit, fraudulent preference, “thin capitalisation” rules, retention of title claims, exchange control restrictions and similar principles may limit the ability of a member of the Group to provide a guarantee or security or may require that the guarantee or security be limited by an amount or otherwise. The Parent will use reasonable efforts to demonstrate that adequate corporate benefit accrues to each Obligor;
 - (b) the security and the extent of its perfection will be agreed taking into account the cost to the Group of providing security (including but not limited to effects on interest deductibility and stamp duty, notarisation and registration fees) and the proportionate benefit accruing to secured parties;
 - (c) the maximum guaranteed or secured amount will be limited as necessary to minimise stamp duty, notarisation, registration or other applicable fees, taxes and duties where the benefit of increasing the guaranteed or secured amount is disproportionate to the level of such fees, taxes and duties;
 - (d) where there is material incremental cost involved in creating security over all assets owned by an Obligor in a particular category (e.g. real estate) the principle stated at paragraph 1.2(b) above shall apply;
 - (e) it is acknowledged that in certain jurisdictions it may be either impossible or impractical to create security over certain categories of assets in which event security will not be taken over such assets;
 - (f) any assets subject to third party arrangements which may prevent those assets from being charged will be excluded from any relevant security document *provided that* reasonable endeavours to obtain consent to charging any such assets shall be used by the Group if the Agent (acting reasonably) determines the relevant asset to be material and if seeking such consent will not or is not reasonably likely to be prejudicial to its business or commercial relationships of any member of the Group;
 - (g) members of the Group will not be required to give guarantees or enter into security documents if it is not within the legal capacity of the relevant members of the Group or if the same would conflict with the fiduciary duties of the directors (or other officers) of the relevant member of the Group or contravene any legal prohibition or regulatory condition or would result in (or in a material risk of) civil or criminal liability on the part of any director (or other officer) of any member of the Group *provided that* the relevant group member shall use reasonable endeavours lawfully

available to it to overcome any such obstacle and **provided further that** the above limitation shall be assessed in respect of the obligations of such member of the Group under the Senior Finance Documents generally and not just the guarantee or security being granted by that member of the Group;

- (h) perfection of security, when required, and other legal formalities will be completed as soon as reasonably practicable and, in any event, within the time periods specified in the relevant Transaction Documents or (if earlier or to the extent no such time periods are specified in the relevant Transaction Documents) within the time periods specified by applicable law or customary in the relevant jurisdiction in order to ensure perfection; the giving of a guarantee, the granting of security or the perfection of the security granted will not be required if it would restrict the ability of the relevant Obligor to conduct its operations and business in the ordinary course as otherwise permitted by the Senior Finance Documents save that it is understood that notwithstanding the terms of the Senior Finance Documents, all requirements to deliver any collateral pursuant to the terms of a Transaction Security Document shall be deemed satisfied by the delivery of such collateral to the Security Agent;
- (i) to the extent possible, all security shall be given in favour of the Security Agent and not the Secured Parties individually, “Parallel Debt” provisions will be used where necessary and such provisions will be contained in the Intercreditor Agreement and, if applicable, any Other Intercreditor Agreement and not the individual security documents unless required under local laws;
- (j) to the extent possible, there should be no action required to be taken in relation to the guarantees or security when any lender transfers or sub-participates or sub-contracts any of its participation in the Facilities to a new lender;
- (k) no security will be required over investments/shares or preferred equity certificates (“PECs”) in joint ventures or the assets of joint ventures and no joint venture will be required to provide a guarantee;
- (l) non wholly-owned subsidiaries shall not be required to provide any security where it is not reasonably practicable to do so;
- (m) no perfection action will be required in jurisdictions where no Borrower, Guarantor or Material Company is located (but perfection action may be required in the jurisdiction of one Guarantor in relation to security granted by another Guarantor located in a different jurisdiction and (where otherwise consistent with the Agreed Security Principles) in any supra-national registries agreed between the Parent and the Security Agent from time to time); and
- (n) where security is to be granted over a class of assets by a member of the Group and that security includes material and immaterial assets, the member of the Group and the Agent shall agree a threshold in respect of such assets.

2. TERMS OF SECURITY DOCUMENTS

The following principles will be reflected in the terms of any security taken as part of this transaction:

- (a) the security will be first-ranking, save to the extent not permitted by law;

- (b) security will not be enforceable until an Event of Default has occurred and notice of acceleration has been given by the Agent under the Senior Facilities Agreement (an “**Enforcement Event**”);
- (c) without prejudice to the rights of the lenders at law, any rights of set off will not be exercisable until the occurrence of an Enforcement Event;
- (d) the security documents should only operate to create security rather than to impose new commercial obligations. Accordingly, they shall not contain (i) any additional representations or undertakings (such as in respect of title, insurance, maintenance of assets, information or the payment of costs) or provisions for default or penalty interest, tax gross-up or any indemnities or (ii) any equivalent representations or undertakings to those representations or undertakings in this Agreement, in each case save for representations or undertakings necessary (and only to the extent necessary) in the relevant jurisdiction for the creation or perfection of the security that are no more onerous than any equivalent representations or undertakings in this Agreement; the security documents shall not contain repeating representations;
- (e) the finance parties under the Senior Finance Documents should only be able to exercise any power of attorney granted to them under the security documents following the occurrence of an Enforcement Event or failure to comply with a further assurance or perfection obligation within 10 Business Days of being notified of that failure;
- (f) the security documents should not operate so as to prevent transactions which are permitted under this Agreement or to require additional consents or authorisations; and
- (g) the security documents will not accrue interest on any amount in respect of which interest is accruing under this Agreement.

