

**LARVOTTOCo LIMITED
AS PARENT**

- and -

**SAINTMICHELCo LIMITED
AS COMPANY**

- and -

**THE ENTITY LISTED IN PART A OF SCHEDULE 1
AS ORIGINAL BORROWER**

- and -

**THE ENTITIES LISTED IN PART A OF SCHEDULE 1
AS ORIGINAL GUARANTORS**

- and -

**ARES MANAGEMENT LIMITED
AS MANDATED LEAD ARRANGER**

- and -

**THE ENTITIES LISTED IN PART B AND PART C OF
SCHEDULE 1
AS ORIGINAL LENDERS**

- and -

**ARES MANAGEMENT LIMITED
AS AGENT**

- and -

**ARES MANAGEMENT LIMITED
AS SECURITY AGENT**

SENIOR TERM AND REVOLVING FACILITIES AGREEMENT



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Hogan Lovells International LLP
Atlantic House, Holborn Viaduct, London EC1A 2FG

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THIS AGREEMENT is dated

24 March 2019

BETWEEN:

- (1) **LarvottoCo Limited** a company incorporated in Jersey with registered number 128569 (the "**Parent**");
- (2) **SaintMichelCo Limited** a company incorporated in Jersey with registered number 128540 (the "**Company**");
- (3) **The Entity** listed in Part A of Schedule 1 as the original borrower (the "**Original Borrower**");
- (4) **The Entities** listed in Part A of Schedule 1 as original guarantors (the "**Original Guarantors**");
- (5) **Ares Management Limited** as underwriter and mandated lead arranger (the "**Arranger**");
- (6) **The Entities** listed in Part B of Schedule 1 as original lenders and, if applicable following the transfer of Commitments pursuant to Clause 28.12 (*Transfer of Commitments of ACE IV Entities on the Closing Date*), the Entities listed in Part C of Schedule 1 as original lenders (the "**Original Lenders**");
- (7) **Ares Management Limited** as agent of the Arranger and the Lenders (the "**Agent**"); and
- (8) **Ares Management 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:

"Acceptable Bank" means:

- (a) the Arranger and each Lender (or an Affiliate of any of them);
- (b) Lloyds Bank plc, TSB Bank plc, Barclays Bank PLC, The Royal Bank of Scotland plc, National Westminster Bank Plc and Santander UK plc;
- (c) a bank or financial institution which has a rating for its long-term unsecured and non-credit enhanced debt obligations of BBB or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa2 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; or
- (d) any other bank or financial institution approved by the Agent (such approval not to be unreasonably withheld or delayed);

"Accession Deed" means a document substantially in the form set out in Schedule 6 (*Form of Accession Deed*);

"Accounting Principles" means generally accepted accounting principles in the Original Jurisdiction of the relevant entity or, in the case of the Group, the United Kingdom (in each case including IFRS);

"Accounting Reference Date" means 31 December;

"Acquisition" means:

- (a) the Target Acquisition; and/or
- (b) any Permitted Bolt-on Acquisition;

"Acquisition Costs" means all fees, costs and expenses and all stamp, registration and other Taxes incurred by the Company or any other member of the Group in connection with:

- (a) the Target Acquisition or the Transaction Documents and as set out in the Funds Flow Statement, including the upfront costs of any interest rate cap entered into pursuant to a Hedging Agreement; and
- (b) any other Acquisition Documents;

"Acquisition Documents" means any sale and purchase agreement, deed of indemnity and/or disclosure letter entered into by a member of the Group in relation to a Permitted Bolt-on Acquisition;

"Acquisition Facility" means the term loan facility made available under this Agreement as described in Clause 2.1(a)(ii) (*The Facilities*);

"Acquisition Facility Commitment" means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Acquisition Facility Commitment" in Part B - The Original Lenders of Schedule 1 (*The Original Parties*) or, if applicable, following the transfer of Commitments pursuant to Clause 28.12 (*Transfer of Commitments of ACE IV Entities on the Closing Date*), Part C of Schedule 1 (*The Original Parties*) and the amount of any other Acquisition 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 principal amount in the Base Currency of any Acquisition Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*),

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

"Acquisition Facility Loan" means a loan made or to be made under the Acquisition Facility or the principal amount outstanding for the time being of that loan;

"Acquisition Purpose" means the purposes set out in Clause 3.1(a) and Clause 3.1(c)(i);

"Act" means the Companies Act 2006;

"Additional Borrower" means a company which becomes an Additional Borrower in accordance with Clause 30 (*Changes to the Obligors*);

"Additional Guarantor" means a company which becomes an Additional Guarantor in accordance with Clause 30 (*Changes to the Obligors*);

"Additional Obligor" means an Additional Borrower or an Additional Guarantor;

"Affiliate" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company;

"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 am on a particular day and set at the rate, acting in good faith, that the Agent applies to loans generally;

"Aggregate Total Incremental Facility Commitments" means, at any time, the aggregate of the Total Incremental Facility Commitments relating to each Incremental Facility;

"Aggregate Yield" has the meaning given to that term in Clause 8.5 (*Restrictions on Incremental Facility Terms and fees*);

"Agreed Security Principles" means the principles set out in Schedule 10 (*Agreed Security Principles*);

"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 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 7 (*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 7 (*Ancillary Facilities*);

"Ancillary Lender" means each Lender (or Affiliate of a Lender) which makes available an Ancillary Facility in accordance with Clause 7 (*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;
- (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 and in accordance with the relevant Ancillary Document, in each case net of any Available Credit Balance;

"Anti-Corruption Laws" means the UK Bribery Act of 2010, the Criminal Justice (Corruption Offences) Act 2018 and the U.S. Foreign Corrupt Practices Act of 1977, each as amended, and any other laws or regulations relating to anti-bribery or anti-corruption (governmental or commercial) that apply in any jurisdiction applicable to the Obligors, including, without limitation, laws that prohibit the corrupt payment, offer, promise, or authorisation of the payment or transfer of anything of value (including gifts or entertainment), directly or indirectly, to any government official, government employee or commercial entity to obtain a business advantage;

"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 Accession Undertaking as defined in, and for the purposes of, the Intercreditor Agreement;

"Audit Laws" means the EU Regulation (537/2014) on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC and the EU Directive (2014/56/EU) amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts and any law or regulation which implements that EU Directive (2014/56/EU);

"Authorisation" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration including without limitation any Regulatory Authorisation;

"Availability Period" means:

- (a) in relation to Facility B, the period from (and including) the date of this Agreement to (and including) the last day of the Certain Funds Period;
- (b) in relation to the Acquisition Facility, the period from the Closing Date to and including the date falling on the third anniversary of the Closing Date;
- (c) in relation to the Revolving Facility, the period from (and including) the Closing Date to and including the date falling one Month prior to the Termination Date in respect of the Revolving Facility; and
- (d) in relation to any Incremental Facility, the period specified as such in the Incremental Facility Notice relating to that Incremental Facility;

"Available Commitment" means, in relation to a Facility, a Lender's Commitment under that Facility minus (subject as set out below):

- (a) the Base Currency Amount of its participation in any outstanding Loans under that Facility and, in the case of the Revolving Facility only, the Base Currency Amount of the aggregate of its (and its Affiliate's) Ancillary Commitments; and

- (b) in relation to any proposed Loan, the Base Currency Amount of its participation in any other Loans that are due to be made under that Facility on or before the proposed Utilisation Date and, in the case of the Revolving Facility only, the Base Currency Amount of its (and its Affiliate's) 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 Loan under the Revolving Facility only, the following amounts shall not be deducted from that Lender's Revolving Facility Commitment:

- (c) that Lender's participation in any Revolving Facility Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date; and
- (d) that Lender's (and its Affiliate's) Ancillary Commitments to the extent that they are due to be reduced or cancelled on or before the proposed Utilisation Date;

"Available Credit Balance" means, in relation to an Ancillary Facility, credit balances on any account of any Borrower of that Ancillary Facility with the Ancillary Lender making available that Ancillary Facility to the extent that those 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;

"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 Levy" has the meaning given to that term in Clause 18.3(a)(vii) (*Exceptions*).

"Base Case Level" means, in relation to a Financial Year, the Consolidated EBITDA for that Financial Year which is set out in the Base Case Model delivered prior to the date of this Agreement;

"Base Case Model" means the financial model relating to the Group (for these purposes assuming completion of the Target Acquisition) in agreed form and delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*);

"Base Currency" means sterling;

"Base Currency Amount" means:

- (a) in relation to a Loan, the amount specified in the Utilisation Request delivered by a Borrower for that Loan (or, if the amount requested is not denominated in the

Base Currency for that Facility, 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

- (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 7.2 (*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 Loan, or (as the case may be) cancellation or reduction of an Ancillary Facility;

"Base 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 Base Reference Banks:

- (a) in relation to LIBOR:
 - (i) (other than where paragraph (a)(ii) applies) as the rate at which the relevant Base 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 Base 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 (b)(ii) applies) as the rate at which the relevant Base 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 Base Reference Bank and the relevant period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator;

"Base Reference Banks" means, in relation to LIBOR and EURIBOR, the principal London offices of such leading banks as have been appointed by the Agent in consultation with the Parent from time to time;

"BoE Base Rate Swap" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"BoE Base Rate Swap Payments" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"Borrower" means an Original Borrower or an Additional Borrower unless it has ceased to be a Borrower in accordance with Clause 30 (*Changes to the Obligors*) and, in respect of any Ancillary Facility only, any Affiliate of a Borrower that becomes a borrower of that Ancillary Facility with the approval of the relevant Lender pursuant to Clause 7.9 (*Affiliates of Borrowers*);

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

- (a) the interest (excluding the Margin) 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 of that Loan 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 for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period;

"Budget" means:

- (a) in relation to the period beginning on the Closing Date and ending on 31 December 2019, the Base Case Model; and
- (b) in relation to any other period, any budget delivered by the Parent to the Agent in respect of that period pursuant to Clause 24.4 (*Budget*);

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London 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;

"Capital Expenditure" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"Cash" means, at any time, payments made by cheque or debit card which are yet to be received in cleared funds, cash in hand (including money market deposits, cash in tills and in safes) or in transit, cash in any blocked, trust or receivable bank account and cash at bank credited to an account in the name of a member of the Group and which is deposited in an account to which a member of the Group is alone (or together with other members of the Group) beneficially entitled and for so long as:

- (a) that cash is repayable within 60 days after the date of demand or the relevant date of calculation;
- (b) (subject to paragraph (c) below) 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; and
- (c) there is no Security over that cash except for Transaction Security or any Permitted Security constituted by a netting or set-off or cash pooling arrangement

entered into by members of the Group in the ordinary course of their banking, payment processing or merchant services arrangements or the standard terms and conditions of the bank or other financial institution with which it is held or any Trading Investment Arrangement,

but excluding cash constituting the Regulatory Capital Amount (other than any interest earned thereon which a member of the Group is entitled to retain for its own account);

"Cash Equivalent Investments" means at any time:

- (a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;
- (b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;
- (c) commercial paper not convertible or exchangeable to any other security:
 - (i) for which a recognised trading market exists;
 - (ii) issued by an issuer incorporated in the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State;
 - (iii) which matures within one year after the relevant date of calculation; and
 - (iv) which has a credit rating of either A-3 or higher by Standard & Poor's Rating Services or F3 or higher by Fitch Ratings Ltd or P-3 or higher by Moody's Investors Service Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;
- (d) sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or their dematerialised equivalent);
- (e) any investment in money market funds which:
 - (i) have a credit rating of either A-3 or higher by Standard & Poor's Rating Services or F3 or higher by Fitch Ratings Ltd or P-3 or higher by Moody's Investors Service Limited,
 - (ii) which invest substantially all their assets in securities of the types described in paragraphs (a) to (d) above and
 - (iii) can be turned into cash on not more than 60 days' notice; or
- (f) any other debt security approved by the Majority Lenders,

in each case to which any member of the Group is alone (or together with other members of the Group) beneficially entitled at that time and which is not issued or guaranteed by any member of the Group or subject to any Security (other than Security arising under the Transaction Security Documents or Permitted Security constituted by any lien over bank

accounts arising under the general terms and conditions of banks) or the standard terms and conditions of the bank or financial institution with which it is held or any Trading Investment Arrangement) but excluding (without double-counting) assets constituting the Regulatory Capital Amount (other than any interest earned thereon which a member of the Group is entitled to retain for its own account);

"Cash Overfunding" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"Cash Pay Interest" has the meaning set out in Clause 13.1 (*Calculation of Interest*);

"CEO" means the chief executive officer of the Group;

"Certain Funds Period" means the period commencing on the date of this Agreement and ending on the first to occur of the End Date and the earliest of:

- (a) the date on which a Mandatory Scheme Cancellation Event occurs; and
- (b) close of business in Dublin, Ireland on the date falling 15 days after the Effective Date,

provided that, if an Offer Conversion Notice is served and an Offer Conversion subsequently occurs, the Certain Funds Period shall end on the first to occur of the End Date and the earliest of:

- (c) the date falling on the last day of the period of three months beginning with the day after the last day on which the Offer can be accepted if, by that date, the Company has not become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice;
- (d) if the Company has become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice, the later of:
 - (i) the first Business Day after the expiry of eight weeks from the first date on which the Company has become entitled to issue a Squeeze Out Notice; and
 - (ii) if an application to court is made under Part 5 of the Takeover Regulations in relation to any Squeeze Out Notice, the third Business Day following the date on which that application is finally and conclusively disposed of; and
- (e) the date on which any Mandatory Offer Cancellation Event occurs;

"Certain Funds Utilisation" means any Loan made or to be made under Facility B or the Revolving Facility during the Certain Funds Period where such Loan is to be made solely for an Acquisition Purpose;

"CFO" means the chief financial officer of the Group or (if such officer has not at the relevant time been appointed) the director of the Parent with primary responsibility for financial reporting;

"Chairman" means the chairman of the Group;

"Change of Control" means:

- (a) the Sponsor, the Investors or any funds, investment companies or limited partnerships controlled and/or managed or advised (whether referred to as a manager or adviser or in any similar capacity, provided it does act as the manager or adviser) by any one or more Sponsor ceases to control directly or indirectly the Parent;
- (b) Holdco ceases to hold legally and beneficially 100% of the issued share capital of the Parent; or
- (c) the Parent ceases to hold legally and beneficially 100% of the issued share capital of the Company.

For the purposes of this definition:

"control" of the Parent means:

- (i) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (1) cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of the Parent;
 - (2) appoint or remove all, or the majority, of the directors or other equivalent officers of the Parent; or
 - (3) give directions with respect to the operating and financial policies of the Parent with which the directors or other equivalent officers of the Parent are obliged to comply;
- (ii) the holding beneficially (directly or indirectly) of more than 50% of the issued share capital of the Parent (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or
- (iii) hold beneficially (for these purposes taking into account equity interests only) more than 50% of the aggregate principal amount of the Financial Indebtedness under the Holdco Loan Agreement;

"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:

- (a) the date falling 90 days after the Closing Date; and
- (b) in respect of any Permitted Acquisition made by a member of the Group after the Closing Date, the date falling 90 days after completion of such acquisition;

"Closing Date" means the first Utilisation Date for Facility B under this Agreement;

"Code" means the US Internal Revenue code of 1986;

"Commercial Due Diligence Report" means the commercial due diligence report entitled "*Project Elmo – Final Report*" prepared by L.E.K. Consulting LLP and dated 1 March 2019

relating to the Target Group addressed to and/or capable of being relied upon by, the Reliance Parties;

"**Commitment**" means a Facility B Commitment, an Acquisition Facility Commitment, an Incremental Facility Commitment and/or a Revolving Facility Commitment;

"**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 Investors, any Holding Company of the Parent (and any of their respective shareholders), any Obligor, the Group, the Finance Documents, a Facility or a Permitted Acquisition of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or a Facility from either:

- (a) the Investors, any member of the Group or any of its or their advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from the Investor, any member of the Group or any of its or their 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:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 41 (*Confidentiality*);
 - (ii) is identified in writing at the time of delivery as non-confidential by the Investor, any member of the Group or any of its or their advisers; or
 - (iii) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Investors, the Group or its or their advisers and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; or
- (c) any Funding Rate or Reference Bank Quotation;

"**Confidentiality Undertaking**" means a confidentiality undertaking substantially in a recommended form of the LMA or in any other form agreed between the Parent and the Agent;

"**Consolidated EBITDA**" has the meaning given to that term in Clause 25 (*Financial Covenants*);

"**Constitutional Documents**" means the articles of association of Topco;

"**Contribution Notice**" means a contribution notice issued by the Pensions Regulator under section 38 or section 47 of the Pensions Act 2004;

"**Court**" means the High Court of Ireland;

"Court Meeting" means the meeting or meetings of the Target Shareholders (and any adjournment thereof) convened pursuant to Section 450 of the Irish Companies Act to consider and, if thought fit, approve the Scheme (with or without amendment);

"Court Order" means the order or orders of the Court sanctioning the Scheme under Section 453 of the Irish Companies Act and confirming the Reduction of Capital;

"CP Satisfaction Conditions" has the meaning given to that term in Clause 4.1 (*Initial conditions precedent*);

"CTA" means the Corporation Tax Act 2009;

"Debt-Like Items" means:

- (a) the Elysian Payment;
- (b) payment of charges levied by HMRC in relation to Dual Trustee SIPPs;
- (c) any third party claim similar to those set out in paragraphs (a) and (b) above payable by the Group; and
- (d) any other items identified as Debt-Like Items in the Funds Flow Statement or otherwise designated as Debt-Like Items by the Agent (acting on the instructions of the Majority Lenders) and the Company;

"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;

"Declared Default" means the occurrence of an Event of Default which has resulted in the Agent exercising any of its rights or issuing a notice under and in accordance with Clause 27.19 (*Acceleration*);

"Default" means an Event of Default or any event or circumstance specified in Clause 27 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default (provided that, in relation to any event or circumstance which is subject to a materiality condition or threshold before such event or circumstance would constitute an Event of Default, such event or circumstance shall not constitute a Default until a determination has been made that such materiality condition or threshold has been satisfied);

"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 or the Parent (which 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*);

- (b) which has otherwise rescinded or repudiated a Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing,

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

- (i) its failure to pay is caused by:
 - (1) administrative or technical error; or
 - (2) a Disruption Event; andpayment is made within three 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, attorney or co-trustee appointed by the Security Agent;

"Designated Gross Amount" means the amount notified by the Parent to the Agent upon the establishment of a Multi-account Overdraft as being the maximum amount of Gross Outstandings that will, at any time, be outstanding under that Multi-account Overdraft;

"Designated Net Amount" means the amount notified by the Parent to the Agent upon the establishment of a Multi-account Overdraft as being the maximum amount of Net Outstandings that will, at any time, be outstanding under that Multi-account Overdraft;

"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 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 Finance Documents; or
 - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