3. GUARANTEES/SECURITY

3.1 Subject to the due execution of all relevant security documents, completion of relevant perfection formalities within statutorily prescribed time limits, payment of all registration fees and documentary taxes, any other rights arising by operation of law, obtaining any relevant local law legal opinions and subject to any qualifications which may be set out in this Agreement and any relevant legal opinions obtained and subject to the requirements of the Security Principles, the Security Agent shall:

- (a) receive the benefit of an upstream, cross-stream and downstream guarantee from, and the security over the assets of the Obligors will be granted to secure all liabilities of, the Obligors under the Senior Finance Documents in accordance with the Security Principles; and
- (b) (in the case of those security documents creating pledges or charges over shares in a Material Company) obtain a first priority valid charge or analogous or equivalent security over all of the shares in issue at any time in that Material Company which is owned by an Obligor. Such security document shall be governed by the laws of the jurisdiction in which the Material Company whose shares are being pledged is formed.

3.2 It is further acknowledged that pursuant to each security document (or, if applicable, this Agreement) the Security Agent shall not require that any costs, fees, taxes or other amounts payable in connection with any re-taking, re-notarisation, perfection, presentation, novation or

re-registration of any security in connection with an assignment or transfer by any lender be for the account of the Group.

- 3.3 If an Obligor owns shares in a member of the Group that it is not an Obligor, no steps shall be taken to create or perfect security over those shares.
- 3.4 Information, such as lists of assets, will be provided if and only to the extent (i) required by law to create, enforce, perfect, preserve or register the security or (ii) necessary to enforce the security; *provided that* such information need not be provided by any member of the Group pursuant to this paragraph more frequently than annually or as otherwise required by law in the relevant jurisdiction or unless an Event of Default has occurred and is continuing, and in each case *provided that* information can be provided without breaching confidentiality requirements or damaging business relationships.
- 3.5 Each security document shall contain a release clause requiring the Security Agent to release the security constituted thereby as follows (and such release clause shall, in addition, require the Security Agent to release the security in any other circumstances contemplated by this Agreement):
- (a) Upon (i) the secured obligations being discharged in full and none of the secured parties being under any further actual or contingent obligation to make advances or provide other financial accommodation to the security providers or any other person under any of the Senior Finance Documents, or (ii) the security provider ceasing to be both a Borrower and a Guarantor, the Security Agent shall, at the request and cost of the Parent, (which cost may be paid by the Company), release and cancel the security provided by such security provider and procure the reassignment to the security provider of the property and assets assigned to the Security Agent pursuant to the relevant security documents.
 - (b) In connection with (i) any sale or other disposition of any property or asset permitted by this Agreement that is subject to a security document, (ii) any sale or other disposition of any property or asset that is subject to a security document where the Majority Lenders have consented to the disposal pursuant to this Agreement or (iii) any sale or any other disposition of any property or asset pursuant to a merger, consolidation, reorganisation, winding-up, securitisation or sale and leaseback permitted by this Agreement to the extent necessary to ensure that such merger, consolidation, reorganisation, winding-up, securitisation or sale and leaseback can take place, the Security Agent shall, at the request and cost of the Parent, (which cost may be paid by the Company), release and cancel the security provided by such security provider and procure the reassignment to the security provider of the property and assets assigned to the Security Agent pursuant to the relevant security document, *provided that*, to the extent that the disposal of such property or asset is a sale or disposition permitted by this Agreement, the property or asset shall be declared to be automatically released from the security with effect from the day of such disposal and the Security Agent and the Agent shall do all such acts which are reasonably requested by the Parent in order to release such property or asset.
 - (c) Notwithstanding the foregoing, (i) any security over voting shares or stock of a non-U.S. subsidiary of a U.S. entity shall be limited to 65 per cent. of each series of voting shares or stock of such subsidiary, (ii) no asset of a non-U.S. subsidiary of a U.S. person shall be pledged/charged; and (iii) guarantors shall exclude any non-U.S. subsidiary of a U.S. person; it being understood that a non-U.S. subsidiary holding company substantially all of whose assets consist of capital stock and/or indebtedness of one or more non-U.S. subsidiaries, intellectual property relating to such non-U.S.

subsidaries and any other assets incidental thereto will be deemed a non-U.S. subsidiary for purposes of this paragraph.