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

"Distressed Fund" means any bank, fund or financial institution that has as one of its principal investment strategies purchasing loans or other debt securities with a view to owning the equity or gaining control of the business (directly or indirectly) or utilising any similar strategies. For the avoidance of doubt, this shall not include in either case a Lender or an Affiliate of a Lender or a Related Fund or Affiliates of such persons where

those Affiliates' distressed debt activities are managed independently and operate behind customary information barriers and provided further that (i) the transfer, assignment to such Affiliate or entry into a or entry into a Participation Agreement with such Affiliate will not be administered, managed or operated out of the part of that Affiliate that carries on distressed debt activities and (ii) an Affiliate for these purposes shall include a branch, division, team or business line;

"Dormant Subsidiary" means a Subsidiary (direct or indirect) of the Parent which does not trade (for itself or as agent for any person) and does not own, legally or beneficially, assets (including indebtedness owed to it) which in aggregate have a value of £200,000 or more (or its equivalent);

"EBTCo" is defined in paragraph (g) of Permitted Acquisition;

"Effective Date" means the date of delivery to the Registrar of Companies of the Court Order together with the minute required by Section 86 of the Irish Companies Act confirming the Reduction of Capital and such Reduction of Capital having become effective upon the registration of the Court Order and minute by the Registrar of Companies;

"EGM" means the extraordinary general meeting of the Target Shareholders (and any adjournment thereof) to be convened in connection with the Scheme;

"EGM Resolutions" means the resolutions to be proposed at the EGM for the purposes of, amongst other things, approving and implementing the Scheme and the Reduction of Capital, as set out in the Scheme Circular;

"Elysian Fuel Dispute" means the dispute described in Part 2 (*Elysian Fuels*) of Schedule B (*Legacy Matters*) of the Legal Due Diligence Report;

"Elysian Payment" means the settlement payment(s) to HMRC in final settlement of the Elysian Fuels Dispute;

"End Date" means 14 October 2019;

"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 which relates to:

- (a) the pollution or protection of the Environment;
- (b) the conditions of the workplace; or

- (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste;

"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 Financing Agreement" means the equity financing agreement relating to Topco, Holdco, Parent and the Company to be entered into on or around the date of this Agreement;

"Equity Transaction Agreement" means the transaction agreement relating to the conduct of the Target Acquisition between the Target, the Company and others to be entered into on or around the date of this Agreement;

"Establishment Date" means, in relation to an Incremental Facility, the later of:

- (a) the proposed Establishment Date specified in the relevant Incremental Facility Notice; and
- (b) the date on which the Agent executes the relevant Incremental Facility Notice;

"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;

"EURIBOR" means, in relation to any Loan in euro:

- (a) the applicable Screen Rate as of the Specified Time for the offering of deposits in euro and for a period equal in length to the Interest Period of that Loan; or
- (b) as otherwise determined pursuant to Clause 15.1 (*Unavailability of Screen Rate*),

and, in relation to a Facility B Loan or an Acquisition Facility Loan, if, in either case, that rate is less than 0.5 per cent, EURIBOR shall be deemed to be 0.5 per cent;

"Event of Default" means any event or circumstance specified as such in Clause 27 (*Events of Default*);

"Excess Cashflow" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"Executive Order" means Executive Order No. 13224 of September 23, 2001 - Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001));

"Facility" means Facility B, the Acquisition Facility, any Incremental Facility or the Revolving Facility;

"Facility B" means the term loan facility made available under this Agreement as described in Clause 2.1(a)(i) (*The Facilities*);

"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 B of Schedule 1 (*The Original Parties*) or, if applicable following the transfer of Commitments pursuant to Clause 28.12 (*Transfer of Commitments of ACE IV Entities on the Closing Date*), Part C 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 principal 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 not cancelled, reduced or transferred by it under this Agreement;

"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, the office or offices notified by that Lender to the Agent in writing on or before the date it becomes a Lender (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; or
- (b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes;

"FATCA" means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (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;
- (b) in relation to a "withholdable payment" described in section 1473(1)(A)(ii) of the Code (which relates to "gross proceeds" from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
- (c) in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

or in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement;

"FATCA Deduction" means a deduction or withholding from a payment under a Finance Document required by FATCA;

"FATCA Exempt Party" means a Party that is entitled to receive payments free from any FATCA Deduction;

"FCA" means the Financial Conduct Authority acting in its capacity as the competent authority for the purposes of Part 6 of the Financial Services and Markets Act 2000;

"FCA Rules" has the meaning given to that term in Schedule 10 (*Agreed Security Principles*);

"Fee Letter" means:

- (a) any letter or letters dated on or about the date of this Agreement between the Arranger, the Agent, the Security Agent and the Company setting out any of the fees referred to in Clause 16 (*Fees*);
- (b) any agreement setting out fees payable to a Finance Party referred to in Clause 2.3(e) (*Increase*) or Clause 16.4 (*Interest, commission and fees on Ancillary Facilities*) of this Agreement or under any other Finance Document;
- (c) any agreement setting out fees payable in respect of an Incremental Facility referred to in Clause 8.9 (*Incremental Facility fees*); and
- (d) any other letter described on its face as a Fee Letter and made between the Parent and/or the Company and the Arranger and/or the Agent;

"Finance Document" means this Agreement, any Accession Deed, any Ancillary Document, any Compliance Certificate, any Fee Letter, any Hedging Agreement, the Hedging Letter, any Incremental Facility Notice, the Intercreditor Agreement, any Resignation Letter, any Selection Notice, any Transaction Security Document, any Utilisation Request and any other document designated as a "Finance Document" by the Agent and the Parent provided that where the term "Finance Document" is used in, and construed for the purposes of, this Agreement or the Intercreditor Agreement any Hedging Agreement shall be a Finance Document only for the purposes of:

- (a) the definition of **"Default"**;
- (b) the definition of **"Material Adverse Effect"**;
- (c) paragraph (a) of the definition of **"Permitted Transaction"**;
- (d) the definition of **"Transaction Document"**;
- (e) the definition of **"Transaction Security Document"**;
- (f) Clause 1.2(a)(iv) (*Construction*);
- (g) Clause 22.1 (*Guarantee and Indemnity*); and

- (h) Clause 26 (*Events of Default*) (other than paragraph 27.15(b) of Clause 27.15 (*Repudiation and rescission of agreements*));

"Finance Party" means the Agent, the Arranger, the Security Agent, a Lender, a Hedge Counterparty or any Ancillary Lender provided that where the term "Finance Party" is used in, and construed for the purposes of, this Agreement or the Intercreditor Agreement a Hedge Counterparty shall be a Finance Party only for the purposes of:

- (a) the definition of **"Secured Parties"**;
- (b) Clause 1.2(a)(i) (*Construction*);
- (c) Clause 2.4(b) and Clause 2.4(c) (*Finance Parties' rights and obligations*);
- (d) Clause 22.1 (*Guarantee and Indemnity*);
- (e) Clause 24 (*Information Undertakings*);
- (f) Clause 26.35 (*Further assurance*);
- (g) paragraph (c) of the definition of **"Material Adverse Effect"**; and
- (h) Clause 32 (*Conduct of Business by the Finance Parties*);

"Financial Indebtedness" means indebtedness in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) acceptance credits;
- (c) moneys raised under or pursuant to bonds (but not Trade Instruments), notes, debentures, loan stock or any similar instrument;
- (d) any finance or capital lease or hire purchase contract which would, in accordance with the Accounting Principles as at the Closing Date, be treated as a finance or capital lease but only to the extent of such treatment;
- (e) receivables sold or discounted (other than to the extent there is no recourse and they meet the requirements for de-recognition under the Accounting Principles as at the Closing Date);
- (f) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability (but not, in any case, Trade Instruments) of an entity which is not a member of the Group which liability would fall within one of the other paragraphs of this definition;
- (g) any amount of any liability relating to an advance purchase or deferred payment if (i) one of the primary reasons for entering into the agreement is to raise finance or finance the acquisition or construction of the relevant asset or service in question or (ii) the agreement is in respect of the supply of assets or services and the due date for payment is more than 120 days after the date of supply;
- (h) the sale price of any asset to the extent paid to a member of the Group by the person liable before the time of sale or delivery where such advance payment is

arranged primarily as a method of raising finance unless such arrangements are entered into customarily by customers of the Group;

- (i) any amount raised by the issue of redeemable preference shares (other than any held by a member of the Group) which mature prior to the latest Termination Date in respect of the Facilities or are otherwise classified as borrowings under the Accounting Principles as at the Closing Date;
- (j) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value as at the relevant date on which Financial Indebtedness is calculated (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);
- (k) any amount raised under any other transaction which has the commercial effect of a borrowing (including, for the avoidance of doubt, any forward sale or purchase agreement, sale and sale back or sale and leaseback agreement) or which would be treated as a borrowing under the Accounting Principles as at the Closing Date; and
- (l) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in the paragraphs above,

but excluding, in all cases, any client investment fund or other client investment vehicle and any indebtedness for, under, or in respect of any Trading Investment Arrangement;

"Financial Quarter" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"Financial Due Diligence Report" means the financial due diligence report entitled "*Project Elmo – Financial, tax and regulatory due diligence report*" prepared by PricewaterhouseCoopers LLP and dated 21 March 2019 relating to the Target Group, addressed to and/or capable of being relied upon by, the Reliance Parties;

"Financial Services Laws" has the meaning given to that term in Schedule 10 (*Agreed Security Principles*);

"Financial Support Direction" means a financial support direction issued by the Pensions Regulator under section 43 of the Pensions Act 2004;

"Financial Year" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"Funding Rate" means any rate notified by a Lender to the Agent pursuant to Clause 15.4 (*Cost of funds*);

"Funds Flow Statement" means a funds flow statement relating to the Target Acquisition in agreed form delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*);

"Gross Outstandings" means, in relation to a Multi-account Overdraft, the Ancillary Outstandings of that Multi-account Overdraft but calculated on the basis that the words "(net of any Available Credit Balance)" in paragraph (a) of the definition of **"Ancillary Outstandings"** were deleted;

"Group" means the Parent, the Company, the Target and each of their respective Subsidiaries from time to time (other than any EBTCO);

"Group Structure Chart" means the group structure chart in the agreed form (assuming completion of the Target Acquisition) delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*);

"Guarantor" means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 30 (*Changes to the Obligors*);

"Guarantor Coverage Test" means the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA, in this definition "earnings") and aggregate sales of the Guarantors (in each case calculated on an unconsolidated basis and excluding all intra-Group items and investments in Subsidiaries of any member of the Group) is equal to or exceeds 85 per cent of Consolidated EBITDA and consolidated sales (as applicable) of the Group.

For the purposes of this calculation:

- (a) a zero weighting shall be given to any entity with negative earnings or Consolidated EBITDA; and
- (b) the earnings and sales of any newly acquired member of the Group shall be included for the period of 30 days after its acquisition, taking into account that new member of the Group as if it had already acceded as a Guarantor in accordance with Clause 30 (*Changes to the Obligors*), provided that such new member of the Group does accede as a Guarantor within that 30 day period. If such accession is not effected within that 30 day period, the Parent shall supply to the Agent a new confirmation of this calculation on the terms and in the manner described above;

"Hedge Counterparty" means any person which has become a Party as a Hedge Counterparty in accordance with Clause 28.9 (*Accession of Hedge Counterparties*), and which is or has become a party to the Intercreditor Agreement as a Hedge Counterparty in accordance with the Intercreditor Agreement;

"Hedging Agreement" means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by an Obligor and a Hedge Counterparty for the purpose of hedging interest rate liabilities under Facility B required or permitted by the Hedging Letter;

"Hedging Letter" means the letter dated on or about the date of this Agreement between the Arranger and the Company relating to, amongst other things, the hedging arrangements to be entered into in respect of the interest rate liabilities under Facility B;

"Holdco" means LaRousseCo Limited, a company incorporated under the laws of Jersey with registered number 128570;

"Holdco Loan Agreement" means the intercompany loan agreement (in the agreed form) dated on or about the date of this Agreement and entered into between Holdco (as lender) and the Parent (as borrower);

"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;

"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 Finance Documents by the due date for payment;
- (b) the Agent otherwise rescinds or repudiates a Finance Document;
- (c) (if the Agent is also a Lender) it is a Defaulting Lender under paragraph (a) above or paragraph (a) of the definition of **"Defaulting Lender"**; or
- (d) an Insolvency Event has occurred and is continuing with respect to the Agent,

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

- (i) its failure to pay is caused by:
 - (1) administrative or technical error; or
 - (2) a Disruption Event; and
 - (3) payment is made within three 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 11 (*Form of Increase Confirmation*);

"Increase Lender" has the meaning given to that term in Clause 2.2 (*Increase*);

"Incremental Facility" means any term loan facility that may be established and made available under this Agreement as described in Clause 8 (*Establishment of Incremental Facilities*).

"Incremental Facility Commitment" means:

- (a) in relation to a Lender which is an Incremental Facility Lender, the amount in the Base Currency set opposite its name under the heading "Incremental Facility Commitment" in the relevant Incremental Facility Notice and the amount of any other Incremental Facility Commitment relating to the relevant Incremental Facility transferred to it under this Agreement or assumed by it in accordance with Clause 2.3 (*Increase*); and
- (b) in relation to an Incremental Facility and any other Lender, the amount in the Base Currency of any Incremental Facility Commitment relating to that Incremental Facility transferred to it under this Agreement or assumed by it in accordance with Clause 2.3 (*Increase*),

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

"Incremental Facility Lender" means, in relation to an Incremental Facility, any entity which is listed as such in the relevant Incremental Facility Notice.

"Incremental Facility Lender Certificate" means a document substantially in the form set out in Schedule 14 (*Form of Incremental Facility Lender Certificate*).

"Incremental Facility Loan" means, in relation to an Incremental Facility, a loan made or to be made under that Incremental Facility or the principal amount outstanding for the time being of that loan.

"Incremental Facility Notice" means a notice substantially in the form set out in Schedule 13 (*Form of Incremental Facility Notice*).

"Incremental Facility Supplemental Security" means, in relation to an Incremental Facility, such documents (if any) as are reasonably necessary to provide the Incremental Facility Lenders under that Incremental Facility with the benefit of Security, guarantees, indemnities and other assurance against loss equivalent to the Security, guarantees, indemnities and other assurance against loss provided to the Lenders under each other Term Facility pursuant to the Finance Documents (other than any lack of equivalence directly consequent to:

- (a) being provided later in time; or
- (b) (if the relevant Obligor's original obligation to grant the relevant Security, guarantee, indemnity or other assurance against loss in respect of the relevant Term Facility was expressly subject to the Agreed Security Principles), any difference in Borrowers and resulting different application of those Agreed Security Principles; or
- (c) any difference in Borrowers and resulting different application of any relevant guarantee limitation).

"Incremental Facility Terms" means, in relation to an Incremental Facility:

- (a) the currency;
- (b) the Total Incremental Facility Commitments;
- (c) the Margin;
- (d) the level of commitment fee payable pursuant to Clause 16.1 (*Commitment fee*) in respect of that Incremental Facility;
- (e) the Borrower(s) to which that Incremental Facility is to be made available;
- (f) the Availability Period; and
- (g) the Termination Date,

each as specified in the Incremental Facility Notice relating to that Incremental Facility;

"Information Package" means the Reports and the Base Case Model;

"Insolvency Event" in relation to a Finance Party means that the Finance Party:

- (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 exercised in respect of it one or more of the stabilisation powers pursuant to part 1 of the Banking Act 2009 and/or has instituted against it a bank insolvency proceeding pursuant to part 2 of the Banking Act 2009 or a bank administration proceeding pursuant to part 3 of the Banking Act 2009;
- (g) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (h) 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 (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (d) above);
- (i) 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;
- (j) 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 (i) above; or
- (k) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts;

"Insurance Due Diligence Report" means the insurance due diligence report entitled *"Major Risks Practice Mergers & Acquisitions, Insurance Due Diligence Report, Project Elmo"* prepared by Arthur J. Gallagher Insurance Brokers Limited and dated 19 March 2019 relating to the Target Group;

"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 on or after the date of this Agreement 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 on or after the date of this Agreement subsist);

"Intercreditor Agreement" means the intercreditor agreement dated on or about the date of this Agreement and made between the Parent, the Company, the Arranger, the Agent, the Security Agent, the Lenders, the Subordinated Creditor (as defined therein) and certain others;

"Interest Period" means, in relation to a Loan, each period determined in accordance with Clause 14 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 13.3 (*Default interest*);

"Interpolated Screen Rate" means, for any Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) 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;

"Investors" mean funds and investors managed or advised by the Sponsor (including their limited partners and investors of the Sponsor) and any limited partner co-investors whose voting rights (if any) are within the control of the Sponsor, or which have no voting rights (in each case, other than in relation to the matters affecting that co-investor's economic interests);

"Irish Companies Act" means the Companies Act 2014, all enactments which are to be read as one with, or construed or read together as one with the Companies Act 2014 and every statutory modification and re-enactment thereof for the time being in force;

"Irish Obligor" means an Obligor which is incorporated or tax resident in Ireland;

"ITA" means the Income Tax Act 2007;

"Jackson Demerger" means the implementation of steps 4 to 10 set out in the Structure Memorandum in respect of the demerger of the Jackson Group from the Group, provided that the Agent (acting on the instructions of the Majority Lenders (acting reasonably)) has approved in writing:

- (a) the valuations prepared for the purposes of the demerger; and
- (b) the amount of the proceeds of the demerger to be applied in prepayment of the Facilities.

"Jackson Group" means James Hay Holdings Limited and its subsidiaries and (at the discretion of the Parent) James Hay Partnership Management Limited.

"Jersey Security Register" means the register of security interests maintained by the registrar of companies in Jersey under Part 8 of the Security Interests (Jersey) Law 2012;

"Joint Venture" means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity;

"Key Performance Indicators" means figures (by division) in respect of:

- (a) customer attrition (including average value of customers lost);
- (b) customer wins (including average value of customers won);
- (c) customer numbers;
- (d) average assets under administration and assets under management per customer;
- (e) fee per case and customer;
- (f) regulatory capital position (as reported in the management accounts); and
- (g) client monies held by the Group;

"Known Exceptional Items" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"Legacy Matters" means the legacy issues set out in:

- (a) paragraphs 1.1 to 1.6 of Part 1 (*Corporate matters*) of Section 3 (*Main Report*); and
- (b) Appendix B (*Legacy Issues*),

in each case, of the Legal Due Diligence Report in sufficient detail that the Finance Parties could reasonably be expected to be aware that the matter relates to and qualifies or otherwise limits a representation or warranty in Clause 23 (*Representation*);

"Legal Due Diligence Report" means the legal due diligence memo entitled "*Project Elmo – Red Flag Legal Report*" prepared by Macfarlanes LLP and dated 21 March 2019 relating to the Target Group addressed to and/or capable of being relied upon by the Reliance Parties;

"Legal Opinion" means any legal opinion delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) or Clause 30 (*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 or validity by laws relating to insolvency, reorganisation, penalties 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) the principle that in certain circumstances Security granted by way of fixed charge may be recharacterised as a floating charge or that Security purported to be constituted by an assignment may be recharacterised as a charge;
- (d) the principle that any provision for the payment of compensation or additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void;
- (e) the principle that an English Court may not give effect to a provision dealing with the cost of litigation where the litigation is unsuccessful or the court itself has made an order for costs;
- (f) any consequences of granting Security in relation to a lease or other agreement which prohibits the granting of Security over it requires the consent of a landlord or other third party to such Security;
- (g) the principle that the legality, validity, binding nature or enforceability or any security under a Transaction Security Document which is not governed by the laws of the jurisdiction where the asset or assets purported to be secured under that Transaction Security Document are situated may be flawed;
- (h) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
- (i) any other matters which are set out as qualifications or reservations as to matters of law of general application 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 2.3 (Increase), Clause 8 (*Establishment of Incremental Facilities*) or Clause 28 (*Changes to the Lenders*),

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

"Leverage" has the meaning given to that term in Clause 25 (*Financial Covenants*);

"LIBOR" means, in relation to any Loan:

- (a) the applicable Screen Rate as of the Specified Time for the offering of deposits in 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 15.1 (*Unavailability of Screen Rate*),

and, in relation to a Facility B Loan or an Acquisition Facility Loan, if, in either case, that rate is less than 0.5 per cent, LIBOR shall be deemed to be 0.5 per cent;

"Limitation Acts" means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984;

"LMA" means the Loan Market Association;

"Loan" means a Term Loan or a Revolving Facility Loan;

"Major Default" means with respect to the Parent or the Company only (and not, for the avoidance of doubt, relating to or with respect to any procurement obligations of the Parent or the Company with respect to any other member of the Group), any circumstances constituting an Event of Default under any of:

- (a) Clause 27.1 (*Non-payment*) (but only in so far as it relates to payment of principal, interest or, to the extent included in the Funds Flow Statement, fees payable under a Fee Letter);
- (b) Clause 27.2 (*Financial covenants and other obligations*) or Clause 27.3 (*Other obligations*) but, in each case, only insofar as it relates to a breach of any Major Undertaking;
- (c) Clause 27.4 (*Misrepresentations*) insofar as it relates to a breach of any Major Representation;
- (d) paragraph (a) of Clause 27.6 (*Insolvency*) (but, in respect of any commencement of negotiations with one or more creditors of the relevant Material Company, only to the extent that that is by reason of actual or anticipated financial difficulties);
- (e) Clause 27.7 (*Insolvency proceedings*), but only to the extent of formal legal proceedings falling within any of paragraph (a)(i) of that Clause (other than in relation to a suspension of payment of debts or a moratorium of any indebtedness), paragraph (a)(ii) of that Clause or paragraph (a)(iii) of that Clause (other than solely in respect of any of its assets), and, for each of these purposes, the words "which is frivolous or vexatious and" in paragraph (b)(i) of that Clause shall be deemed to be deleted);
- (f) Clause 27.9 (*Unlawfulness and invalidity*), but only on the basis that paragraph (a) of that Clause is subject to the Legal Reservations and Perfection Requirements and paragraph (b) of that Clause only applies to the extent that such event or circumstances are materially and adversely to the detriment of the Lenders taken as a whole and, if capable of remedy, are not remedied within 15 Business Days of the earlier of (i) the Company becoming aware of such matter and (ii) the Agent giving notice to the Company requiring that the relevant matter be remedied); or
- (g) Clause 27.15 (*Repudiation and rescission of agreements*);

"Major Representation" means a representation or warranty with respect to the Parent or the Company only (and not, for the avoidance of doubt, any representation or warranty made by the Parent or the Company with respect to any other member of the Group) under any of:

- (a) Clauses 23.2 (*Status*) to 23.5 (*Power and authority*) (inclusive); or
- (b) Clause 23.32 (*Sanctions*);

"Major Undertaking" means an undertaking with respect to the Parent or the Company only (and not, for the avoidance of doubt, any undertaking made by the Parent or the Company with respect to any other member of the Group) under any of:

- (a) Clauses 26.6 (*Merger*), 26.8 (*Acquisitions*), 26.9 (*Joint ventures*), 26.11 (*Holding Companies*), 26.14 (*Negative pledge*), 26.15 (*Disposals*), 26.17 (Loans or credit), 26.18 (*No Guarantees or indemnities*), 26.19 (*Dividends and share redemption*), 26.20 (*Subordinated Debt*), 26.21 (*Financial Indebtedness*);
- (b) paragraph (d) of Clause 26.23 (*Terms of the Scheme*) but excluding subparagraphs (iv) and (v) of that paragraph (d)
- (c) paragraph (c) of Clause 26.24 (*Terms of Offer*) but excluding subparagraph (iii) of that paragraph (c); or
- (d) paragraph (a) of Clause 26.30 (*Amendments*);

"Majority Lenders" means:

- (a) (for the purposes of Clause 40.2(a) (*Required consents*)), in the context of a waiver in relation to a proposed Loan under the Revolving Facility (other than a Loan on the Closing Date) of the condition in Clause 4.2 (*Further conditions precedent*), a Lender or Lenders whose Revolving Facility Commitments aggregate 66 $\frac{2}{3}$ per cent or more of the Total Revolving Facility Commitments;
- (b) (for the purposes of Clause 40.2(a) (*Required consents*) in the context of a waiver in relation to a proposed Utilisation of an Incremental Facility (other than a Utilisation on the Closing Date) of any condition in Clause 4.2 (*Further conditions precedent*) (other than Clause 4.2(c)), a Lender or Lenders whose Incremental Facility Commitments aggregate at least 66 $\frac{2}{3}$ per cent of the Total Incremental Facility Commitments under that Incremental Facility; and
- (c) (in any other case), a Lender or Lenders whose Commitment aggregate 66 $\frac{2}{3}$ per cent or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated 66 $\frac{2}{3}$ per cent or more of the Total Commitments immediately prior to the reduction);

"Majority Revolving Facility Lenders" means a Lender or Lenders whose Revolving Facility Commitments aggregate 66 $\frac{2}{3}$ per cent or more of the Total Revolving Facility Commitments (or if the Total Revolving Facility Commitments have been reduced to zero, aggregated 66 $\frac{2}{3}$ per cent of the Total Revolving Facility Commitments prior to that reduction);

"Mandatory Offer Cancellation Event" means the occurrence of any of the following events:

- (a) the Offer lapses, terminates or is withdrawn; or
- (b) the Offer Press Announcement is not issued within 21 days of the date of the Offer Conversion Notice; or
- (c) the Offer Document is not published within 28 days (or such longer period permitted by the Takeover Panel) of the date of issue of the Offer Press Announcement;

"Mandatory Scheme Cancellation Event" means the occurrence of any of the following events:

- (a) a Court Meeting is held to pass the Scheme Resolution at which a vote is held on the Scheme Resolution, but the Scheme Resolution is not passed by the Target Shareholders by the requisite majorities at such Court Meeting;
- (b) an EGM is held to pass the EGM Resolutions at which a vote is held on the EGM Resolutions, but the EGM Resolutions are not passed by the Target Shareholders by the requisite majorities at such EGM;
- (c) applications for the issuance of the Court Order are made to the Court but the Court refuses to grant one or both of the Court Orders;
- (d) the Scheme lapses or is withdrawn in accordance with its terms; or
- (e) the Scheme Circular is not dispatched within 28 days of the date of the Scheme Press Announcement (or such later date as the Takeover Panel may permit);

"Margin" means:

- (a) in relation to any Facility B Loan, 7.00 per cent per annum;
- (b) in relation to any Acquisition Facility Loan, 7.00 per cent per annum;
- (c) in relation to any Incremental Facility Loan, the percentage rate per annum specified as such in the Incremental Facility Notice relating to the Incremental Facility under which that Incremental Facility Loan is made or is to be made;
- (d) in relation to any Revolving Facility Loan 3.00 per annum;
- (e) in relation to any Unpaid Sum relating or referable to a Facility, the highest rate per annum specified below for that Facility; and
- (f) in relation to any other Unpaid Sum, the highest rate specified below for the Facility to which that Unpaid Sum relates,

but if:

- (i) no Event of Default has occurred and is continuing;
- (ii) a period of at least 12 Months has expired since the Closing Date; and
- (iii) Leverage in respect of the most recently completed Relevant Period is within a range set out below,

then the Margin for each Facility B Loan, Acquisition Facility Loan and Revolving Facility Loan will be the percentage per annum set out below opposite that range:

Leverage	Facility B (% per annum)	Acquisition Facility (% per annum)	Revolving Facility (% per annum)
Greater than or equal to 5.75:1	7.25%	7.25%	3.00%

Greater than or equal to 5.25:1 but less than 5.75:1	7.00%	7.00%	3.00%
Greater than or equal to 4.75:1 but less than 5.25:1	6.75%	6.75%	3.00%
Greater than or equal to 4.25:1 but less than 4.75:1	6.50%	6.50%	2.75%
Less than 4.25:1	6.25%	6.25%	2.75%

However:

- (1) any increase or decrease in the Margin for a Loan shall take effect on the date (the "**reset date**") which is five Business Days after receipt by the Agent of the Compliance Certificate for that Relevant Period pursuant to Clause 24.2 (*Provision and contents of Compliance Certificate*);
- (2) 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 confirm that a reduced Margin should have applied, then the provisions of Clause 13.2 (*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 ratio of Leverage calculated using the figures in the Compliance Certificate;
- (3) while an Event of Default is continuing, the Margin for each Loan shall be the highest percentage per annum set out above for that Loan but on the remedy or waiver of such Event of Default the ratchet shall immediately revert to the level applicable on the basis of the most recent Compliance Certificate; and
- (4) for the purpose of determining the Margin, Leverage and Relevant Period shall be determined in accordance with Clause 25.1 (*Financial definitions*);

"Material Adverse Effect" means any event or circumstance which has a material adverse effect on:

- (a) the business, assets or financial condition of the Group (taken as a whole) (but for this purpose, the ability of the Group to comply with the financial covenants in Clause 25.2 (*Financial condition*) shall not, for that reason alone, constitute a material adverse effect); or
- (b) the ability of the Obligors (taken as a whole) to perform their payment obligations under the Finance Documents (taking into account the resources available to the Group without breaching the terms of the Finance Documents); or

- (c) subject to the Legal Reservations and Perfection Requirements, the validity or enforceability of, or the effectiveness or ranking of any Security granted or purporting to be granted pursuant to, any of the Finance Documents and (without duplication of any other cure period) which is not remedied within 20 Business Days of the earlier of (i) the Parent becoming aware of such matter or (ii) the Agent giving notice to the Parent requesting that the relevant matter be remedied;

"Material Company" means, at any time:

- (a) each Obligor;
- (b) each member of the Group which is the Holding Company (whether directly or indirectly) of an Obligor; or
- (c) any other member of the Group which has earnings before interest, tax, depreciation and amortisation (consolidated, if applicable and calculated on the same basis as Consolidated EBITDA) or sales representing more than 5% of Consolidated EBITDA or sales of the Group (calculated on a consolidated basis and excluding intra Group items).

Compliance with the conditions set out in paragraph (c) above shall be determined (i) annually by reference to the Compliance Certificate supplied by the Parent accompanying the Annual Financial Statements, and (ii) upon the acquisition or disposal of a company, business or undertaking, on the date of such acquisition or disposal (by reference to Consolidated EBITDA and turnover calculated on a pro forma basis following such acquisition or disposal).

A report by the Parent's Auditors that a Subsidiary is or is not a Material Company shall, in the absence of manifest error and provided that the Parent's Auditors were (prior to making delivery of the report) made aware of the fact that such report is to be disclosed to the Finance Parties (on a non-reliance basis), be conclusive and binding on all Parties;

"Material Disposal" means a disposal by any member of the Group where such disposal is not expressly permitted by the terms of this Agreement as at the Closing Date and would, by way of a single transaction or series of related transactions:

- (a) dispose of assets of one or more members of the Group which contribute 50 per cent or more of the Consolidated EBITDA of the Group (calculated in relation to the Relevant Period most recently ended before the date of that disposal); or
- (b) when aggregated with all such disposals made by members of the Group since the Closing Date, dispose of assets of one or more members of the Group which contribute 50 per cent or more of the Consolidated EBITDA of the Group,

and provided that the Jackson Demerger shall not constitute a Material Disposal;

"Material Event of Default" means any of the following:

- (a) an Event of Default under Clause 27.1 (*Non-payment*) in relation to:
 - (i) any amount of principal or interest due under a Revolving Facility or to the fees payable to any Revolving Facility Lender under Clause 16.1 (*Commitment fee*) or Clause 16.2 (*Arrangement fee*); and

- (ii) any other amount due in relation to a Revolving Facility or Ancillary Facility in excess of £500,000 (or its equivalent);
- (b) an Event of Default under Clause 27.2 (*Financial covenants and other obligations*) arising as a result of a breach of paragraph (c) (Super Senior Minimum EBITDA) of Clause 25.2 (*Financial condition*);
- (c) an Event of Default under Clause 27.2 (*Financial covenants and other obligations*) arising as a result of a breach of Clauses 24.1(a) and 24.1(b) (*Financial statements*) and Clause 24.2(a) (*Provision and contents of Compliance Certificate*) and such breach is not remedied within 30 days;
- (d) (if at the relevant time there are any outstanding Utilisations under a Revolving Facility (including any Ancillary Facility)) an Event of Default under Clause 27.15 (*Repudiation and rescission of agreements*);
- (e) an Event of Default under Clauses 27.6 (*Insolvency*), 27.7 (*Insolvency proceedings*) or 27.8 (*Creditors' process*) in relation to (A) a Borrower which has any outstanding Utilisations under the Revolving Facility (including any Ancillary Facility), (B) any Obligor which is a party to a Hedging Agreement with a Hedge Counterparty that is also a Revolving Facility Lender or (C) any member of the Group which falls within limb (c) of the definition of Material Company;
- (f) (if at the relevant time there are any outstanding Utilisations under the Revolving Facility (including any Ancillary Facility)) an Event of Default under Clause 27.3 (*Other obligations*) as a result of a failure by an Obligor to comply with the provisions of Clause 26.14 (*Negative pledge*), but only to the extent that any Security granted in breach of the provision of such Clause ranks prior to, or *pari passu* with Security granted in favour of, whether through the Security Agent or directly, the Revolving Facility Lenders; or
- (g) any amendment, waiver or consent in relation to a Revolving Facility Consent Provision or any provision set out in Clause 40.3(a) (*All Lender matters*) is made or given without the consent of the Majority Revolving Facility Lenders;

"Maximum BoE Base Rate Swap Payment Amount" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"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,

and the above rules will only apply to the last Month of any period and Monthly shall be construed accordingly;

"Multi-account Overdraft" means an Ancillary Facility which is an overdraft facility comprising more than one account;

"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 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*);

"New Lender" has the meaning given to that term in Clause 28 (*Changes to the Lenders*);

"Non-Consenting Lender" has the meaning given to that term in Clause 40.9 (*Replacement of Lender*);

"Non-Clean-Up Default" means an Event of Default referred to in Clauses:

- (a) 27.1 (*Non-payment*);
- (b) 27.2 (*Financial covenants and other obligations*), but only in relation to a breach of Clauses 25 (*Financial Covenants*), 24 (*Information Undertakings*) or 26.37 (*Conditions subsequent*);
- (c) 27.3 (*Other obligations*) in relation to a breach of Clause 26.36 (*Sanctions*) and 26.10 (*Anti-corruption law*);
- (d) 27.6 (*Insolvency*);
- (e) 27.7 (*Insolvency proceedings*);
- (f) 27.9 (*Unlawfulness and invalidity*); and
- (g) 27.15 (*Repudiation and rescission of agreements*);

"Notifiable Debt Purchase Transaction" has the meaning given to that term in Clause 29.2(b) (*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 Finance Documents pursuant to Clause 2.5 (*Obligors' Agent*);

"OFAC" means the Office of Foreign Assets Control of the United States Department of the Treasury;

"Offer" means a contractual offer made by the Company to effect the Target Acquisition on the terms contained in the Offer Document (as such offer may from time to time be amended, extended, revised, renewed or waived with the consent of the Majority Lenders where required under this Agreement);

"Offer Conversion" means the Company procuring the withdrawal or termination of the Scheme and issuing an Offer Press Announcement in accordance with Clause 3.3 (*Conversion from Scheme to Offer*);

"Offer Conversion Notice" has the meaning given to that term in paragraph 3.3(a) of Clause 3.3 (*Conversion from Scheme to Offer*);

"Offer Document" means the offer document to be sent by the Company to the Target Shareholders in respect of the Offer if an Offer Conversion occurs;

"Offer Press Announcement" means the formal press announcement of the Offer required to be issued in compliance with Rule 2.5 of the Takeover Rules in relation to the Offer following service of an Offer Conversion Notice;

"Optional Currency" means a currency (other than the Base Currency for the Revolving Facility) which complies with the conditions set out in Clause 4.3 (*Conditions relating to Optional Currencies*);

"Original Financial Statements" means:

- (a) the consolidated interim financial statements of the Target for its financial half-year ended 30 June 2018;
- (b) the quarterly consolidated financial statements of the Target for the Financial Quarter ended 31 December 2018 (the **"Consolidated Original Financial Statements"**);
- (c) the monthly management accounts of (1) James Hay Partnership Group and (2) Sanderson House, in each case, for the month ending 28 February 2019; and
- (d) in relation to any other Obligor, its audited financial statements delivered to the Agent as required by Clause 30 (*Changes to the Obligors*);

"Original Jurisdiction" means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated as at the date of this Agreement or, in the case of an Additional Obligor, as at the date on which that Additional Obligor becomes Party as a Borrower or a Guarantor (as the case may be);

"Original Obligor" means an Original Borrower or an Original Guarantor;

"Parent's Auditors" means any firm appointed by the Parent to be its statutory auditors as notified to the Agent in writing as soon as reasonably practicable following such appointment or any subsequent replacement thereof;

"Part A Conditions" has the meaning given to that term in Clause 4.1 (*Initial conditions precedent*);

"Part B Conditions" has the meaning given to that term in Clause 4.1 (*Initial conditions precedent*);

"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;

"Pensions Regulator" means the body corporate called the Pensions Regulator established under Part I of the Pensions Act 2004;

"Perfection Requirements" means the making or procuring of the appropriate registrations, filings, endorsements, notarisations, stampings, possession, control and/or notifications of the Transaction Security Documents or the Transaction Security created thereunder;

"Permitted Acquisition" means:

- (a) the Target Acquisition;
- (b) an acquisition by a member of the Group of an asset sold, leased, transferred or otherwise disposed of by another member of the Group in circumstances constituting a Permitted Disposal or a Permitted Transaction;
- (c) an acquisition of shares or securities in a Joint Venture which are not owned by a member of the Group or pursuant to a Permitted Share Issue, a Permitted Merger or a Permitted Joint Venture;
- (d) an acquisition of securities which are Cash Equivalent Investments provided that, where such securities are acquired by an Obligor (and subject to the Agreed Security Principles), those Cash Equivalent Investments become subject to the Transaction Security as soon as is reasonably practicable;
- (e) the incorporation of a limited liability company or the acquisition of a limited liability company, in each case, in a jurisdiction that is not subject to any Sanctions that would result in any illegality occurring under the Facilities, which has not previously traded and which does not have any material liabilities which, on incorporation or acquisition, becomes a member of the Group, and (subject to the Agreed Security Principles) if the share capital in that company is owned by an Obligor, Security over the shares of that company is created under a Transaction Security Document already granted by that Obligor or, if that incorporated or acquired company is a Material Company, under such new Transaction Security Document in form and substance satisfactory to the Agent (acting reasonably), is created in favour of the Security Agent within 30 days of the date of its incorporation or acquisition (or 60 days in the case of any company incorporated or established outside of England and Wales);
- (f) a Permitted Bolt-on Acquisition, and the subsequent acquisition of all or part of the remaining shares or securities in, or all or part of a business or undertaking constituting, a Permitted Bolt-on Acquisition which are not owned by a member of the Group;
- (g) the incorporation of a limited liability company or the acquisition of a limited liability company (an **"EBTCo"**) to act as a special purpose vehicle to hold and/or acquire management equity (and any related loans, loan notes or preference shares);
- (h) the acquisition of Trading Investment Securities and any other asset under any Trading Investment Arrangement;
- (i) any acquisition by the Company of shares issued by the Target prior to the Closing Date;
- (j) any acquisition to which the Majority Lenders have given their prior written consent; and

- (k) the acquisition of stock in trade, Trading Investment Securities and any other asset under a Trading Investment Arrangement, in each case in the ordinary course of trade;

"Permitted Bolt-on Acquisition" means an acquisition by a member of the Group (other than the Parent) of all or the majority of the shares of a limited liability company or (if the acquisition is made by a limited liability company) a business, undertaking or collection of assets (each an **"Acquired Entity"**), but only if:

- (a) where the Acquired Entity is a company, a majority of the issued share capital of the Acquired Entity carrying a right to vote at general meetings is acquired and following the acquisition of such issued share capital, the relevant member of the Group that has made that acquisition will maintain such minimum shareholding (unless as a result of a Permitted Disposal under paragraph (b) of that definition, a Permitted Merger or Permitted Transaction under paragraph (e) of that definition) and has (and will continue to have, unless as a result of those same exceptions) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise and directly or indirectly) to:
 - (i) appoint or remove all, or a majority, of the board of directors (or other equivalent officers) of the relevant Acquired Entity;
 - (ii) make amendments to the constitutional documents of the relevant Acquired Entity;
 - (iii) give directions with respect to the operating and financial policies and control the dividend policy of the relevant Acquired Entity; and
 - (iv) take material shareholder decisions and control the cashflows of the relevant Acquired Entity;
- (b) no Event of Default is continuing on the date on which a legally binding commitment is entered into for the relevant acquisition or (on that date) would occur as a result of that acquisition;
- (c) the Acquired Entity is engaged in a business substantially the same as or similar or complementary to that carried on by the Group;
- (d) the Acquired Entity is incorporated in the United Kingdom or a jurisdiction which is a member of the European Union, European Economic Area or any OECD country, provided that such jurisdiction is not a Sanctioned Jurisdiction nor would result in any illegality occurring in relation to the Facilities;
- (e) the Acquired Entity (to the best of the Parent's knowledge and belief after making due and careful enquiries, where applicable, through the due diligence undertaken for the relevant acquisition), immediately following completion of the acquisition, has no material contingent liabilities (outside the ordinary course of trading) other than where such contingent liabilities:
 - (i) have been accounted for in the Total Purchase Price for the relevant acquisition;
 - (ii) are indemnified in full by the relevant vendor of sufficient credit worthiness, are adequately reserved (or will be reserved) in the consolidated financial

statements of the Group, cash covered or are fully insured and/or cash collateral is being maintained or held for such liabilities; or

- (iii) constitute Permitted Financial Indebtedness;
- (f) not less than five Business Days prior to legally committing to the relevant acquisition (the "**Commitment Date**"), a certificate (with supporting calculations in reasonable detail) signed by a director of the Parent is delivered to the Agent confirming that:
- (i) the earnings before tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA) of the Acquired Entity (taking into account any applicable Pro Forma Cost Savings, the "**Acquired Entity's EBITDA**"), is projected (on a pro forma basis) to be positive, for the 12 Month period immediately following completion of the relevant acquisition;
 - (ii) Leverage (calculated on a pro forma basis and taking into account (i) the Acquired Entity's EBITDA; (ii) any Financial Indebtedness of the Acquired Entity which will remain outstanding following completion of the relevant acquisition; and (iii) the sources of funding for such acquisition) immediately following completion of the acquisition will not be greater than:
 - (1) where the Commitment Date falls during the Availability Period applicable to the Acquisition Facility, 5.75:1; or
 - (2) where the Commitment Date falls at any other time, the lower of (x) 5.50:1 and (y) 90 per cent of the scheduled Leverage covenant level under paragraph (b) of Clause 25.2 (*Financial condition*) for the Quarter Date immediately preceding the Commitment Date;
 - (iii) the Parent is projected to be in compliance with the Financial Covenants for the next four Quarter Dates immediately following completion of the acquisition calculated on a pro forma basis and taking account of (x) the Acquired Entity's EBITDA, (y) any Financial Indebtedness of the Acquired Entity which will remain outstanding following completion of the relevant acquisition and (z) the sources of funding for such acquisition;
 - (iv) where the Total Purchase Price:
 - (1) is equal to or greater than £5,000,000 but is less than or equal to £10,000,000, attaching any due diligence report(s) commissioned by the Parent for the acquisition (in each case for information purposes only, on a non-reliance basis and where requested by the relevant report provider, hold harmless basis); or
 - (2) is greater than £10,000,000, attaching the final forms of:
 - (l) any legal and financial due diligence reports commissioned by the Parent for the acquisition, which are capable of being relied upon by the Reliance Parties (unless the relevant report provider has a general policy of not providing this reliance); and

- (II) any other third party due diligence reports commissioned by the Parent for the acquisition (in each case on a non-reliance basis and where requested by the relevant report provider, hold harmless basis);
- (g) within five Business Days following completion of the acquisition certified copies of the executed and dated acquisition agreements are delivered to the Agent for information purposes only;
- (h) subject to the Agreed Security Principles, if the Acquired Entity would be a Material Company following completion of its acquisition, Security over the shares of that Acquired Entity (and, if the Acquired Entity would be a Material Company following completion of its acquisition, Security from the Acquired Entity), in form and substance satisfactory to the Agent, is created in favour of the Security Agent within 30 days of the date of completion of the relevant acquisition (or 60 days, where the Acquired Entity is incorporated in or established outside of England and Wales);

"Permitted Disposal" means any sale, lease, licence, transfer or other disposal which, except in the case of paragraph (b) below, is on arm's length terms:

- (a) of assets (including Trading Investment Securities and any other asset under any Trading Investment Arrangements but not, for the avoidance of doubt any other shares, businesses, Real Property or material Intellectual Property) made by any member of the Group in the ordinary course of trading of the disposing entity;
- (b) of any asset by a member of the Group to another member of the Group;
- (c) of assets (other than shares, businesses or material Intellectual Property) in exchange for other assets comparable or superior as to type, value and quality provided that if Security had been granted over the asset being disposed of, equivalent Security (subject to the Agreed Security Principles) must be granted over the acquired asset;
- (d) of assets which are obsolete or no longer required for the relevant person's business;
- (e) of Cash or Cash Equivalent Investments;
- (f) constituted by a licence of intellectual property rights which does not breach Clause 23.25 (*Intellectual Property*);
- (g) to a Joint Venture, to the extent permitted by Clause 26.9 (*Joint ventures*);
- (h) arising as a result of a Permitted Transaction, Permitted Merger or any Permitted Security;
- (i) which is a lease or licence of Real Property in the ordinary course of business;
- (j) of assets compulsorily acquired by any government authority that does not result in an Event of Default;
- (k) of fixed assets (other than shares, businesses or material Intellectual Property) where the proceeds of disposal are intended to be used within 12 months of that disposal to purchase replacement fixed assets comparable or superior as to type

or quality, in each case in accordance with Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*);

- (l) by way of factoring or discounting of receivables of any member of the Group in an aggregate amount not exceeding £1,000,000 (or its equivalent) in aggregate with (but not double counting) any Financial Indebtedness outstanding under paragraph (i) of the definition Permitted Financial Indebtedness) at any time;
- (m) of assets for cash, for fair market value consideration in the reasonable opinion of the Parent taking into account the circumstances at the relevant time and provided that there shall be no obligation for the Parent to conduct a competitive sale process or obtain any third party valuation or other advice; and
- (n) any disposal to which the Majority Lenders have given their prior written consent.

"Permitted Distribution" means:

- (a) the payment of a dividend or other distribution to or loan to, or by, the Parent to enable it (or any of its Holding Companies) to make any Permitted Payment; or
- (b) the payment of a dividend or other distribution or amount or any action or payment otherwise prohibited by Clause 26.19 (*Dividends and share redemption*) to the Company or any of its Subsidiaries;

"Permitted Financial Indebtedness" means Financial Indebtedness:

- (a) under the Finance Documents;
- (b) arising under any Permitted Investor Injections and any Subordinated Debt;
- (c) to the extent covered by a letter of credit, guarantee or indemnity issued under an Ancillary Facility or by a Permitted Guarantee save to the extent that the relevant Financial Indebtedness is permitted solely as a result of the corresponding Permitted Guarantee;
- (d) arising under a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates where that foreign exchange exposure arises in the ordinary course of trade or in respect of Loans made in Optional Currencies, but not a foreign exchange transaction for investment or speculative purposes;
- (e) arising under a Permitted Loan, a Permitted Guarantee or a Permitted Transaction;
- (f) of any person acquired by a member of the Group after the Closing Date which is incurred under arrangements in existence at the date of acquisition, but not incurred or increased (other than by capitalisation of interest) or having its maturity date extended in contemplation of, or since, that acquisition, and outstanding only for a period of three months following the date of acquisition;
- (g) under finance or capital leases, hire purchase arrangements, purchase money security interests and arrangements and similar arrangements, provided that the outstanding aggregate value of all Financial Indebtedness of members of the Group arising thereunder does not exceed, at any time, £1,000,000 (or its equivalent);

- (h) arising under cash pooling management arrangements with an Acceptable Bank;
- (i) the factoring, sale, disposal or like agreement of receivables of the Group on a non-recourse basis up to an amount of £1,000,000 (or its equivalent) at any time;
- (j) constituted by any deferred and/or contingent consideration:
 - (i) outstanding on the Closing Date, and which has been taken into account in the purchase price of the Target Acquisition; and
 - (ii) in respect of a Permitted Bolt-on Acquisition or any other acquisition or disposal of any member of the Group before the date of this Agreement (in the case of any Permitted Bolt-On Acquisition, up to a maximum aggregate outstanding amount of the higher of (A) 50 per cent of the Total Purchase Price payable and (B) £500,000 in respect of any one such acquisition),

where any contingent element of that consideration is the amount determined by the Parent (acting in good faith and reasonably) which is likely to fall due;
- (k) arising in respect of credit card, merchant services, payment processing, BACS, CHAPS, "Faster Payment" (or similar) or daylight facilities incurred in the ordinary course of the Group's day-to-day banking, payment processing and merchant services arrangements;
- (l) where such Financial Indebtedness is to be, and is, repaid on the Closing Date (where incurred by the Target Group);
- (m) not permitted by the preceding paragraphs or following paragraph and the outstanding principal amount of which does not exceed £2,000,000 (or its equivalent) in aggregate for the Group at any time;
- (n) the €5,000,000 overdraft facility made available by Barclays Bank Ireland PLC to IFG Group PLC, provided such facility is discharged within 5 Business Days of the Closing Date; and
- (o) any other Financial Indebtedness to which the Majority Lenders have given their prior written consent;

"Permitted Guarantee" means:

- (a) the endorsement of negotiable instruments in the ordinary course of trade;
- (b) any performance or similar bond guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of trade or an indemnity in relation to such bond granted by a financial institution;
- (c) any guarantee of a Joint Venture the extent that it is permitted under Clause 26.9 (*Joint ventures*);
- (d) any guarantee in respect of Permitted Financial Indebtedness;
- (e) any guarantee given in respect of the netting or set-off arrangements permitted pursuant to paragraph (b) of the definition of Permitted Security;

- (f) any guarantee given by a member of the Group to a landlord (in relation to a lease obligation of a member of the Group under an occupational lease for bona fide operations of the Group) on arm's length terms and in the ordinary course of trade;
- (g) any guarantee or indemnity given in the ordinary course of the documentation of an acquisition or disposal transaction which is a Permitted Acquisition or Permitted Disposal, which guarantee or indemnity is in a customary form and subject to customary limitations and not exceeding the value of the asset acquired or disposed of;
- (h) any guarantee given by a member of the Group in respect of the obligations of another member of the Group;
- (i) guarantees granted by persons or undertakings acquired pursuant to a Permitted Acquisition or a Joint Venture existing at the date of such Permitted Acquisition or Joint Venture for a period of six Months after the date of the acquisition or entry into that Joint Venture;
- (j) any guarantee, bond or indemnity or performance or similar bond to or in favour of any Regulatory Authority;
- (k) any guarantee of a Trading Investment Arrangement in the ordinary course of trade;
- (l) guarantees arising under a Permitted Transaction;
- (m) any guarantee made in substitution for an extension of credit permitted under the definition of Permitted Loan (without double counting) (other than loans within the category set out in paragraph (k) of the definition of Permitted Loan) to the extent that the issuer of the relevant guarantee would have been entitled to make a loan in an equivalent amount under the definition of Permitted Loan to the person whose obligations are being guaranteed provided that the guarantee reduces the ability to make a Permitted Loan commensurately;
- (n) any guarantee or indemnity granted to the trustee of any employee share option or unit trust scheme operated by any member of the Group or any Holding Company of any member of the Group or in favour of a liquidator of a member of the Group whose liquidation is permitted under this Agreement subject, in each case to customary limitations;
- (o) guarantees or counter-indemnities entered into in favour of financial institutions or landlords in connection with the guarantee of rent obligations entered into in the ordinary course of business of a member of the Group subject to the amount of such guarantee or counter-indemnity not exceeding an amount equal to 24 months of the relevant rent or lease payment obligations;
- (p) guarantees or counter-indemnities of contracts (or entered into in favour of financial institutions in connection with the guarantee of contracts) entered into in the ordinary course of trade of a member of the Group, in each case on customary and arm's length terms;
- (q) a guarantee arising under mandatory provisions of tax or corporate law legislation;

- (r) a customary guarantee or indemnity given in favour of directors and officers of any member of the Group in respect of their functions as such;
- (s) any authorised guarantee agreement (as such term is used in the Landlord and Tenant (Covenants) Act 1995) entered into in respect of leasehold real property disposed of in accordance with this Agreement;
- (t) guarantees in respect of pension liabilities;
- (u) guarantees entered into by members of the Target Group, that are to be, and are, released within five Business Days of the Closing Date;
- (v) any guarantee not falling within the paragraphs above or below where the aggregate liability (whether actual or contingent) of members of the Group under all such guarantees does not at any time exceed £2,000,000 (or its equivalent); and
- (w) any guarantee to which the Majority Lenders have given their consent;

"Permitted Hedging Transaction" means:

- (a) the hedging transactions required or contemplated by the Hedging Letter and any additional hedging of interest rate liabilities under the Finance Documents; and
- (b) any transaction hedging actual or projected interest, currency or forward exposures (including any spot and/or forward exchange contracts and the BoE Base Rate Swap) arising in the ordinary course of trading of a member of the Group and not for speculative purposes;

"Permitted Investor Injection" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"Permitted Joint Venture" means:

- (a) the Joint Ventures of the Group existing at the Closing Date; and
- (b) any other Joint Ventures engaged in the same or a similar or complementary business to that carried on by any member of the Group, including the aggregate amount of all investments in which (including the amount of any contribution of capital, purchase of shares, stocks and securities or equity interests of, outstanding loan, guarantee or indemnity, the disposal of any asset to (to the extent that such asset is disposed of for less than its full market value), or the taking on of any liability of) net of distributions, repayments or releases actually received by members of the Group in cash from Joint Ventures after the Closing Date does not exceed £500,000 at any time (or its equivalent) (or such higher amount to which the Majority Lenders have given their prior written consent));

"Permitted Loan" means:

- (a) any trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities and any advance payment made in relation to Capital Expenditure in the ordinary course of trade;
- (b) a loan which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness or arising on a Permitted Disposal;

- (c) a loan made to a Joint Venture to the extent permitted under Clause 26.9 (*Joint ventures*);
- (d) a loan made by a member of the Group to another member of the Group;
- (e) any loans between members of the Target Group outstanding on the Closing Date;
- (f) any loan made by a member of the Group for the purpose of funding an employee share option programme for employees of any member of the Group, provided that the aggregate of all such loans does not exceed £1,000,000 (or its equivalent) at any time;
- (g) a loan made by a member of the Group to an employee or director of any member of the Group provided that the aggregate of all such loans does not at any time exceed £750,000 (or its equivalent) and, if the loan is made to finance the purchase of season tickets, such amount shall increase each year in line with the retail price index (if relevant);
- (h) any loan by the Company to the Parent to facilitate any Permitted Payments;
- (i) any loan arising under or required to complete a Permitted Transaction;
- (j) any loan made for the purposes of enabling an Obligor to meet its payment obligations under the Finance Documents or to facilitate compliance with applicable law;
- (k) any credit balance on an account of a member of the Group with a financial institution;
- (l) any loan for the purpose of funding a payment under paragraph (b) of the definition of Permitted Payment;
- (m) any loan not otherwise permitted by the paragraphs above or below in an aggregate amount outstanding at any time, not exceeding £500,000 (or its equivalent); and
- (n) any loan to which the Majority Lenders have given their consent;

"Permitted Merger" means any amalgamation, demerger, merger, consolidation or corporate reconstruction on a solvent basis of a member of the Group where all of the business and assets of that member remain within the Group provided that:

- (a) such member of the Group is not a Borrower;
- (b) if that member of the Group was an Obligor immediately prior to such reorganisation being implemented, all of the business and assets of that member are retained by one or more other Obligors;
- (c) if that member of the Group is not an Obligor, so long as any assets distributed as a result of such reorganisation are distributed to other members of the Group; and
- (d) no Event of Default is continuing or would result from the proposed transaction,

and, in each case:

- (i) the surviving entity of any such reorganisation is liable for all the obligations of the member of the Group it has merged with to the same extent as that member of the Group;
- (ii) the surviving entity is incorporated in the same jurisdiction as that member of the Group; and
- (iii) the Agent and the Security Agent are given not less than 30 days' notice by the Parent and they either:
 - (1) acting reasonably, are satisfied that such reorganisation will not adversely affect any Transaction Security (but excluding any Transaction Security over the issued share capital of an Obligor which is transferred to another Obligor provided that the Security Agent and the Agent are satisfied that such shares will become subject to Transaction Security created on substantially the same terms as under the Transaction Security Document under which Transaction Security was previously created and that the rights of the Finance Parties under such new Transaction Security will not in any way be less advantageous than under the existing Transaction Security); or
 - (2) require the surviving entity to grant a debenture or other relevant form of Security in accordance with the Agreed Security Principles as a condition precedent to such amalgamation, demerger, merger, consolidation or corporate reconstruction;