4. BANK ACCOUNTS

- (a) If a member of the Group grants security over its bank accounts it shall (save in relation to the Mandatory Prepayment Account) be free to deal with those accounts in the course of its business in accordance with the terms of this Agreement and the Senior Finance Documents until the occurrence of an Enforcement Event.
- (b) If required by local law to perfect or for the priority of the security, notice of the security will be served on the account bank within 10 Business Days of the security being granted (or within a shorter period if agreed within the relevant security agreement) and the relevant member of the Group shall use reasonable endeavours to obtain an acknowledgement of that notice within 10 Business Days of service. If the relevant member of the Group has used reasonable endeavours but has not been able to obtain acknowledgement, its obligation to obtain acknowledgement shall cease on the expiry of that 20 Business Days period. Irrespective of whether notice of the security is required for perfection, if the service of notice would prevent the relevant member of the Group from using a bank account in the course of its business, no notice shall be served until the occurrence of an Enforcement Event.
- (c) Any security over bank accounts shall be subject to any prior security interests in favour of the account bank which are created either by law or in the standard terms and conditions of the account bank. The notice of security may request these are waived by the account bank, but the relevant member of the Group shall not be required to change its banking arrangements if these security interests are not waived or only partially waived.
- (d) Unless an Enforcement Event has occurred, the Agent and Security Agent shall not have discretion to refrain from applying or to hold in suspense accounts moneys received from the Group in respect of the Group's liabilities under the Senior Finance Documents or to exercise any general rights of set-off.

5. FIXED ASSETS

- (a) If a member of the Group grants security over its fixed assets, it shall be free to deal with those assets in the course of its business in accordance with this Agreement and the Senior Finance Documents until the occurrence of an Enforcement Event.
- (b) Unless required by local law, no notice whether to third parties or by attaching a notice to the fixed assets shall be served until the occurrence of an Enforcement Event.

6. INSURANCE POLICIES

Notification of security over insurance policies will not be served on any insurer of Group assets until the occurrence of an Enforcement Event.

7. INTELLECTUAL PROPERTY

- (a) If a member of the Group grants security over its intellectual property, it shall be free to deal with those assets in the course of its business (including without limitation allowing its intellectual property to lapse if no longer material to its business) in

accordance with the terms of this Agreement and Senior Finance Document until the occurrence of an Enforcement Event.

- (b) No security shall be granted over any intellectual property which cannot be subject to security interests under the terms of the relevant licensing agreement. The relevant member of the Group shall use reasonable endeavours to overcome any such restrictions in the relevant licensing agreement in respect of any Material Intellectual Property if to do so is not reasonably likely to be prejudicial to its business or commercial relationships. No notice shall be served on any third party from whom intellectual property is licensed until the occurrence of an Enforcement Event.

8. INTERCOMPANY RECEIVABLES

- (a) If a member of the Group grants security over its intercompany receivables, it shall be free to deal with those receivables in the course of its business in accordance with the terms of this Agreement and Senior Finance Document until the occurrence of an Enforcement Event.
- (b) If required by local law to perfect the security, notice of the security will be served on the relevant debtor within 10 Business Days of the security being granted and the relevant member of the Group shall use its reasonable endeavours to obtain an acknowledgement of that notice within 10 Business Days of service. Irrespective of whether notice of the security is required for perfection, if the service of notice would prevent the relevant member of the Group from dealing with an intercompany receivable in the course of its business or otherwise be prejudicial to the operation of the Group's business, no notice of security shall be served until the occurrence of an Enforcement Event.

9. TRADE RECEIVABLES

- (a) If a member of the Group grants security over its trade receivables, it shall be free to deal with those receivables in the course of its business in accordance with the terms of this Agreement and Senior Finance Document until the occurrence of an Enforcement Event.
- (b) No notice of security may be served until the occurrence of an Enforcement Event.
- (c) No security will be granted over any trade receivables which is not permitted under the terms of the relevant contract. The relevant member of the Group shall use reasonable endeavours to overcome any such restrictions in material relevant contracts if to do so is not reasonably likely to be prejudicial to its business or commercial relationships.
- (d) If any Obligor becomes a Special Purpose Entity in connection with a Financing Disposition or a Special Purpose Financing, to the extent not automatically released pursuant to the terms of the Finance Documents, the Security Agent shall, as soon as reasonably practicable, perform all steps in order to release any Security then existing (or which may in the future exist) on the receivables of such Obligor which are being financed pursuant to a Special Purpose Financing.

10. SHARES AND PECS

- (a) Subject to advice from relevant local counsel for the Lenders, the relevant security document will be governed by the laws of the jurisdiction of incorporation of the member of the Group whose shares or PECs are subject to security, and not by the

law of the jurisdiction of incorporation of the member of the Group granting the security.

- (b) Where required by law or necessary for the purpose of the creation, enforcement, perfection, priority or preservation of security over such shares, any relevant share certificate and a stock transfer form executed in blank will be provided to the Security Agent, and any relevant share certificate or shareholders' register will be endorsed or written up and the endorsed share certificate or a copy of the written up register provided to the Security Agent. To the extent the holding of any stock transfer forms or share certificates by the Security Agent in the United Kingdom could result in a material stamp duty liability, any such stock transfer forms and share certificates will instead be held by the Security Agent off-shore.
- (c) In respect of share or PEC charges and share or PEC pledges, until an Enforcement Event has occurred, the chargors or pledgors (as applicable) shall be permitted to retain and to exercise voting rights attaching to any shares pledged by them in a manner which does not adversely affect the validity or enforceability of the security or cause an Event of Default to occur and the chargors and/or pledgors shall be permitted to receive and retain dividends (or any other returns in respect of PECs) on charged and/or pledged shares or PECs/pay dividends (or any other returns in respect of PECs) upstream on charged and/or pledged shares or PECs to the extent permitted under this Agreement or the Senior Finance Documents with the proceeds to be available to the Group.