"Permitted Payment" means:

- (a) payments (by way of dividends, repayments of loans and interest, the making of new loans or any other payment or distribution, each an "approved payment") to fund the payment, prepayment or repayment of Tax and regulatory costs to the extent it solely relates to or is attributable to the Group;
- (b) payments (by way of an approved payment) to departing management (or any investment company or trust established by any such person) or an EBTCO or employee benefit trust established by (or in relation to) the Group (or to any Holding Company of the Parent to fund any such payment) (each, a "**Relevant Person**"), to fund the redemption or purchase of any of the management equity (together with the purchase or repayment of any related loans or loan notes) and/or to make other compensation payments to departing or former management in an aggregate amount not exceeding £500,000 in each Financial Year;
- (c) if Leverage is less than or equal to 4:00:1 (calculated on a pro forma basis taking account of such payment), any payments by the Parent (or any other debtor of Subordinated Debt) by way of an approved payment (including by way of interest on or repayment of principal of Subordinated Debt or a reduction of share capital or redemption of shares of the Parent), provided that no Event of Default is continuing or would arise as a result of the payment;
- (d) payments (by way of an approved payment) to enable the Parent and any Holding Company of the Parent to meet any reasonable administrative costs, tax, insurance premiums, costs to maintain corporate existence, professional fees and

any regulatory costs (and any similar expenses) incurred in the ordinary course of its business;

- (e) payments (by way of an approved payment) to enable the Parent and any Holding Company of the Parent to pay amounts payable on an arm's length basis under service contracts or fee or cost reimbursement arrangements with any of its initial or future chairmen, directors, executives, managers or consultants (or with their employer) (excluding, for the avoidance of doubt, any payments intended to be covered by paragraph (f) below);
- (f) payment of professional fees and other expenses of the Sponsor in relation to the Target Equity Documents, the Scheme Documents and the Scheme or (in the event of an Offer Conversion) the Takeover Offer Documents and the Offer and Acquisition Costs incurred by the Sponsor and any Holding Company of the Parent (in the case of the Target Acquisition, as set out in the Funds Flow Statement or as otherwise approved by the Agent);
- (g) payments (up to a maximum amount equal to the aggregate amount of VAT payable on Acquisition Costs relating to the Target Acquisition and any Permitted Bolt-on Acquisitions) by the Parent of amounts equal to any VAT credit or repayment obtained by an Obligor or any VAT group that any Obligor is a member of from HMRC as a result of input VAT suffered by that Obligor or any Holding Company of the Parent;
- (h) any payment (by way of an approved payment) to facilitate the payment of any fees, costs and expenses (plus VAT where applicable) payable in respect of any Permitted Investor Injection made after the Closing Date provided that such fees, costs and expenses do not exceed in aggregate 3.50 per cent of the gross amount of such Permitted Investor Injection made after the Closing Date and provided further that such fees, costs and expenses are paid solely out of the gross proceeds of such Permitted Investor Injection made after the Closing Date;
- (i) any payment constituted by the surrendering of group or other tax reliefs to the Parent (or any immediate Holding Company of the Parent), but only to the extent such reliefs relate to taxes which would otherwise have been payable by the Group and the Group is no worse off as a result);
- (j) any payment by the Parent (or any other debtor of Subordinated Debt), by way of an approved payment (including of interest on or repayment of principal of Subordinated Debt or a reduction of share capital or redemption of shares of the Parent), provided that:
 - (i) no Event of Default has occurred and is continuing when the payment is made, or would arise as a result of the payment being made; and
 - (ii) it does not exceed the amount of Disposal Proceeds that are permitted to be applied as a Permitted Payment in accordance with paragraphs 11.2(c) and 11.2(d) of Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*);
- (k) any payment in an amount not greater than the amount of any Permitted Investor Injection made for the purposes of financing a Permitted Acquisition, to the extent such payment is funded from a Utilisation of the Acquisition Facility; and

- (l) any other payment to which the Majority Lenders have given their prior written consent,

provided that in each case, any such payment is not made in breach of the Intercreditor Agreement;

"Permitted Security" means:

- (a) any lien or right of set-off arising by operation of law or regulation or a contract having a similar effect and in the ordinary course of trade and not as a result of any default or omission by any member of the Group which has been outstanding for more than 90 days;
- (b) Security or Quasi-Security over bank accounts, any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking, payment processing and merchant services arrangements for the purpose of netting debit and credit balances of members of the Group (including a Multi-account Overdraft and (to the extent approved by the Agent (acting on the instructions of the Majority Lenders (acting reasonably)) any cash pooling arrangements in place at the relevant time);
- (c) any payment or close-out netting or set-off arrangement pursuant to any Permitted Hedging Transaction;
- (d) any Security or Quasi-Security over or affecting any asset acquired by a member of the Group after the Closing Date if:
 - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a member of the Group;
 - (ii) the principal amount secured has not been increased (otherwise than by a capitalisation of interest) in contemplation of or since the acquisition of that asset by a member of the Group; and
 - (iii) the Security or Quasi-Security is removed or discharged within three Months of the date of acquisition of such asset;
- (e) any Security or Quasi-Security over or affecting any asset of any company which becomes a member of the Group after the Closing Date, where the Security or Quasi-Security is created prior to the date on which that company becomes a member of the Group if:
 - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that company;
 - (ii) the principal amount secured has not increased (otherwise than by a capitalisation of interest) in contemplation of or since the acquisition of that company; and
 - (iii) the Security or Quasi-Security is removed or discharged within three Months of that company becoming a member of the Group;
- (f) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of trade or any

carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like liens arising in the ordinary course of business and, unless disputed in good faith, not arising as a result of any default or omission by any member of the Group that is continuing for a period of more than 90 days;

- (g) any Quasi-Security arising in connection with a disposal which is a Permitted Disposal or arising in connection with a Permitted Acquisition or a Permitted Merger;
- (h) any Security arising as a result of legal proceedings discharged within 30 days or otherwise contested in good faith (and not otherwise constituting an Event of Default);
- (i) any Security over any rental deposits in respect of any Real Property leased or licensed by a member of the Group in the ordinary course of business subject to the amount of such Security not exceeding an amount equal to 24 months of the relevant rent or lease payment obligations;
- (j) any Security over documents of title and goods as part of a documentary credit transaction entered into in the ordinary course of trade;
- (k) any Security over shares in Joint Ventures to secure obligations to the other joint venture partners;
- (l) any Security arising by operation of law in respect of taxes being contested in good faith and discharged within 90 days;
- (m) any Security or Quasi-Security created or arising as a consequence of (i) any Permitted Financial Indebtedness pursuant to paragraph (g) of the definition thereof or (ii) any Finance Lease permitted pursuant to paragraph (l) of the definition of Permitted Financial Indebtedness;
- (n) where such Security or Quasi Security is to be, and is, released within five Business Days of the Closing Date (where granted by the Target or its Subsidiaries);
- (o) any Security or Quasi-Security granted in connection with any transaction permitted under paragraph (d) of Permitted Financial Indebtedness and created over any cash deposit in a maximum aggregate amount not exceeding £1,500,000 (or its equivalent);
- (p) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation;
- (q) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable person;
- (r) any Security or Quasi-Security over any assets held by any member of the Group on trust or in any other fiduciary capacity (including as trustee or fiduciary) or as nominee, manager, administrator or any similar or equivalent capacity for or otherwise on behalf of its customers or clients or under any Trading Investment Arrangements;

- (s) any Security securing indebtedness the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness which has the benefit of Security given by any member of the Group other than any permitted under the preceding paragraphs or following paragraph does not exceed £2,000,000 (or its equivalent); and
- (t) subject to (where relevant) the Revolving Facility Consent Provisions, any Security to which the Majority Lenders have given their prior written consent;

"Permitted Share Issue" means:

- (a) the issue of shares by any member of the Group (other than the Parent) to its immediate Holding Company provided that the new shares are subject to the same Transaction Security, if any, under the Transaction Security Documents as the shares already in issue;
- (b) the issue of shares by any member of the Group (other than the Parent) to its minority shareholders provided that the member of the Group which owns the majority of the shares in such Group member is issued shares which maintains its level of ownership of such Group member at the same time;
- (c) the issue of shares by the Parent, paid for in full in cash upon issue and which by their terms are not redeemable prior to the latest Termination Date and where such issue does not lead to a Change of Control; and
- (d) an issue of shares which is a Permitted Transaction.

"Permitted Transaction" means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Transaction Documents;
- (b) any transaction (including any disposal, loan, borrowing, guarantee, indemnity, Security, Quasi Security, share issue or repayment) contemplated by or specifically as set out in the Funds Flow Statement or steps 1 to 3 of the Structure Memorandum;
- (c) any Permitted Merger;
- (d) any arrangement in respect of a Permitted Payment;
- (e) the solvent liquidation or reorganisation of a member of the Group which is not a Material Company so long as any payments or assets distributed on a result of that liquidation or reorganisation are distributed to other members of the Group;
- (f) a reduction of share capital of any member of the Group except the Parent, provided that the interests of the Finance Parties under the Finance Documents are not thereby prejudiced;
- (g) any transaction constituting a Trading Investment Arrangement; and
- (h) the Jackson Demerger;

"PIK Interest" has the meaning given to that term in Clause 13.1 (*PIK Interest*).

"Qualifying Lender" has the meaning given to that term in Clause 17 (*Tax gross-up and indemnities*);

"Quarter Date" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"Quasi-Security" has the meaning given to that term in Clause 26.14 (*Negative pledge*);

"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 on more than one day, the Quotation Day will be the last of those days);

"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;

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property;

"Receiving Agent" means the receiving agent appointed in connection with the Offer;

"Reduction of Capital" means the reduction of the share capital of Target by the cancellation of Target Shares, to be effected as part of the Scheme under Sections 84 to 86 of the Irish Companies Act;

"Reference Bank Quotation" means any quotation supplied to the Agent by a Base Reference Bank;

"Registrar of Companies" means the Registrar of Companies in Dublin, Ireland, as defined in Section 2 of the Irish Companies Act;

"Regulated Entity" has the meaning given to that term in Schedule 10 (*Agreed Security Principles*);

"Regulatory Authorisation" means an Authorisation granted by a Regulatory Authority;

"Regulatory Authority" has the meaning given to that term in Schedule 10 (*Agreed Security Principles*);

"Regulatory Capital" has the meaning given to that term in Schedule 10 (*Agreed Security Principles*);

"Regulatory Capital Amount" has the meaning given to that term in Schedule 10 (*Agreed Security Principles*);

"Regulatory Principles" has the meaning given to that term in Schedule 10 (*Agreed Security Principles*);

"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;

"Relevant Date" means the Effective Date, unless an Offer Conversion Notice has been served and an Offer Conversion occurs, in which case it means the Unconditional Date;

"Relevant Jurisdiction" means, in relation to an Obligor:

- (a) Original Jurisdiction;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
- (c) any jurisdiction where it conducts a material part of its business; and
- (d) when used in the context of Transaction Security, the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it (but excluding any jurisdiction other than its Original Jurisdiction);

"Relevant Market" means in relation to euro, the European interbank market and, in relation to any other currency, the London interbank market;

"Relevant Period" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"Reliance Parties" means the Agent, the Arranger, the Security Agent, each Ancillary Lender, each Original Lender and each person which becomes a Lender on or before the date the relevant report is issued;

"Repeating Representations" means each of the representations set out in Clause 23.2 (*Status*) to Clause 23.7 (*Governing law and enforcement*), Clauses 23.12(a) (*No default*), 23.13(a)(vi) (*No misleading information*), 23.14(b) (*Financial Statements*), 23.21 (*Ranking*), 23.23 (*Legal and beneficial ownership*), 23.24 (*Shares*) and 23.28 (*Centre of main interests*);

"Reports" means:

- (a) the Commercial Due Diligence Report, the Financial Due Diligence Report, the Legal Due Diligence Report, the Insurance Due Diligence Report and the Structure Memorandum; and
- (b) following the Closing Date, any report commissioned by the Group in connection with a Permitted Bolt-on Acquisition;

"Representative" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian;

"Resignation Letter" means a letter substantially in the form set out in Schedule 7 (*Form of Resignation Letter*);

"Restricted Party" means a person that is:

- (a) listed on, or owned or controlled by a person listed on, a Sanctions List or otherwise listed, owned or controlled by, or acting for or on behalf of, any person listed on the annex to, or otherwise subject to the provisions of, the Executive Order;
- (b) listed on the "Specially Designated Nationals and Blocked Persons" list maintained by OFAC of the United States Department of Treasury, as updated or amended from time to time, or any similar list issued by OFAC;
- (c) located in or organised under the laws of a country or territory that is the subject of country or territory-wide Sanctions or is a Sanctioned Jurisdiction, or a person who is owned or controlled by such a person;
- (d) currently subject to any U.S. sanctions administered by OFAC whose property has been blocked, or is subject to seizure, forfeiture or confiscation, by any published order relating to terrorism or money laundering issued by the President, Attorney General, Secretary of Defense, Secretary of the Treasury or any other US state or federal governmental official;
- (e) that commits, threatens or conspires to commit or support "terrorism" as defined in the Executive Order; or
- (f) otherwise a subject of Sanctions;

"Resolution Authority" means any body which has authority to exercise any Write-down and Conversion Powers;

"Retained Excess Cash" has the meaning given to that term in Clause 25.1 (*Financial definitions*);

"Revolving Facility" means the revolving credit facility made available under this Agreement as described in Clause 2.1(a)(iii) (*The Facilities*);

"Revolving Facility Commitment" means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "**Revolving Facility Commitment**" in Part A of Schedule 1 (*The Original Parties*) and the amount of any other 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 Revolving Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*), to the extent not cancelled, reduced or transferred by it under this Agreement;

"Revolving Facility Consent Provisions" means any amendment, waiver or consent that has the effect of or which relates to:

- (a) this definition or any definition used within this definition;
- (b) the definition of Material Event of Default or any definition used within that definition which relates to that Material Event of Default;

- (c) the provisions of Clauses 24.1 and (b) (*Financial statements*) and 24.2 (*Provision and contents of Compliance Certificate*) which has the effect of delaying the delivery of the Financial Statements and/or Compliance Certificates by more than 30 days beyond the time limits set out in such Clauses in their original form;
- (d) the provisions of Clause 4.5 (*Utilisation during the Certain Funds Period*) or Clause 5 (*Utilisation – Loans*) but only insofar as they relate to the Revolving Facility;
- (e) the introduction of any new facility or tranche which ranks (as to payments made in accordance with clause 16 (Application of proceeds) of the Intercreditor Agreement) *pari passu* or in priority to the Revolving Facility;
- (f) any amendment which relates to Clause 27.19(b) (*Acceleration*);
- (g) a disposal that constitutes a Material Disposal (save to the extent that such Material Disposal results in any Revolving Facility Commitments being prepaid and cancelled in full) or the definition of Material Disposal;
- (h) the provisions of Clause 26.36 (*Sanctions*) and the definitions referred to therein;
- (i) the definitions of Permitted Financial Indebtedness or Permitted Security or Clause 26.14 (*Negative pledge*), in each case to the extent that the effect of such amendment, waiver or consent is to permit additional Financial Indebtedness which ranks (as to payments made in accordance with clause 16 (*Application of proceeds*) of the Intercreditor Agreement) *pari passu* or in priority to the Revolving Facility;
- (j) Clause 3.1 (*Purpose*) but only insofar as it relates to the Revolving Facility;
- (k) the conditions to the drawdown of a Loan under the Revolving Facility (other than the requirements set out in Clause 4.1 (*Initial conditions precedent*)) or an amendment or waiver of Clause 10.2 (*Voluntary cancellation*) to the extent it applies to the Revolving Facility or Clause 10.4 (*Voluntary prepayment of Revolving Facility Loans*);
- (l) the provisions of Clause 25.2(c) (*Super Senior Minimum EBITDA*) and the definitions referred to therein; or
- (m) the definition of "**Termination Date**" in respect of Facility B or the Acquisition Facility if such amendment would be to adjust such Termination Date to a date that this is less than three months after the Termination Date in respect of the Revolving Facility or prior to the Termination Date in respect of the Revolving Facility;

"**Revolving Facility Lender**" means any Lender which holds a Revolving Facility Commitment;

"**Revolving Facility Loan**" means a loan made or to be made under the Revolving Facility or the principal amount outstanding for the time being of that loan;

"**Rollover Loan**" means one or more Revolving Facility Loans:

- (a) made or to be made on the same day that a maturing Revolving Facility Loan is due to be repaid;

- (b) the aggregate amount of which is equal to or less than the amount of the maturing Revolving Facility Loan;
- (c) in the same currency as the maturing Revolving Facility Loan (unless it arose as a result of the operation of Clause 6.2 (*Unavailability of a currency*)); and
- (d) made or to be made to the same Borrower for the purpose of refinancing that maturing Revolving Facility Loan;

"Sanctioned Jurisdiction" means any of Belarus, Burma/Myanmar, Crimea, Cuba, Iran, Libya, North Korea, Sudan, South Sudan, Syria, Zimbabwe or any other country or territory to the extent that such country or territory itself is the subject (or becomes the subject) of any trade embargo or other prohibition against transaction activity under any Sanctions;

"Sanctions" means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by a Sanctions Authority to which any Lender is subject including, without limitation, any US state or federal law relating to terrorism, money laundering or any related seizure, forfeiture or confiscation of assets, including the Executive Order, the USA Patriot Act and the Money Laundering Control Act of 1986, Public Law 99-570;

"Sanctions Authority" means:

- (a) the Security Council of the United Nations;
- (b) the US;
- (c) the European Union;
- (d) the United Kingdom of Great Britain and Northern Ireland; and
- (e) the governments and official institutions or agencies of any of paragraphs (a) to (e) above, including OFAC, the US Department of State, and Her Majesty's Treasury;

"Sanctions List" means the Specially Designated Nationals and Blocked Persons list maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by Her Majesty's Treasury, or any similar list maintained by, or public announcement of a Sanctions designation made by, a Sanctions Authority, each as amended, supplemented or substituted from time to time;

"Scheme" means a scheme of arrangement made pursuant to Chapter 1 of Part 9 of the Irish Companies Act and the Reduction of Capital, to be proposed by Target to its shareholders to effect the Target Acquisition;

"Scheme Circular" means the circular to the Target Shareholders, to be issued by Target, setting out the proposals for the Scheme;

"Scheme Documents" means together the Scheme Press Announcement, the Scheme Circular, the Scheme Resolution, the EGM Resolutions and any other document designated as forming part of the "Scheme Documents" by the Parent and the Agent;

"Scheme Press Announcement" means a press announcement in the agreed form to be released by the Company and/or Target to announce the terms of the Scheme pursuant to Rule 2.5 of the Takeover Rules;