11. REAL ESTATE

- (a) There will be no obligation to investigate title, provide surveys or to conduct insurance, environmental or other diligence.
- (b) A member of the Group providing security over its real estate will use reasonable endeavours to obtain any landlord consent required to grant security over an agreed list of material properties which are subject to the requirement for landlord consent but only if to do so is not reasonably likely to be prejudicial to its business or commercial relationships. The amount secured by such security may be restricted to an agreed level to take account of costs.

12. ACQUISITION DOCUMENTS AND CLAIMS

A notice of assignment or charge will be served on the Vendors promptly following execution of the relevant security document by the Company, and the Parent shall use commercially reasonable endeavours to obtain an acknowledgement of that notice within 20 Business Days of service. If the Parent has used commercially reasonable endeavours but has not been able to obtain acknowledgement, its obligation to obtain acknowledgement shall cease on the expiry of that 20 Business Days period.

13. SCOPE OF SECURITY

Subject to the principles set out above:

- (a) entities organised in England and Wales will enter into a first ranking fixed and floating debenture providing first ranking security over all or substantially all of their assets; and
- (b) entities not organised in England and Wales will grant first ranking security over (i) shares held by them in any Material Companies, (ii) their material receivables

(including material intercompany receivables) and (iii) their bank accounts, but not over their other assets.

SCHEDULE 15

FORM OF INCREASE CONFIRMATION

To: [●] as Agent, [and] [[●] as] Security Agent, [[●] as Issuing Bank]* and [●] as Parent, for and on behalf of each Obligor

From: [the *Increase Lender*] (the “**Increase Lender**”)

Dated:

£170180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement).** This agreement (the “**Agreement**”) shall take effect as an Increase Confirmation for the purpose of the Facilities Agreement and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
2. We refer to clause 2.2 (*Increase*) of the Facilities Agreement.
3. The Increase Lender agrees to assume and will assume all of the obligations corresponding to the Commitment specified in the Schedule (the “**Relevant Commitment**”) as if it was an Original Lender under the Facilities Agreement.
4. The proposed date on which the increase in relation to the Increase Lender and the Relevant Commitment is to take effect (the “**Increase Date**”) is [●].
5. On the Increase Date, the Increase Lender becomes:
 - (a) party to the relevant Senior Finance Documents (other than the Intercreditor Agreement) as a Lender; and
 - (b) party to the Intercreditor Agreement as an Initial Senior Lender.
6. As from the date of this Increase Confirmation, the Increase Lender shall be deemed as a beneficiary of the Facilities Agreement as a Senior Finance Party and as Beneficiary (as such term is defined in each relevant Transaction Security Document) under each relevant Transaction Security Document.
7. The Facility Office and address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 46.2 (*Addresses*) are set out in the Schedule.

* Only if increase in the Total Revolving Facility Commitments.

** Increase Confirmation to be updated for any applicable Other Intercreditor Agreement if in existence when Increase Confirmation is signed.

8. The Increase Lender expressly acknowledges the limitations on the Lenders' obligations referred to in paragraph (f) of Clause 2.2 (*Increase*).
9. The Increase Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:
- (a) [a Qualifying Lender (other than a Treaty Lender);]
 - (b) [a Treaty Lender;]
 - (c) [not a Qualifying Lender].***
10. [The Increase Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Senior Finance Document is either:
- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
 - (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
 - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]*****
11. [The Increase Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [●]) and is tax resident in [●]*****, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify:
- (a) each Borrower which is a Party as a Borrower as at the Transfer Date; and
 - (b) each Additional Borrower which becomes an Additional Borrower after the Transfer Date,
- that it wishes that scheme to apply to the Facilities Agreement.]*****

*** Delete as applicable – each Increase. Each New Lender is required to confirm which whether it falls within one of these three categories it falls within or not.

**** Include if Increase Lender comes within paragraph (a)(ii) of the definition of Qualifying Lender in Clause 18.1 (*Definitions*).

***** Insert jurisdiction of tax residence.

***** Include if the Increase Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.

The Increase Lender confirms that it is not a Business Competitor or an Affiliate of a Business Competitor or an Unacceptable Lender.

12. The Increase Lender confirms that it is not a Sponsor Affiliate.
13. [The Increase Lender confirms that it [is]/[is not]***** a Non-Acceptable Lender.]*****
14. We refer to clause [22.3] (Accession of Credit Facility Lenders and Creditor Representatives) of the Intercreditor Agreement:

In consideration of the Increase Lender being accepted as an Initial Senior Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), the Increase Lender confirms that, as from the Increase Date, it intends to be party to the Intercreditor Agreement as an Initial Senior Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Initial Senior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.
15. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
16. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
17. This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Increase Confirmation may not be sufficient for the Increase Lender to obtain the benefit of the Transaction Security in all jurisdictions. It is the responsibility of the Increase Lender to ascertain whether any other documents or other formalities are required to obtain the benefit of the Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

***** Delete as applicable.

***** Include only if the increase involves the assumption of a Revolving Facility Commitment.

**THE SCHEDULE
RELEVANT COMMITMENT/RIGHTS AND OBLIGATIONS TO BE ASSUMED BY THE
INCREASE LENDER**

[insert relevant details]

*[Facility office address, fax number and attention details for notices and account details for
payments]*

[Increase Lender]

By:

This Agreement is accepted as an Increase Confirmation for the purposes of the Facilities Agreement by the Agent [and the Issuing Bank]*, and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Increase Date is confirmed as [●].