"Scheme Resolution" means the resolution to be considered and voted on at the Court Meeting proposing the Scheme, as set out in the Scheme Circular;

"Screen Rate" means:

- (a) in relation to LIBOR, the London interbank offered rate administered by the ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed (before any correction, recalculation or republication by the administrator) 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 Institution (or any other person which takes over the administration of that rate) for the relevant period displayed (before any correction, recalculation or republication by the administrator) 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 Company;

"Secured Parties" means each Finance Party from time to time party to this Agreement and any Receiver or Delegate;

"Security" means a mortgage, charge, pledge, lien, assignment by way of security, retention of title provision, trust or flawed asset arrangement for the purpose of, or which has the effect of granting security or other security interest securing any obligation of any person or any other agreement or arrangement in any jurisdiction having a similar effect;

"Selection Notice" means a notice substantially in the form set out in Part B of Schedule 3 (*Requests and Notices*) given in accordance with Clause 14 (*Interest Periods*) in relation to Facility B, the Acquisition Facility or an Incremental Facility;

"Senior Management" means the CEO and the CFO, from time to time;

"Separate Loan" has the meaning given to that term in Clause 9.2 (*Repayment of Revolving Facility Loans*);

"Service Contract" means a service contract of each member of Senior Management;

"Specified Provision" means each of:

- (a) paragraph (f)(iv) of the definition of Permitted Bolt-on Acquisition;
- (b) paragraph (l) of the definition of Permitted Disposal;
- (c) paragraphs (g), (i), (j)(ii) and (m) of the definition of Permitted Financial Indebtedness;
- (d) paragraph (v) of the definition of Permitted Guarantee;
- (e) paragraph (b) of the definition of Permitted Joint Venture;

- (f) paragraphs (f), (g) and (m) of the definition of Permitted Loan;
- (g) paragraphs (o) and (s) of the definition of Permitted Security;
- (h) the definition of Acquisition Proceeds in Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*);
- (i) the definition of Disposal Proceeds in Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*); and
- (j) the definition of Insurance Proceeds in Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*);

"Specified Time" means a time determined in accordance with Schedule 9 (*Timetables*);

"Sponsor" means Epiris Managers LLP, Epiris Advisers LLP and/or Epiris LLP;

"Sponsor Affiliate" means the Sponsor, each of its Affiliates, any trust of which the Sponsor or any of its Affiliates is a trustee, any partnership of which the Sponsor or any of its Affiliates is a partner and any trust, fund or other entity which is managed by, or is under the control of, the Sponsor or any of its Affiliates provided that any such trust, fund or other entity established for at least six months 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 the Sponsor or any of its Affiliates which have been established for the primary or main purpose of investing in the share capital of companies shall not constitute a Sponsor Affiliate;

"Squeeze Out Notice" means a notice given under Part 5 of the Takeover Regulations given by the Company to a Target Shareholder who has not accepted the Offer and implementing the Squeeze Out Procedures;

"Squeeze Out Procedures" means the procedures set out in Part 5 of the Takeover Regulations for the compulsory acquisition of any minority shareholders in an Irish company with shares admitted to trading on an EU regulated market;

"Structural Adjustment" has the meaning given to it in Clause 40 (*Amendments and Waivers*);

"Structure Memorandum" means the tax report entitled "*Project Elmo – Interim final tax paper – for signing*" prepared by PricewaterhouseCoopers LLP dated 23 March 2019 (or the final version thereof, if subsequently delivered to the Agent: (i) in form and substance substantially similar to the version delivered to the Agent on or around the date of this Agreement with such changes as could not reasonably be expected to materially adversely affect the interests of the Lenders; or (ii) in any other form and substance satisfactory to the Agent (acting on the instructions of all of the Lenders, acting reasonably)), in each case, addressed to, and/or capable of being relied upon by the Reliance Parties;

"Structuring EBITDA" means £22,800,000;

"Subordinated Debt" means any loans made by the Investors (or any direct or indirect shareholder of the Parent) or a Subordinated Creditor (as defined in the Intercreditor Agreement) to the Parent or by the Parent to the Company or subordinated loans or loan notes in the Parent or the Company, which in each case by their terms:

- (a) do not have a termination or repayment date earlier than six months after the latest Termination Date; and
- (b) do not attract interest or premiums payable in cash (or, to the extent expressed as payable in cash, are restricted from being paid in cash pursuant to the Intercreditor Agreement),

provided that, in the case of such loans made to, or loan notes issued by, the Parent or the Company, the shareholder, lender or loan note holder thereof (as applicable) is a party to or (except in the case of the Parent) otherwise accedes to the Intercreditor Agreement as a Subordinated Creditor;

"Subsidiary" means any of:

- (a) a subsidiary within the meaning of section 1159 of the Companies Act 2006; and
- (b) an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent of the voting capital or similar right or ownership and control for this purpose means the power to direct the management and the policies of the entity whether through the ownership or voting capital, by contract or otherwise;

"Super Majority Lenders" means a Lender or Lenders whose Commitments are in aggregate 80 per cent or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated 80 per cent or more of the Total Commitments immediately prior to that reduction);

"Super Senior Enforcement Notice" has the meaning given to that term in the Intercreditor Agreement;

"Takeover Offer Documents" means the Offer Press Announcement, the Offer Document and any other document designated as forming part of the "Takeover Offer Documents" by the Parent and the Agent;

"Takeover Panel" means the Irish Takeover Panel;

"Takeover Regulations" means the European Communities (Takeover Bids (Directive 2004/25/EC)) Regulations 2006 of Ireland (S.I. No. 255/2006) as amended and in force from time to time;

"Takeover Rules" means the Irish Takeover Panel Act 1997 (as amended), Takeover Rules 2013 (as amended);

"Target" means IFG Group Public Limited Company, a company incorporated under the laws of Ireland with registered number 21010;

"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 Acquisition" means the acquisition of the Target Shares by the Company pursuant to the Scheme or, following an Offer Conversion, means the purchase by the Company of the Target Shares pursuant to or in connection with the Offer and the operation of the Squeeze Out Procedures;

"TARGET Day" means any day on which TARGET2 is open for the settlement of payments in euro;

"Target Equity Documents" means the Constitutional Documents, the Equity Financing Agreement, the Equity Transaction Agreement and any other document designated as a Target Equity Document by the Agent and the Parent;

"Target Group" means Target and each of its Subsidiaries and members of the Target Group means any of them;

"Target Shareholders" means the holders of the Target Shares;

"Target Shares" means the issued shares in the capital of Target, including the ordinary shares of €0.12 each in the capital of the Target;

"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) in any jurisdiction;

"Term Facility" means Facility B, the Acquisition Facility or any Incremental Facility;

"Term Loan" means a Facility B Loan, an Acquisition Facility Loan or an Incremental Facility Loan;

"Termination Date" means:

- (a) in relation to Facility B, the date falling six years after the Closing Date; and
- (b) in relation to the Acquisition Facility, the date falling six years after the Closing Date;
- (c) in relation to an Incremental Facility, the date specified as such in the Incremental Facility Notice relating to that Incremental Facility; and
- (d) in relation to the Revolving Facility, the date falling five years after the Closing Date;

"Topco" means MonteCarloCo Limited, a company incorporated under the laws of Jersey with registration number 128568;

"Total Acquisition Facility Commitments" means the aggregate of the Acquisition Facility Commitments, being £15,000,000 at the date of this Agreement;

"Total Commitments" means the aggregate of the Total Facility B Commitments, the Total Acquisition Facility Commitments, the Aggregate Total Incremental Facility Commitments and the Total Revolving Facility Commitments, being £140,000,000 at the date of this Agreement;

"Total Facility B Commitments" means the aggregate of the Facility B Commitments, being £120,000,000 at the date of this Agreement;

"Total Incremental Facility Commitments" means, in relation to an Incremental Facility, the aggregate of the Incremental Facility Commitments relating to that Incremental Facility.

"Trading Investment Account" means any trust account or securities custody, clearing or settlement account or trading or investment account or platform, including any held with any bank or other financial institution, securities settlement system, central counterparty, securities exchange, trading venue, or other custody, settlement or clearing system or organisation (including without limitation the London Stock Exchange, the Alternative Investment Market or the Main Board or the Growth Market of the ICAP Securities & Derivatives Exchange (ISDX), NEXExchange or any recognised investment exchange (as that term is used in the Financial Services and Markets Act 2000), any exchange, trading venue or market replacing the same or any other market, trading venue or exchange in any country, CREST, Euroclear, Eurex, LCH, ICE Clear, x-clear, Nasdaq OMX, LME, BME, OMIClear, INTL FCStone, DTCC and ChinaClear), in each case in respect of any Trading Investment Securities or Trading Investment Arrangement;

"Trading Investment Arrangement" means:

- (a) any agreement, facility or arrangement in respect of any Trading Investment Account or any Trading Investment Securities, including with any bank or other financial institution or provider, counterparty or other party thereto (including without limitation any clearing, trading or settlement facilities, securities clearing or settlement account and related agreements and any brokerage agreement, prime brokerage agreement, clearing agreement, futures and options agreement, ISDA/FIA Client Cleared OTC Derivatives Addendum, FOA/FIA Clearing Addendum, ISDA Master Agreement, ISDA Credit Support Annex, Credit Support Deed, GMSLA, GMRA or any similar agreements), and including any Security or Quasi-Security and any guarantee on customary standard terms required to be granted under the terms of the applicable agreement, facility or arrangement in relation to a Trading Investment Account or Trading Investment Securities, in each case entered into from time to time in the ordinary course of trade of any member of the Group but, for the avoidance of doubt, excluding the acquisition or disposal of any entity (whether a body corporate, partnership or otherwise), business or undertaking by any member of the Group; and
- (b) any other agreement relating to the trading and/or investment business of the Group to which the Majority Lenders have given their consent;

"Trading Investment Securities" means:

- (a) any equity or debt securities or instruments or any other financial instruments (including without limitation shares in companies, other securities equivalent to shares in companies, partnerships or other entities, ownership interests or units of any nature in any trust, private or dedicated trust company, fund, partnership, limited partnership or limited liability partnership, depositary receipts, ETFs, bonds, eurobonds, medium term notes, commercial paper, debentures, debenture stock, loan notes, loan stock, loans, certificates of deposit or any other instrument or agreement creating or acknowledging indebtedness);
- (b) any forward, swap, future, option, spot or other derivative on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments or any other financial instruments, economic indices or measures of economic risk or value, or other benchmarks against which payments or deliveries are to be made or any other derivatives transaction entered into in connection with protection against or benefit from fluctuation in any rate or price; and

- (c) any cash, Cash Equivalent Investment or any other investment or asset whatsoever (including without limitation cash, bullion, commodities and Real Property),

in each case held, acquired, borrowed, loaned, sold or otherwise traded from time to time in the ordinary course of trade by any member of the Group (including as a nominee, manager, administrator, fiduciary, trustee or any similar or equivalent capacity) but, for the avoidance of doubt, excluding the acquisition or disposal of any entity (whether a body corporate, partnership or otherwise), business or undertaking by any member of the Group;

"Total Purchase Price" means in respect of a Permitted Bolt-on Acquisition the aggregate of:

- (a) the total cash consideration payable on completion of the relevant acquisition and any Financial Indebtedness repaid, associated taxes, fees, costs and expenses and stamp duty and similar charges that are payable in connection with the relevant acquisition;
- (b) any deferred consideration and/or earn-out amount that is likely to be payable (in the reasonable opinion of the Parent) for that acquisition; and
- (c) any Financial Indebtedness and, to the extent not taken into account in the purchase price of the relevant acquisition, contingent liabilities, in each case remaining in the acquired business or company or acquired by the member of the Group immediately following the date of acquisition,

provided that no amount shall be included more than once and (for the purpose of a Permitted Bolt-on Acquisition only) such amount shall be calculated net of any cash on the balance sheet of the acquired company;

"Total Revolving Facility Commitments" means the aggregate of the Revolving Facility Commitments, being £5,000,000 at the date of this Agreement;

"Transaction Documents" means the Finance Documents, the Target Equity Documents, the Scheme Documents and, in the event of an Offer Conversion, the Takeover Offer Documents;

"Transaction Security" means the Security created or expressed to be created in favour of the Security Agent pursuant to the Transaction Security Documents;

"Transaction Security Documents" means each of the documents listed as being a Transaction Security Document in paragraph 3.3 of Part A of Schedule 2 (*Conditions Precedent*), together with 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 Finance Documents;

"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 Transactions" means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price;

"Unconditional Date" means the date on which the Offer is declared or becomes unconditional in all respects;

"Unpaid Sum" means any sum due and payable but unpaid by an Obligor under the Finance Documents;

"US" and **"United States"** means the United States of America, its territories and possessions;

"Utilisation" means a utilisation of a Loan;

"Utilisation Date" means the date of a Utilisation, being the date on which the relevant Loan is to be made;

"Utilisation Request" means a notice substantially in the relevant form set out in part A 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), or imposed elsewhere;

"White List" means the list of banks and financial institutions in the agreed form delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*); and

"Write-down and Conversion Powers" means:

- (f) 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
- (g) 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**", the "**Arranger**", any "**Finance Party**", any "**Hedge Counterparty**", any "**Lender**", any "**Obligor**", any "**Party**", any "**Secured Party**", the "**Security Agent**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents 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 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 "**Finance Document**" or a "**Transaction Document**" or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as amended (however fundamentally), novated, supplemented, extended, restated or replaced from time to time (whether or not such amendment, novation, supplement, extension, restatement or replacement contemplated as at the date of this Agreement), and including cases where the amendments concerned involve an increase, extension or other change (however great) to any facility or the grant of any additional facility (however great);
 - (v) a "**group of Lenders**" includes all the Lenders;
 - (vi) "**guarantee**" means (other than in Clause 22.1 (*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;
 - (vii) "**including**" means including without limitation and "**includes**" and "**included**" shall be construed accordingly;
 - (viii) "**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;
 - (ix) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (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, but if not having the force of law, being of a type with which persons to who it is directed are expected and accustomed to comply) of any governmental,

intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

- (xi) a provision of law is a reference to that provision as amended or re-enacted; and
 - (xii) a time of day is a reference to London time.
- (b) Section, Clause and Schedule headings are for ease of reference only.
- (c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (d) A Borrower or providing "**cash cover**" for an Ancillary Facility means a Borrower paying an amount in the currency of the Ancillary Facility to an interest-bearing account in the name of the Borrower and the following conditions being met:
- (i) the account is with the Security Agent or the Ancillary Lender (as applicable) for which that cash cover is to be provided;
 - (ii) until no amount is or may be outstanding under that Ancillary Facility, withdrawals from the account may only be made to pay the relevant Finance Party amounts due and payable to it under this Agreement in respect of that Ancillary Facility; and
 - (iii) the Borrower has executed a security document over that account, in form and substance satisfactory to the Security Agent or Ancillary Lender (as applicable) with which that account is held, creating a first ranking security interest over that account.
- (e) A Default or an Event of Default (including a Material Event of Default) is "continuing" if it has not been remedied or waived.
- (f) A Borrower "repaying" or "prepaying" Ancillary Outstandings means:
- (i) that Borrower providing cash cover in respect of the Ancillary Outstandings;
 - (ii) the maximum amount payable under the Ancillary Facility being reduced or cancelled in accordance with its terms; or
 - (iii) each relevant Ancillary Lender being satisfied that it has no further liability under that Ancillary Facility,
- and the amount by which Ancillary Outstandings are, repaid or prepaid under paragraphs (f)(i) and (f)(ii) above is the amount of the relevant cash cover, reduction or cancellation.
- (g) An amount borrowed includes any amount utilised under an Ancillary Facility.
- (h) Any term defined in the Finance Documents by reference to the meaning of such term under the Accounting Principles shall have the meaning given to such term as at the date the relevant Finance Document is signed.

- (i) A wholly-owned Subsidiary includes a Subsidiary where any share is held by a nominee on behalf of the relevant Holding Company or in which any share is required to be held by a director or similar officer of that Subsidiary under any applicable local law or that of any Relevant Jurisdiction of that Subsidiary.
- (j) In this Agreement, where it relates to a member of the Group incorporated in Ireland, references to "**examiner**" and "**examinership**" shall have the meanings given to them in the Irish Companies Act.

1.3 **Currency Symbols and Definitions**

"£" and "**sterling**" denotes lawful currency of the United Kingdom, "**EUR**" and "**euro**" means the single currency unit of the Participating Member States and "**US dollars**" and "\$" denotes lawful currency of the United States of America.

1.4 **Third party rights**

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party 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 this Agreement.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

1.5 **Provision of information by Directors**

If any provision of a Finance Document requires any member of Senior Management or any director, secretary or other authorised officer of any member of the Group to provide any information, certify any matter or to make any presentation, any such provision, certification or presentation shall (provided that it is made in good faith) be made without personal liability on the part of such member of Senior Management, director, secretary or other authorised officer (other than in the case of fraud, wilful default or gross negligence).

1.6 **Fluctuations in exchange rates**

- (a) For the avoidance of doubt, for the purposes of Clause 23 (*Representations*) (and related definitions), Clause 26 (*General Undertakings*) (and related definitions) or Clause 27 (*Events of Default*) (and related definitions) but excluding any Event of Default (including a Material Event of Default) resulting from a breach of Clause 25 (*Financial Covenants*), a reference to an amount (or its equivalent in another currency or currencies) shall be determined by reference to the rate of exchange on the date of incurrence or making of a particular disposal, acquisition, investment, lease, loan, debt or guarantee or taking any other relevant action and any subsequent exchange rate fluctuation shall not cause an Event of Default (including a Material Event of Default) or the breach of any provision of Clause 26 (*General Undertakings*) or misrepresentation in respect of any provision of Clause 23 (*Representations*).
- (b) For the purposes of calculating any debt amount required in relation to Clause 25 (*Financial Covenants*) the applicable rate of exchange shall be the weighted average for the same period as the rate of exchange used for the calculation of Consolidated EBITDA for the Relevant Period, provided that where the Group has entered into foreign exchange hedging in respect of any debt, the exchange rate

used in relation to that debt shall be the relevant fixed exchange rate under such foreign exchange hedging.

1.7 Intercreditor Agreement

In the case of an inconsistency between this Agreement and the Intercreditor Agreement, the Intercreditor Agreement shall prevail, however, any payments made (or to be made) (including, Margin, Interest, fees, costs, expenses, mandatory prepayments or voluntary prepayments) prior to a Distress Event (as defined in the Intercreditor Agreement) or the enforcement of any Transaction Security in accordance with its terms and the Intercreditor Agreement, shall be made in accordance with this Agreement.

1.8 Baskets

(a) If Consolidated EBITDA in respect of any Financial Year falls within a range specified in Column 1 of the table below then, on and from the date of delivery of the relevant Compliance Certificate for that Financial Year in accordance with Clause 24.2 (*Provision and contents of Compliance Certificate*), the baskets contained in the Specified Provisions shall be increased or decreased such that each basket is deemed to be equal to:

- (i) the numerical basket amount set out in the relevant Specified Provision as at the date of this Agreement, plus
- (ii) the percentage of that numerical amount set out in Column 2 below.

Column 1 Consolidated EBITDA	Column 2 Percentage (%)
Less than Base Case Level plus 10%	0%
Greater than or equal to Base Case Level plus 10% but less than Base Case Level plus 15%	10%
Greater than or equal to Base Case Level plus 15% but less than Base Case Level plus 20%	15%
Greater than or equal to Base Case Level plus 20%	20%

(b) If, and for so long as, the Parent does not deliver a Compliance Certificate for any Financial Year in accordance with Clause 24.2 (*Provision and contents of Compliance Certificate*), the baskets contained in the Specified Provisions shall be deemed to be equivalent to the numerical amount set out in each Specified Provision as at the date of this Agreement.

(c) No Default or Event of Default (or Material Event of Default) shall arise solely as a result of a decrease in any basket level by operation of paragraphs (a) or (b) above and any existing item that is permitted prior to the date of any decrease in the size of any basket shall continue to be permitted notwithstanding such decrease.

1.9 Jersey law terms

In each Finance Document, where it relates to a person incorporated or established in Jersey, a reference to:

- (a) a **composition, compromise, assignment or arrangement** (a) with any creditor, **winding up, administration, insolvency or dissolution** includes, without limitation, bankruptcy (as that term is interpreted pursuant to Article 8 of the Interpretation (Jersey) Law 1954), a compromise or arrangement of the type referred to in Article 125 of the Companies (Jersey) Law 1991, any procedure or process referred to in Part 21 of the Companies (Jersey) Law 1991, and any other similar proceedings affecting the rights of creditors generally under Jersey law, and shall be construed so as to include any equivalent or analogous proceedings;
- (b) a **receiver, administrative receiver, administrator, liquidator** includes, without limitation, the Viscount of the Royal Court of Jersey, *autorisés* or any other person performing the same function of each of the foregoing;
- (c) a **Security** or a **security interest** includes, without limitation, any *hypothèque* whether conventional, judicial granted or arising by operation of law and any security interest created pursuant to the Security Interests (Jersey) Law 1983 or the Security Interests (Jersey) Law 2012 and any related legislation; and
- (d) any analogous step or procedure being taken in connection with insolvency includes any step taken in connection with the commencement of proceedings towards the making of a declaration of *en désastre* in respect of any assets of such entity or the making of such declaration.

SECTION 2

THE FACILITIES

2. THE FACILITIES

2.1 The Facilities

- (a) Subject to the terms of this Agreement, the Lenders make available:
 - (i) a Base Currency term loan facility in an aggregate amount equal to the Total Facility B Commitments; and
 - (ii) a Base Currency term loan facility in an aggregate amount equal to the Total Acquisition Facility Commitments; and
 - (iii) a multicurrency revolving credit facility in an aggregate amount the Base Currency Amount of which is equal to the Total Revolving Facility Commitments.
- (b) Facility B will be available to the Company.
- (c) The Revolving Facility and the Acquisition Facility will be available to all of the Borrowers.
- (d) Subject to the terms of this Agreement and the Ancillary Documents, an Ancillary Lender may make all or part of its Revolving Facility Commitment available to any Borrower as an Ancillary Facility.

2.2 Incremental Facilities

One or more Incremental Facilities may be established and made available pursuant to Clause 8 (*Establishment of Incremental Facilities*).

2.3 Increase

- (a) The Parent may by giving prior notice to the Agent by no later than the date falling 10 Business Days after the effective date of a cancellation of:
 - (i) the Available Commitments of a Defaulting Lender in accordance with Clause 10.6 (*Right of cancellation in relation to a Defaulting Lender*); or
 - (ii) the Commitments of a Lender in accordance with Clause 10.1 (*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 of up to the amount of the Available Commitments or Commitments relating to that Facility so cancelled as follows:
 - (1) 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 Sponsor Affiliate or a member of the Group) and each of which confirms in writing (whether in the relevant Increase Confirmation or otherwise) 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;
- (2) 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;
 - (3) each Increase Lender shall become a Party as a "**Lender**" and any Increase Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Increase Lender and those Finance Parties would have assumed and/or acquired had the Increase Lender been an Original Lender;
 - (4) the Commitments of the other Lenders shall continue in full force and effect; and
 - (5) 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.
- (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:
 - (1) the Increase Lender entering into the documentation required for it to accede as a party to the Intercreditor Agreement;
 - (2) the Agent being satisfied that it has complied with 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 Agent shall promptly notify the Parent and the Increase Lender upon being so satisfied.
- (c) Each Increase Lender, by executing the Increase Confirmation, 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 increase becomes effective.
- (d) The Parent shall promptly on demand pay the Agent and the Security Agent 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 Increase Lender shall (unless otherwise agreed), on the date upon which the increase takes effect, pay to the Agent (for its own account) a fee in an amount equal to the fee which would be payable under Clause 28.4 (*Assignment or*

transfer fee) if the increase was a transfer pursuant to Clause 28.6 (*Procedure for transfer*) and if the Increase Lender was a New Lender.

- (f) The Parent may pay to the Increase Lender a fee in the amount and at the times agreed between the Parent and the Increase Lender in a Fee Letter.
- (g) Clause 28.5 (*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**".

2.4 **Finance Parties' rights and obligations**

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

2.5 **Obligors' Agent**

- (a) Each Obligor (other than the Parent) by its execution of this Agreement or an Accession Deed irrevocably appoints the Parent (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
 - (i) the Parent on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including, in the case of a Borrower, Utilisation Requests), to agree any Incremental Facility Terms and to deliver any Incremental Facility Notice, to execute on its behalf any Accession Deed, other agreement or 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 Finance Party to give any notice, demand or other communication to that Obligor pursuant to the 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 deeds, or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

- (b) Every act, omission, agreement, deed, 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 Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any 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) The Company shall apply all amounts borrowed by it under Facility B towards:
 - (i) payment to the Target Shareholders of the purchase price for the Target Shares either:
 - (1) pursuant to the Scheme or as otherwise described in the Scheme Circular; or
 - (2) if an Offer Conversion occurs, pursuant to the Offer and pursuant to the operation of the Squeeze Out Procedures;
 - (ii) payment of amounts payable in relation to outstanding options and awards granted by the Target pursuant to share option schemes, share plans or awards in consideration for the acquisition and/or cancellation of such options or awards;
 - (iii) payment of the Acquisition Costs relating to the Target Acquisition; and
 - (iv) refinancing certain Financial Indebtedness of the Target and its Subsidiaries on, or within five Business Days of, the Closing Date (including, without limitation, any breakage costs, prepayment fees, hedging close-out costs and other related fees costs and expenses),

in each case in accordance with the Funds Flow Statement.

- (b) The Company shall apply all amounts borrowed by it under the Acquisition Facility and any Incremental Facility towards the financing or refinancing of Permitted Acquisitions (other than the Target Acquisition) (including making a Permitted

Payment in respect of the repayment of any Permitted Investor Injection made for the purpose of financing such Permitted Acquisition) or payment of Debt-Like Items (provided that the aggregate maximum amount of Debt-Like Items paid from the Acquisition Facility and the Incremental Facility does not exceed £15,000,000).

- (c) Each Borrower shall apply all amounts borrowed by it under the Revolving Facility and any utilisation of any Ancillary Facility towards:
 - (i) (if required) refinancing working capital requirements of the Target Group on, or within five Business Days of, the Closing Date; and
 - (ii) the general corporate and working capital purposes of the Group but not including prepayment of any Term Loan or, in the case of any utilisation of any Ancillary Facility, prepayment of any Revolving Facility Loan.

3.2 **Monitoring**

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

3.3 **Conversion from Scheme to Offer**

- (a) At any time before the Effective Date, the Company may give written notice to the Agent (an "**Offer Conversion Notice**") that it intends to withdraw the Scheme and to launch an Offer instead.
- (b) Within:
 - (i) 7 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; and
 - (ii) 21 days of the date of the Offer Conversion Notice, the Company shall, request the consent of the Takeover Panel to issue an Offer Press Announcement and, subject to receipt of such consent and to the Scheme having been withdrawn, procure that an Offer Press Announcement is issued.

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 Loan if on or before the Closing Date, the Agent has received, or is satisfied (acting reasonably) that it will receive or has waived the requirement to receive, all of the documents and other evidence listed in Part A (the "**Part A Conditions**") and Part B (the "**Part B Conditions**") of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Agent (acting on the instructions of all of the Lenders, acting reasonably). The Agent shall notify the Parent and the Lenders in writing promptly upon being so satisfied in respect of (separately) Part A Conditions and Part B Conditions (each such notification being the "**CP Satisfaction Notification**").

- (b) Other than to the extent that the 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.
- (c) Each CP Satisfaction Notification shall be irrevocable and upon receipt by the Parent of a CP Satisfaction Notification, the Lenders shall not be able to decline to comply with Clause 5.4 (*Lenders' participation*) in respect of the Part A Conditions or Part B Conditions (as the case may be) by reason of this Clause 4.1 and the Part A Conditions and the Part B Conditions (as the case may be) shall be deemed satisfied for all purposes.

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*) if:

- (a) in relation to a Loan other than one to which Clause 4.5 (*Utilisations during the Certain Funds Period*) applies, on the date of the Utilisation Request and on the proposed Utilisation Date:
 - (i) in the case of a Rollover Loan, no Declared Default is continuing;
 - (ii) in relation to an Acquisition Facility Loan to fund the Elysian Payment, no Event of Default is continuing;
 - (iii) in the case of any other Loan, no Default is continuing or would result from the proposed Loan; and
 - (iv) in relation to any Loan on the Closing Date, all the representations and warranties in Clause 23 (*Representations*) or, in relation to any other Loan (other than in relation to a Rollover Loan), the Repeating Representations to be made by each Obligor are true in all material respects (unless already qualified in relation to materiality);
- (b) in relation to an Acquisition Facility Loan, the Parent has delivered to the Agent a certificate signed by a director of the Parent including calculations showing in reasonable detail that Leverage for the most recently ended Relevant Period (pro forma for the Utilisation and its application (including any acquisition)) would not have exceeded 5.75:1 (provided that, for the purposes of calculating Leverage during the period from the date of this Agreement until the date of delivery of the Compliance Certificate in relation to the Relevant Period ending on 30 September 2020 in respect of an Acquisition Facility Loan which is applied solely for the purpose of the settlement of all or part of any Debt-Like Item which is a Known Exceptional Item, Consolidated Pro Forma EBITDA shall (if Structuring EBITDA is higher than Consolidated Pro Forma EBITDA) be replaced with Structuring EBITDA); and
- (c) in relation to an Incremental Facility Loan, the Parent has delivered to the Agent a certificate signed by two directors of the Parent (one of which must be the chief financial officer) including calculations showing in reasonable detail that:

- (i) Leverage for the most recently ended Relevant Period (pro forma for the Utilisation and its application (including any acquisition)) would not have exceeded:
 - (1) for any Utilisation during the Availability Period applicable to the Acquisition Facility, 5.75:1; and
 - (2) for any Utilisation at any other time, the lower of:
 - (A) 5.50:1; and
 - (B) 90 per cent of the scheduled Leverage covenant level under paragraph (b) of Clause 25.2 (*Financial condition*) for the Quarter Date immediately preceding the Utilisation Date; and
- (ii) the Group is projected to be in compliance with the financial covenants in Clause 25.2 (*Financial condition*) for the next four Relevant Periods (pro forma for the Utilisation and its application).

4.3 **Conditions relating to Optional Currencies**

- (a) A currency will constitute an Optional Currency in relation to a Revolving Facility Loan or an Incremental Facility Loan 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 on the Utilisation Date for that Loan; and
 - (ii) it is euro or US dollars or it has been approved by the Agent (acting on the instructions of all the Lenders under the Revolving Facility or the relevant Incremental Facility) on or prior to receipt by the Agent of the relevant Utilisation Request for that Revolving Facility Loan.
- (b) If the Agent has received a written request from the Parent for a currency to be approved under paragraph (a)(ii) above, the Agent will confirm to the Parent by the Specified Time:
 - (i) whether or not the relevant Lenders have granted their approval; and
 - (ii) if approval has been granted, the minimum amount for any subsequent Loan in that currency.

4.4 **Maximum number of Loans**

- (a) A Borrower (or the Parent) may not deliver a Utilisation Request if as a result of the proposed Loan:
 - (i) more than two Facility B Loans would be outstanding;
 - (ii) more than five Acquisition Facility Loans would be outstanding;
 - (iii) more than ten Incremental Facility Loans would be outstanding; and
 - (iv) more than ten Revolving Facility Loans would be outstanding.

- (b) Any Loan made by a single Lender under Clause 6.2 (*Unavailability of a currency*) shall not be taken into account in this Clause 4.4.
- (c) Any Separate Loan shall not be taken into account in this Clause 4.4.

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 proposed Utilisation Date no Major Default is continuing or would result from the proposed Certain Funds Utilisation.
- (b) Notwithstanding any other term of any Finance Document, 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 10.1 (*Illegality*) (to the extent that such Clause relates to a Lender's ability to fund, issue or maintain its participation in any Loan) and 11.1 (*Exit*)), none of the 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 the Revolving Facility or exercise any similar right or remedy or make or enforce any claim under the 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 Loan 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 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 Finance Parties notwithstanding that they may not have been used or been available for use during the Certain Funds Period.

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 such later time as the Agent may agree).

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 Loan comply with Clause 5.3 (*Currency and amount*); and
 - (iv) the proposed Interest Period complies with Clause 14 (*Interest Periods*).
- (b) Multiple Loans may be requested in a Utilisation Request where the proposed Utilisation Date is the Closing Date. Only one Loan 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, the Base Currency;
 - (ii) in relation to the Acquisition Facility, the Base Currency;
 - (iii) in relation to an Incremental Facility, the Base Currency or an Optional Currency as set out in the relevant Incremental Facility Notice; and
 - (iv) in relation to the Revolving Facility, the Base Currency or an Optional Currency.
- (b) The amount of the proposed Loan must be:
 - (i) for Facility B, a minimum amount of £250,000 (and in integral multiples of £250,000 thereafter) or the Available Facility for Facility B; or
 - (ii) for the Acquisition Facility, a minimum amount of £250,000 (and in integral multiples of £250,000 thereafter) or the Available Facility for the Acquisition Facility; or
 - (iii) for the Revolving Facility:

- (1) if the currency selected is the Base Currency, a minimum amount of £250,000 (and in integral multiples of £250,000 thereafter) or the Available Facility for the Revolving Facility;
- (2) if the currency selected is euro, a minimum amount of €250,000 (and in integral multiples of €250,000 thereafter) or the Available Facility for the Revolving Facility; or
- (3) if the currency selected is an Optional Currency other than euros, the minimum amount specified by the Agent pursuant to Clause 4.3(b)(ii) (*Conditions relating to Optional Currencies*) or, if less, the Available Facility; or
- (iv) an amount equal to £250,000 (and in integral multiples of £250,000 thereafter) for any Incremental Facility or, if less, the Available Facility.

5.4 **Lenders' participation**

- (a) If the conditions set out in this Agreement have been met, and subject (in the case of any Revolving Facility Loan only) to Clause 9.2 (*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 relevant Available Commitment to the relevant Available Facility immediately prior to making the Loan.
- (c) If a Revolving Facility Loan is made to repay Ancillary Outstandings, each Lender's participation in that Loan 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 Revolving Facility Loans then outstanding bearing the same proportion to the aggregate amount of the Revolving Facility Loans then outstanding as its Revolving Facility Commitments bears to the Total Revolving Facility Commitments.
- (d) The Agent shall determine the Base Currency Amount of each 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 34.1 (*Payments to the Agent*) by the Specified Time.

5.5 **Limitations on Loans**

- (a) The Revolving Facility shall not be utilised unless Facility B has been utilised prior to or concurrently with such Revolving Facility Loan.
- (b) The Acquisition Facility shall not be utilised unless Facility B has been utilised in full prior to or concurrently with such Acquisition Facility Loan.
- (c) The maximum aggregate Base Currency Amount of all outstanding Revolving Facility Loans shall not exceed the Total Revolving Facility Commitments from time to time.

- (d) No Incremental Facility shall be utilised unless each of Facility B and the Acquisition Facility has been utilised in full.

5.6 **Cancellation of Commitment**

- (a) The Facility B Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for Facility B.
- (b) The Acquisition Facility Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for the Acquisition Facility.
- (c) The Revolving Facility Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for the Revolving Facility.
- (d) The Incremental Facility Commitments relating to an Incremental Facility which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for that Incremental Facility.

5.7 **Clean down**

The Parent shall ensure that the aggregate of the Base Currency Amounts of:

- (a) all Revolving Facility Loans;
- (b) any cash loan element of the Ancillary Outstandings under all the Ancillary Facilities;
- (c) (to the extent included within paragraphs (a) and (b) above), any cash loans covered by a letter of credit or guarantee issued under an Ancillary Facility as contemplated by the definition of Permitted Financial Indebtedness;

LESS

- (d) any amount of cash or Cash Equivalent Investments held by wholly-owned members of the Group,

(as confirmed in a certificate signed by a director of the Parent provided to the Agent within 10 Business Days after the end of each Financial Year) shall not exceed zero for a period of not less than five successive Business Days in each such Financial Year falling after 31 December 2019. The Parent shall not be required to comply with this Clause 5.7 in consecutive Financial Quarters.

6. **OPTIONAL CURRENCIES**

6.1 **Selection of currency**

A Borrower (or the Parent on its behalf) shall select the currency of a Revolving Facility Loan in a Utilisation Request.

6.2 **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 or Parent to that effect by the Specified Time on that day. In this event, any Lender that gives notice pursuant to this Clause 6.2 will be required to participate in the Loan 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.

6.3 **Agent's calculations**

Each Lender's participation in a Loan will be determined in accordance with Clause 5.4(b) (*Lenders' participation*).

7. **ANCILLARY FACILITIES**

7.1 **Type of Facility**

An Ancillary Facility may be by way of:

- (a) an overdraft 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.

7.2 **Availability**

- (a) If the Parent and a Lender agree and except as otherwise provided in this Agreement, the Lender may provide all or part of its Revolving Facility Commitment as an Ancillary Facility (which shall (except for the purpose of determining the Majority Lenders, Majority Revolving Facility Lenders or all Lenders and of Clause 40.9 (*Replacement of a Lender*)) be reduced by the amount of the Ancillary Commitment under that Ancillary Facility).
- (b) 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 (or, in the case of an Ancillary Facility to be established on the Closing Date, not later than 9.30am two Business Days prior to such Utilisation Date or such shorter period as the Agent may approve), the Agent has received from the Parent:
 - (i) a notice in writing of the establishment of an Ancillary Facility and specifying:

- (1) the proposed Borrower(s) (or Affiliates of a Borrower) which may use the Ancillary Facility;
 - (2) the proposed Ancillary Commencement Date and expiry date of the Ancillary Facility;
 - (3) the proposed type of Ancillary Facility to be provided;
 - (4) the proposed Ancillary Lender;
 - (5) the proposed Ancillary Commitment, the maximum amount of the Ancillary Facility and, in the case of a Multi-account Overdraft, its Designated Gross Amount and its Designated Net Amount; and
 - (6) 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.