Agent

[Issuing Bank

By:

By:]*

Security Agent

By:

NOTE:

* Only if increase in the Total Original Revolving Facility Commitments.

SCHEDULE 16

FORMS OF NOTIFIABLE DEBT PURCHASE TRANSACTION NOTICE

Part 1
Form of Notice on entering into
Notifiable Debt Purchase Transaction

To: [●] as Agent

From: [The Lender]

Dated:

£~~170~~180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

1. We refer to paragraph (b) of Clause 39.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates*) of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this notice unless given a different meaning in this notice.
2. We have entered into a Notifiable Debt Purchase Transaction.
3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to the amount of our Commitment(s) as set out below.

Commitment	Amount of our Commitment to which Notifiable Debt Purchase Transaction relates (Base Currency)
[insert relevant Term Facility]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]

[Lender]

By:

Part 2
Form of Notice on Termination of Notifiable Debt Purchase Transaction / Notifiable Debt Purchase Transaction ceasing to be with Sponsor Affiliate

To: [●] as Agent

From: [The Lender]

Dated:

£~~170~~180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

1. We refer to paragraph (c) of Clause 39.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates*) of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this notice unless given a different meaning in this notice.
2. A Notifiable Debt Purchase Transaction which we entered into and which we notified you of in a notice dated [●] has [terminated]/[ceased to be with a Sponsor Affiliate].*
3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to the amount of our Commitment(s) as set out below.

Commitment	Amount of our Commitment to which Notifiable Debt Purchase Transaction relates (Base Currency)
[insert relevant Term Facility]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]

[Lender]

By:

* Delete as applicable.

SCHEDULE 17

PERMITTED FORM OF INCREMENTAL FACILITY NOTICE AND INCREMENTAL
FACILITY ACCESSION CERTIFICATE

Part 1
Incremental Facility Notice

To: [●] as Agent

From: [●] (the “Parent”) and [the *Incremental Facility Lender*] (the “Incremental Facility Lender”)

Dated: [●]

~~£170~~£180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

We refer to the Facilities Agreement. This is an Incremental Facility Notice. Terms defined in the Facilities Agreement shall have the same meaning when used in this Incremental Facility Notice.

1. The Parent wishes to establish an Incremental Facility on the following terms:

Type of Facility: [●]

Availability Period: [●]

Purpose: [●]

Proposed Borrower: [●]

Proposed Lender(s): [●]

Requested amount: [●]

Currency/ies available: [●]

Utilisation Date: [●]

Termination Date: [●]

Margin: [●] per cent. per annum⁷

Commitment fee: [●]

Other relevant fees: [●]

Maximum Number of Utilisation Requests that may be delivered: [●]

⁷ Any EURIBOR or LIBOR floor to be confirmed where applicable.

2. The Parent confirms that no Event of Default is continuing or would, in the Parent's reasonable determination, be reasonably likely to arise as a result of the incurrence of Indebtedness under the Incremental Facility and the application thereof.
3. This Incremental Facility Notice may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Incremental Facility Notice.
4. This Incremental Facility Notice (including any non-contractual obligations arising out of or in relation to this Incremental Facility Notice) is governed by, and is to be construed in accordance with, English law.

[Authorised Signatory]

For and on behalf of the Parent

[Authorised Signatory]

For and on behalf of the Incremental Facility Lender

Part 2
Incremental Facility Accession Certificate

To: [●] as Agent

From: [●] (the “**Company**”) and [*Incremental Facility Lender*] (the “**Acceding Lender**”)

Dated: [●]

£~~170~~180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement**”)**

1. We refer to the Facilities Agreement. This is an Incremental Facility Accession Certificate. Terms defined in the Facilities Agreement shall have the same meaning when used in this Incremental Facility Accession Certificate.
2. The proposed accession effective date is [●] (the “**Accession Effective Date**”).
3. On the Accession Effective Date:
 - (a) the Acceding Lender becomes party to the Facilities Agreement as a Lender; and
 - (b) the Acceding Lender assumes all the rights and obligations of a Lender in relation to the Commitments under the Facilities Agreement specified in the schedule to this Incremental Facility Accession Certificate (the “**schedule**”) in accordance with the terms of the Facilities Agreement.
4. The administrative details of the Acceding Lender for the purposes of the Facilities Agreement are set out in the schedule.
5. The Acceding Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:
 - (a) [a Qualifying Lender (other than a Treaty Lender);]
 - (b) [a Treaty Lender;]
 - (c) [not a Qualifying Lender].*]
6. [The Acceding Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Senior Finance Document is either:
 - (a) a company resident in the United Kingdom for United Kingdom tax purposes; or
 - (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or

* Delete as applicable - each Acceding Lender is required to confirm which of these three categories it falls within.

- (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
 - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]***
7. The Acceding Lender confirms that [is]/[is not]**** a Sponsor Affiliate.
 8. The Acceding Lender confirms that it is not a “Business Competitor” (as that term is defined in the Facilities Agreement) or an Affiliate of a Business Competitor or an Unacceptable Lender.
 9. [The Acceding Lender confirms that it [is]/[is not]***** a Non-Acceptable Lender.]*****
 10. [The Acceding Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [●]), and is tax resident in [●]*****, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Company notify:
 - (a) each Borrower which is a Party as a Borrower as at the Accession Effective Date; and
 - (b) each Additional Borrower which becomes an Additional Borrower after the Accession Effective Date,
 that it wishes that scheme to apply to the Facilities Agreement.]*****
 11. We refer to clause [22.3] (Accession of Credit Facility Lenders and Creditor Representatives) of the Intercreditor Agreement.

In consideration of the Acceding Lender being accepted as an Initial Senior Lender for the purposes of the Intercreditor Agreement (and as defined therein), the Acceding Lender confirms that, as from the Accession Effective Date, it intends to be party to the Intercreditor Agreement as an Initial Senior Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Initial Senior Lender and

*** Include if the Acceding Lender comes within paragraph (a)(ii) of the Qualifying Lender definition in Clause 18.1 (*Definitions*).

**** Delete as applicable.

***** Delete as applicable.

***** Include only if incremental facility is a Revolving Facility.

***** Insert jurisdiction of tax residence.

***** Include if the Acceding Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.

agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.*****

12. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
13. This Incremental Facility Accession Certificate takes effect as a deed notwithstanding that a party may execute it under hand.
14. This Incremental Facility Accession Certificate and any non-contractual obligations arising out of or in connection with it are governed by and construed in accordance with English law.
15. This Incremental Facility Accession Certificate has been executed as a deed by the Acceding Lender and is delivered on the date stated above.

Executed as a deed by

[insert name of Acceding Lender in bold and upper case] acting by *[insert name of director/authorised signatory for execution of deeds]*:

Signature of *[director][authorised signatory]*

Signature of witness

Name of witness

Address of witness

Occupation of witness

This Deed is accepted as an Incremental Facility Accession Certificate for the purposes of the Facilities Agreement by the Agent, and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Accession Effective Date is confirmed as [●].

[Agent]

By:

[Security Agent]

By:

***** Additional certifications in respect of any applicable Other Intercreditor Agreement in existence when Incremental Facility Accession Certificate is signed to be added.

THE SCHEDULE

Commitment/rights and obligations

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments]

SCHEDULE 18
EXISTING INVESTMENTS

None

SCHEDULE 19
EXISTING AFFILIATE TRANSACTIONS

None

SCHEDULE 20

PERMITTED EXISTING INDEBTEDNESS AND SECURITY

None.

SCHEDULE 21

PERMITTED FORM OF SENIOR LOAN REFINANCING FACILITY NOTICE AND
SENIOR LOAN REFINANCING FACILITY ACCESSION CERTIFICATE

Part 1
Senior Loan Refinancing Facility Notice

To: [●] as Agent

From: [●] (the “Parent”) and [the *Senior Loan Refinancing Facility Lender*] (the “Senior Loan Refinancing Facility Lender”)

Dated: [●]

~~£170~~£180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

We refer to the Facilities Agreement. This is a Senior Loan Refinancing Facility Notice. Terms defined in the Facilities Agreement shall have the same meaning when used in this Senior Loan Refinancing Facility Notice.

1. The Parent wishes to establish a Senior Loan Refinancing Facility on the following terms:

Type of Facility: [●]

Ranking of Security: [●]

Availability Period: [●]

Loans and/or Commitments

to be refinanced: [●]

Proposed Borrower: [●]

Proposed Lender(s): [●]

Requested amount: [●]

Currency/ies available: [●]

Utilisation Date: [●]

Termination Date: [●]

Margin: [●] per cent. per annum⁸

Commitment fee: [●]

⁸ Any EURIBOR or LIBOR floor to be confirmed where applicable.

Other relevant fees: [●]

Maximum Number of Utilisation Requests that may be delivered: [●]

2. This Senior Loan Refinancing Facility Notice may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Senior Loan Refinancing Facility Notice.
3. This Senior Loan Refinancing Facility Notice (including any non-contractual obligations arising out of or in relation to this Senior Loan Refinancing Facility Notice) is governed by, and is to be construed in accordance with, English law.

[Authorised Signatory]

For and on behalf of the Parent

[Authorised Signatory]

For and on behalf of the Senior Loan Refinancing Facility Lender

Part 2
Senior Loan Refinancing Facility Accession Certificate

To: [●] as Agent and [●] as Security Agent

From: [●] (the “Company”) and [Senior Loan Refinancing Facility Lender] (the “Acceding Lender”)

Dated: [●]

£~~170~~180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

4. We refer to the Facilities Agreement. This is a Senior Loan Refinancing Facility Accession Certificate. Terms defined in the Facilities Agreement shall have the same meaning when used in this Senior Loan Refinancing Facility Accession Certificate.
5. The proposed accession effective date is [●] (the “Accession Effective Date”).
6. On the Accession Effective Date:
 - (a) the Acceding Lender becomes party to the Facilities Agreement as a Lender; and
 - (b) the Acceding Lender assumes all the rights and obligations of a Lender in relation to the Commitments under the Facilities Agreement specified in the schedule to this Senior Loan Refinancing Facility Accession Certificate (the “**schedule**”) in accordance with the terms of the Facilities Agreement.
7. The administrative details of the Acceding Lender for the purposes of the Facilities Agreement are set out in the schedule.
8. The Acceding Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:
 - (a) [a Qualifying Lender (other than a Treaty Lender);]
 - (b) [a Treaty Lender;]
 - (c) [not a Qualifying Lender].*]
9. [The Acceding Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Senior Finance Document is either:
 - (a) a company resident in the United Kingdom for United Kingdom tax purposes; or

* Delete as applicable - each Acceding Lender is required to confirm which of these three categories it falls within.

- (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
- (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]***

10. The Acceding Lender confirms that [is]/[is not]**** a Sponsor Affiliate.

11. The Acceding Lender confirms that it is not a “Business Competitor” (as that term is defined in the Facilities Agreement) or an Affiliate of a Business Competitor or an Unacceptable Lender.

12. [The Acceding Lender confirms that it [is]/[is not]***** a Non-Acceptable Lender.]*****

13. [The Acceding Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [●]), and is tax resident in [●]*****, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Company notify:

- (a) each Borrower which is a Party as a Borrower as at the Accession Effective Date; and
- (b) each Additional Borrower which becomes an Additional Borrower after the Accession Effective Date,

that it wishes that scheme to apply to the Facilities Agreement.]*****

14. We refer to clause 22.3 (Accession of Credit Facility Lenders and Creditor Representatives) of the Intercreditor Agreement.

In consideration of the Acceding Lender being accepted as an Initial Senior Lender for the purposes of the Intercreditor Agreement (and as defined therein), the Acceding Lender confirms that, as from the Accession Effective Date, it intends to be party to the Intercreditor Agreement as an Initial Senior Lender, and undertakes to perform all the obligations

*** Include if the Acceding Lender comes within paragraph (a)(ii) of the Qualifying Lender definition in Clause 18.1 (Definitions).

**** Delete as applicable.

***** Delete as applicable.

***** Include only if senior loan refinancing facility is a Revolving Facility.

***** Insert jurisdiction of tax residence.

***** Include if the Acceding Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.

expressed in the Intercreditor Agreement to be assumed by an Initial Senior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.*****

or

15. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
16. This Senior Loan Refinancing Facility Accession Certificate takes effect as a deed notwithstanding that a party may execute it under hand.
17. This Senior Loan Refinancing Facility Accession Certificate and any non-contractual obligations arising out of or in connection with it are governed by and construed in accordance with English law.
18. This Senior Loan Refinancing Facility Accession Certificate has been executed as a deed by the Acceding Lender and is delivered on the date stated above.

Executed as a deed by

[insert name of Acceding Lender in bold and upper case] acting by *[insert name of director/authorised signatory for execution of deeds]*:

Signature of *[director][authorised signatory]*

Signature of witness

Name of witness

Address of witness

Occupation of witness

This Deed is accepted as a Senior Loan Refinancing Facility Accession Certificate for the purposes of the Facilities Agreement by the Agent, and as a Creditor/Creditor Representative Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Accession Effective Date is confirmed as [●].

[Agent]

By:

[Security Agent]

***** Additional certifications in respect of any applicable Other Intercreditor Agreement in existence when Senior Loan Refinancing Facility Accession Certificate is signed to be added.

|

By:

THE SCHEDULE

Commitment/rights and obligations

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments]

SCHEDULE 22

FORM OF SUBSTITUTE AFFILIATE LENDER DESIGNATION NOTICE

To: [●] as Agent and [•] as Parent, for and on behalf of each Obligor

Copy: [The Company]

From: [Designating Lender] (the “**Designating Lender**”)

[Substitute Affiliate Lender] (the “**Substitute Affiliate Lender**”)

Dated:

£170180 million Senior Facilities Agreement
dated [●] (as amended and/or amended and restated from time to time)
(the “Facilities Agreement”)

1. We refer to the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this Substitute Affiliate Lender Designation Notice.
2. We hereby designate our Affiliate details of which are given below as a Substitute Affiliate Lender in respect of any [*Term/Revolving*] Loans required to be advanced to [*specify name of borrower or refer to all borrowers in a particular jurisdiction etc*] (“**Designated Loans**”).
3. The details of the Substitute Affiliate Lender are as follows:
Name:
Facility Office:
Fax Number:
Attention:
Jurisdiction of Incorporation:
4. [The Substitute Affiliate Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:
 - (a) [a Qualifying Lender (other than a Treaty Lender);]
 - (b) [a Treaty Lender;]
 - (c) [not a Qualifying Lender].*]
5. [The Substitute Affiliate Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Senior Finance Document is either:

* Delete as applicable - each Substitute Affiliate Lender is required to confirm which of these three categories it falls within.

- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
 - (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
 - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]***
6. [The Substitute Affiliate Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [●]) and is tax resident in [●]****, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify:
- (a) each Borrower which is a Party as a Borrower as at the Transfer Date; and
 - (b) each Additional Borrower which becomes an Additional Borrower after the Transfer Date,
- that it wishes that scheme to apply to the Facilities Agreement.]*****
7. The Substitute Affiliate Lender confirms that it [is]/[is not]***** a Sponsor Affiliate.
8. The Substitute Affiliate Lender confirms that it is not a Business Competitor or an Affiliate of a Business Competitor or an Unacceptable Lender.
9. By countersigning this notice below the Substitute Affiliate Lender agrees to become a Substitute Affiliate Lender in respect of Designated Loans as indicated above and agrees to be bound by the terms of the Facilities Agreement accordingly.
10. This Substitute Affiliate Lender Designation Notice may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Substitute Affiliate Lender Designation Notice.
11. This Substitute Affiliate Lender Designation Notice and any non-contractual obligations arising out of or in connection with it are governed by English law.

*** Include if Substitute Affiliate Lender comes within paragraph (a)(ii) of the definition of Qualifying Lender in Clause 18.1 (*Definitions*).

**** Insert jurisdiction of tax residence.

***** Include if the Substitute Affiliate Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.

***** Delete as applicable.

.....
For and on behalf of [Designating Lender]

We acknowledge and agree to the terms of the above.

.....
For and on behalf of [Substitute Affiliate Lender]

We acknowledge the terms of the above.

.....
For and on behalf of The Agent

Dated:

Signatories to Senior Facilities Agreement

The Parent

For and on behalf of
Jewel MidCo Limited
as the Parent

Name:
Title:

Notice Details

Attention: Attention: Jason Barg and Spencer Hoffman (directors)
Address: Address: c/o Law Debenture Corporate Services Limited
Fifth Floor, 100 Wood Street, London EC2V 7EX
Email: trampe@lmpartners.com; jbarg@lmpartners.com; shoffman@lmpartners.com
Facsimile: +44(0)2076060643

The Company

For and on behalf of
Jewel BidCo Limited
as the Company

Name:
Title:

Notice Details

Attention: Attention: Jason Barg and Spencer Hoffman (directors)
Address: Address: c/o Law Debenture Corporate Services Limited
Fifth Floor, 100 Wood Street, London EC2V 7EX
Email: trampe@lmpartners.com; jbarg@lmpartners.com; shoffman@lmpartners.com
Facsimile: +44(0)2076060643

[Signature page to Senior Facilities Agreement]

The Original Borrower

For and on behalf of
Jewel BidCo Limited
as Original Borrower

Name:
Title:

Notice Details

Attention: Attention: Jason Barg and Spencer Hoffman (directors)
Address: Address: c/o Law Debenture Corporate Services Limited
Fifth Floor, 100 Wood Street, London EC2V 7EX
Email: trampe@lmpartners.com; jbarg@lmpartners.com; shoffman@lmpartners.com
Facsimile: +44(0)2076060643

[Signature page to Senior Facilities Agreement]

The Original Guarantors

For and on behalf of
Jewel MidCo Limited
as Original Guarantor

Name:
Title:

Notice Details

Attention: Attention: Jason Barg and Spencer Hoffman (directors)
Address: Address: c/o Law Debenture Corporate Services Limited
Fifth Floor, 100 Wood Street, London EC2V 7EX
Email: trampe@lmpartners.com; jbarg@lmpartners.com; shoffman@lmpartners.com
Facsimile: +44(0)2076060643

[Signature page to Senior Facilities Agreement]

The Original Guarantors

For and on behalf of
Jewel BidCo Limited
as the Original Guarantor

Name:
Title:

Notice Details

Attention: Attention: Jason Barg and Spencer Hoffman (directors)
Address: Address: c/o Law Debenture Corporate Services Limited
Fifth Floor, 100 Wood Street, London EC2V 7EX
Email: trampe@lmpartners.com; jbarg@lmpartners.com; shoffman@lmpartners.com
Facsimile: +44(0)2076060643

[Signature page to Senior Facilities Agreement]

The Global Coordinator

For and on behalf of
Royal Bank of Canada
as Global Coordinator

Name:
Title:

Notice Details

Attention: Andrew Lloyd
Address: Riverbank House, 2 Swan Lane, London, EC4R 3BF
Email: andrew.lloyd@rbccm.com
Facsimile: N/A

[Signature page to Senior Facilities Agreement]

The Arranger

For and on behalf of
Royal Bank of Canada
as Arranger

Name:
Title:

Notice Details

Attention: Andrew Lloyd
Address: Riverbank House, 2 Swan Lane, London, EC4R 3BF
Email: andrew.lloyd@rbccm.com
Facsimile: N/A

[Signature page to Senior Facilities Agreement]

The Original Lender

For and on behalf of
Royal Bank of Canada
as Original Lender

Name:
Title:

Notice Details

Attention: Andrew Lloyd
Address: Riverbank House, 2 Swan Lane, London, EC4R 3BF
Email: andrew.lloyd@rbccm.com
Facsimile: N/A

[Signature page to Senior Facilities Agreement]

The Agent

For and on behalf of
RBC Europe Limited
as Agent

Name:
Title:

Notice Details

Attention: Johnson Tse / Daniel Gotobed
Address: Riverbank House, 2 Swan Lane, London, EC4R 3BF
Email: johnson.tse@rbccm.com / daniel.gotobed@rbccm.com
Facsimile: Fax: +44 20 7029 7914

[Signature page to Senior Facilities Agreement]

The Security Agent

For and on behalf of
RBC Europe Limited
as Security Agent

Name:
Title:

Notice Details

Attention: Johnson Tse / Daniel Gotobed
Address: Riverbank House, 2 Swan Lane, London, EC4R 3BF
Email: johnson.tse@rbccm.com / daniel.gotobed@rbccm.com
Facsimile: Fax: +44 20 7029 7914

[Signature page to Senior Facilities Agreement]