The Agent shall promptly notify the Ancillary Lender and the other Lenders of the establishment of an Ancillary Facility.

(c) Subject to compliance with paragraph 7.2(a) 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.

7.3 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 the Borrowers nominated pursuant to Clause 7.9 (*Affiliates of Borrowers*) to use the Ancillary Facility;
 - (iii) may not allow the Ancillary Outstandings to exceed the Ancillary Commitment;
 - (iv) may not allow a Lender's Ancillary Commitment to exceed that Lender's Available Commitment relating to the Revolving Facility (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 zero and that all Ancillary Outstandings are repaid (unless cash cover or a counter-indemnity is (or will be) provided in respect of all the Ancillary

Outstandings in form and substance satisfactory to the relevant Ancillary Lender (acting reasonably)) not later than the Termination Date applicable to the Revolving Facility (or such earlier date as the 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 37.3 (*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 16.4 (*Interest, commission and fees on Ancillary Facilities*).

7.4 Repayment of Ancillary Facility

- (a) An Ancillary Facility shall cease to be available on the Termination Date applicable to the 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 (and its Revolving Facility Commitment shall be increased accordingly).
- (c) No Ancillary Lender may demand repayment or prepayment of any Ancillary Outstandings (or demand cash cover for any liabilities under an Ancillary Facility or, without the prior written consent of the relevant Borrower or the Parent, cancel or terminate an Ancillary Facility) 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 Revolving Facility Commitments have been cancelled in full, or all outstanding Loans under the Revolving Facility have become due and payable in accordance with the terms of this Agreement; 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) both:
 - (1) the Available Commitments relating to the Revolving Facility; and
 - (2) the notice of the demand given by the Ancillary Lender,

would not prevent the relevant Borrower funding the repayment of those Ancillary Outstandings in full by way of Revolving Facility Loan.

- (d) If a Revolving Facility Loan is made to repay Ancillary Outstandings in full, the relevant Ancillary Commitment shall be reduced to zero.

7.5 Limitation on Ancillary Outstandings

Each Borrower shall procure that:

- (a) the Ancillary Outstandings under any Ancillary Facility shall not exceed the Ancillary Commitment applicable to that Ancillary Facility: and
- (b) in relation to a Multi-account Overdraft:
 - (i) the Ancillary Outstandings shall not exceed the Designated Net Amount applicable to that Multi-account Overdraft; and
 - (ii) the Gross Outstandings shall not exceed the Designated Gross Amount applicable to that Multi-account Overdraft.

7.6 Adjustment for Ancillary Facilities upon acceleration

- (a) In this Clause 7.6:

"Revolving Outstandings" means, in relation to a Lender, the aggregate of the equivalent in the Base Currency of (i) its participation in each Revolving Facility Loan then outstanding (together with the aggregate amount of all accrued interest, fees and commission owed to it as a Lender under the 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.

- (b) If a notice is served under Clause 27.19 (*Acceleration*) (other than a notice declaring Loans to be due on demand), each Lender and each Ancillary Lender (subject to paragraph (g) below shall promptly adjust (by making or receiving (as the case may be) corresponding transfers of rights and obligations under the Finance Documents relating to Revolving Outstandings) their claims in respect of amounts outstanding to them under the Revolving Facility and each Ancillary Facility to the extent necessary 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 Revolving Facility Commitment bears to the Total Revolving Facility Commitments, each as at the date the notice is served under Clause 27.19 (*Acceleration*).
- (c) 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 7.6 above, then each Lender and Ancillary Lender will make a further adjustment (by making or receiving (as the case may be)) corresponding transfers of rights and obligations under the Finance Documents relating to Revolving Outstandings (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.

- (d) Any transfer of rights and obligations relating to Revolving Outstandings made pursuant to this Clause 7.6 shall be made for a purchase price in cash, payable at the time of transfer, in an amount equal to those Revolving Outstandings (less any accrued interest, fees and commission to which the transferor will remain entitled to receive notwithstanding that transfer, pursuant to Clause 28.11 (*Pro rata interest settlement*)).
- (e) Prior to the application of the provisions of paragraph (b) above, an Ancillary Lender that has provided a Multi-account Overdraft shall set-off any Available Credit Balance on any account comprised in that Multi-account Overdraft.
- (f) All calculations to be made pursuant to this Clause 7.6 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.
- (g) This Clause 7.6 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 Finance Document) in either the Base Currency, a currency which has been an Optional Currency for the purpose of any Revolving Facility Loan or in another currency which is acceptable to that Lender.

7.7 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 Finance Parties.

7.8 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, except for in relation to Clause 17 (*Tax gross-up and indemnities*), the Lender and its Affiliate shall be treated as a single Lender whose Revolving Facility Commitment is the amount set out opposite the relevant Lender's name in Part B of Schedule 1 (*The Original Parties*) or, if applicable following the transfer of Commitments pursuant to Clause 28.12 (*Transfer of Commitments of ACE IV Entities on the Closing Date*), Part C of Schedule 1 (*The Original Parties*) and/or the amount of any 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 or not deemed to be zero pursuant to Clause 29.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates or Investors*). For the purposes of calculating the Lender's Available Commitment with respect to the 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 Clause 7.2 (*Availability*).

- (c) An Affiliate of a Lender which becomes an Ancillary Lender shall accede to the Intercreditor Agreement as an Ancillary Lender and any person which so accedes to the Intercreditor Agreement shall, at the same time, become a Party as an Ancillary Lender in accordance with clause 19.10 (*Creditor 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, its Affiliate shall cease to have any obligations under this Agreement or any Ancillary Document.
- (e) Where this Agreement or any other 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.

7.9 **Affiliates of Borrowers**

- (a) Subject to the terms of this Agreement, an Affiliate of a Borrower which is an Obligor may with the approval of the relevant Lender become a borrower with respect to an Ancillary Facility provided that it accedes to this Agreement as an Additional Guarantor in accordance with Clause 30.4 (*Additional Guarantor*).
- (b) The Parent shall specify any relevant Affiliate of a Borrower in any notice delivered by the Parent to the Agent pursuant to Clause 7.2 (*Availability*).
- (c) If a Borrower ceases to be a Borrower under this Agreement in accordance with Clause 30.3 (*Resignation of a Borrower*), its Affiliate shall cease to have any rights under this Agreement or any Ancillary Document.
- (d) Where this Agreement or any other 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.
- (e) Any reference in this Agreement or any other Finance Document to a Borrower being under no obligations (whether actual or contingent) as a Borrower under such Finance Document shall be construed to include a reference to any Affiliate of a Borrower being under no obligations under any Finance Document or Ancillary Document.

7.10 **Revolving Facility Commitment amounts**

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

- (a) its Ancillary Commitment; and/or
- (b) the Ancillary Commitment of its Affiliates.

7.11 **Amendments and Waivers – Ancillary Facilities**

No amendment or waiver of a term of any Ancillary Facility shall require the consent of any 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 any Finance Document (including, for the avoidance of doubt, under this Clause 7). In such a case, Clause 40 (*Amendments and Waivers*) will apply.

8. ESTABLISHMENT OF INCREMENTAL FACILITIES

8.1 Selection of Incremental Facility Lenders

(a) Definitions

In this Agreement:

"Eligible Institution" means any Lender or other bank, financial institution, trust, fund or other entity selected by the Parent and which, in each case, is not a Sponsor Affiliate or a member of the Group.

"Further Incremental Facility Shortfall" means, in relation to a Proposed Facility Size, any amount by which that Proposed Facility Size exceeds the aggregate of the proposed Incremental Facility Commitments offered by the Participating Lenders following the operation of paragraph (f) below.

"Incremental Facility Proportion" means, in relation to a Proposed Facility Size, the proportion borne from time to time by a Participating Lender's proposed Incremental Facility Commitment to that Proposed Facility Size.

"Incremental Facility Proposal" means a notice from the Parent addressed to each Lender which:

- (i) invites each Lender to participate in a proposed Incremental Facility; and
- (ii) sets out the proposed Incremental Facility Terms applicable to that Incremental Facility and any fee or commission proposed to be payable to lenders under that proposed Incremental Facility.

"Incremental Facility Shortfall" means, in relation to a Proposed Facility Size, any amount by which that Proposed Facility Size exceeds the aggregate of the proposed Incremental Facility Commitments offered by the Participating Lenders pursuant to paragraph (c) below (as adjusted, if applicable, pursuant to paragraph (e) below).

"Incremental Facility Solicitation Period" means, in relation to an Incremental Facility Proposal, the period of time starting on the date of that Incremental Facility Proposal and ending on the date which falls 10 Business Days after the date of that Incremental Facility Proposal.

"Participating Lender" means, in relation to an Incremental Facility Proposal, any Lender which makes an offer in respect of the Incremental Facility proposed in that Incremental Facility Proposal pursuant to paragraph (c) below.

"Proposed Facility Size" means, in relation to an Incremental Facility Proposal, the proposed Total Incremental Facility Commitments set out in that Incremental Facility Proposal.

(b) **Invitation to all Lenders**

The Parent shall solicit potential Incremental Facility Lenders for any proposed Incremental Facility by delivery of an Incremental Facility Proposal to the Agent and each Lender.

(c) **Lender's offer**

Any Lender which wishes to become an Incremental Facility Lender in respect of an Incremental Facility proposed in an Incremental Facility Proposal shall notify the Parent and the Agent of the proposed Incremental Facility Commitment that it unconditionally offers to make available in respect of that proposed Incremental Facility no later than 5:00 p.m. on the last day of the Incremental Facility Solicitation Period relating to that Incremental Facility Proposal.

(d) **Expiry of Lender's offer**

Each Participating Lender's offer under paragraph (c) above (as adjusted, if applicable, pursuant to paragraphs (e) or (f) below) in respect of an Incremental Facility proposed in an Incremental Facility Proposal shall, unless otherwise agreed by all the Participating Lenders under that Incremental Facility Proposal, expire on the earlier of:

- (i) the day falling 10 Business Days after the last day of the Incremental Facility Solicitation Period relating to that Incremental Facility Proposal; and
- (ii) the date of any Incremental Facility Notice delivered in respect of that proposed Incremental Facility.

(e) **Scaleback of Lenders' offers**

If the aggregate amount of the proposed Incremental Facility Commitments offered by the Participating Lenders pursuant to paragraph (c) above in respect of an Incremental Facility proposed in an Incremental Facility Proposal exceeds the Proposed Facility Size set out in that Incremental Facility Proposal, those proposed Incremental Facility Commitments shall be reduced to the extent necessary such that each such Participating Lender's Incremental Facility Proportion relating to that Proposed Facility Size is no greater than the proportion borne by the aggregate of its Commitments to the aggregate of the Commitments of all of the Lenders which are Participating Lenders in respect of that Incremental Facility Proposal.

(f) **Invitation to Participating Lenders if shortfall**

If there is an Incremental Facility Shortfall relating to a Proposed Facility Size set out in an Incremental Facility Proposal (whether resulting from the operation of paragraph (e) above or otherwise), the Parent shall invite each Participating Lender under that Incremental Facility Proposal to increase the proposed Incremental Facility Commitment offered by it in respect of the Incremental Facility proposed in that Incremental Facility Proposal by an amount no greater than its Incremental Facility Proportion of that Incremental Facility Shortfall.

(g) **Deadline for Participating Lenders to offer increase**

Each Participating Lender under an Incremental Facility Proposal shall notify the Parent and the Agent of its offer of an increased proposed Incremental Facility Commitment (if any) pursuant to paragraph (f) above no later than 5:00 p.m. on the day falling five Business Days after the last day of the Incremental Facility Solicitation Period relating to that Incremental Facility Proposal.

(h) **Wider invitation if further shortfall**

If there is a Further Incremental Facility Shortfall relating to a Proposed Facility Size set out in an Incremental Facility Proposal, the Parent may, in any manner, invite any Eligible Institutions to offer proposed Incremental Facility Commitments in respect of the Incremental Facility proposed in that Incremental Facility Proposal in a maximum aggregate amount no greater than that Further Incremental Facility Shortfall.

(i) **Participating Lender's Incremental Facility Commitment**

Each Participating Lender's Incremental Facility Commitment specified in any Incremental Facility Notice delivered in respect of an Incremental Facility proposed in an Incremental Facility Proposal shall, unless that Participating Lender agrees to be allocated an Incremental Facility Commitment in a lower amount, be in an amount equal to the amount of the proposed Incremental Facility Commitment offered by that Participating Lender in response to that Incremental Facility Proposal (as adjusted, if applicable, pursuant to paragraphs (e) or (f) above).

(j) **Incremental Facility Terms**

The Incremental Facility Terms specified in any Incremental Facility Notice delivered in respect of an Incremental Facility and any fee or commission payable to Incremental Facility Lenders under that Incremental Facility shall be the same as those set out in the Incremental Facility Proposal relating to that Incremental Facility.

(k) **Amendment and withdrawal**

The Parent shall not amend any Incremental Facility Proposal but may withdraw an Incremental Facility Proposal at any time.

(l) **Effect of withdrawal**

Withdrawal of an Incremental Facility Proposal shall terminate the process set out in this Clause 8.1 in respect of the Incremental Facility proposed in that Incremental Facility Proposal and that Incremental Facility shall not be established.

8.2 Delivery of Incremental Facility Notice

On completion of the solicitation process set out in Clause 8.1 (*Selection of Incremental Facility Lenders*), the Parent and each relevant Incremental Facility Lender may request the establishment of an Incremental Facility by the Parent delivering to the Agent a duly completed Incremental Facility Notice not later than 10 Business Days prior to the proposed Establishment Date specified in that Incremental Facility Notice.

8.3 Completion of an Incremental Facility Notice

- (a) Each Incremental Facility Notice is irrevocable and will not be regarded as having been duly completed unless:
- (i) it sets out the Incremental Facility Terms applicable to the Incremental Facility to which it relates;
 - (ii) each of:
 - (1) the Incremental Facility Terms applicable to that Incremental Facility;
 - (2) the Aggregate Yield applicable to that Incremental Facility; and
 - (3) any fees payable to the arranger of that Incremental Facility,comply with Clause 8.5 (*Restrictions on Incremental Facility Terms and fees*); and
 - (iii) the Incremental Facility Lenders and the Incremental Facility Commitments set out in that Incremental Facility Notice have been selected and allocated in accordance with Clause 8.1 (*Selection of Incremental Facility Lenders*).
- (b) Only one Incremental Facility may be requested in an Incremental Facility Notice.

8.4 Maximum number of Incremental Facilities

The Parent may not deliver an Incremental Facility Notice if as a result of the establishment of the proposed Incremental Facility more than ten Incremental Facilities would have been established under this Agreement.

8.5 Restrictions on Incremental Facility Terms and fees

(a) **Currency**

Any Incremental Facility shall be denominated in the Base Currency or an Optional Currency.

(b) **Size**

The Aggregate Total Incremental Facility Commitments shall not, at any time, exceed £100,000,000.

(c) **Aggregate Yield**

- (i) The Aggregate Yield applicable to any Incremental Facility shall not exceed the Aggregate Yield applicable to Facility B (or if the Commitments under that Facility have been reduced to zero, Facility B immediately prior to that reduction) by more than one per cent per annum, unless the Aggregate Yield under Facility B is increased so that the Aggregate Yield under the Incremental Facility does not exceed the Aggregate Yield applicable to Facility B by more than one per cent per annum.

- (ii) In this Agreement, "**Aggregate Yield**" means in relation to a Facility, the aggregate of:
 - (1) the highest Margin applicable to that Facility; and
 - (2) any fee or commission (other than any fee payable pursuant to Clause 16.1 (*Commitment fee*)) payable to the Lenders (in their capacity as such) under that Facility (amortised (on a straight line basis) over a period of 3 years).

(d) **Borrowers**

Any Incremental Facility shall be available only to a Borrower of the Acquisition Facility.

(e) **Termination Date**

Clause 8.12(c) (*Repayment*) shall not provide for the scheduled repayment of any Incremental Facility before the Termination Date applicable to Facility B.

8.6 Conditions to establishment

- (a) The establishment of an Incremental Facility will only be effected in accordance with Clause 8.7 (*Establishment of Incremental Facility*) if:
 - (i) on the date of the Incremental Facility Notice and on the Establishment Date:
 - (1) no Event of Default is continuing or would result from the establishment of the proposed Incremental Facility; and
 - (2) the Repeating Representations to be made by each Obligor are true in all material respects;
 - (ii) each Incremental Facility Lender enters into the documentation required for it to accede as a party to the Intercreditor Agreement;
 - (iii) each Incremental Facility Lender delivers an Incremental Facility Lender Certificate to the Agent and the Parent; and
 - (iv) the Agent has received in form and substance satisfactory to it:
 - (1) such documents (if any) as are reasonably necessary as a result of the establishment of that Incremental Facility to maintain the effectiveness of the Security, guarantees, indemnities and other assurance against loss provided to the Finance Parties pursuant to the Finance Documents; and
 - (2) any applicable Incremental Facility Supplemental Security; and
 - (3) a certificate signed by two directors of the Parent (one of which must be the chief financial officer) including calculations showing in reasonable detail that:

- (A) Leverage (pro forma for the establishment and utilisation in full of the relevant Incremental Facility) does not exceed:
 - (1) during the Availability Period applicable to the Acquisition Facility, 5.75:1; or
 - (2) at any other time, the lower of: (i) 5.50:1; and 90 per cent of the scheduled Leverage covenant level under paragraph (b) of Clause 25.2 (*Financial condition*) for the Quarter Date immediately preceding the Commitment Date; and
 - (B) the Group is projected to be in compliance with the financial covenants in Clause 25.2 (*Financial condition*) for the next four Relevant Periods (pro forma for the establishment and utilisation in full of the relevant Incremental Facility).
- (b) Paragraphs (a)(iv)(1) and (a)(iv)(2) above shall be subject to the Agreed Security Principles to the same extent that the relevant Obligor's obligation to grant the relevant Security, guarantee, indemnity or other assurance against loss was subject to the Agreed Security Principles.
 - (c) The Agent shall notify the Parent and the Lenders promptly upon being satisfied under paragraph (a)(iv) above.
 - (d) 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 (c) 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.

8.7 Establishment of Incremental Facility

- (a) If the conditions set out in this Agreement have been met the establishment of an Incremental Facility is effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Incremental Facility Notice. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Incremental Facility Notice appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Incremental Facility Notice.
- (b) The Agent shall only be obliged to execute an Incremental Facility Notice delivered to it by the Parent once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the establishment of the relevant Incremental Facility.
- (c) On the Establishment Date:
 - (i) subject to the terms of this Agreement the Incremental Facility Lenders make available a Base Currency term loan facility in an aggregate amount equal to the Total Incremental Facility Commitments specified in the Incremental Facility Notice which will be available to the Borrowers specified in the Incremental Facility Notice;

- (ii) each Incremental Facility Lender shall assume all the obligations of a Lender corresponding to the Incremental Facility Commitment (the "**Assumed Incremental Facility Commitment**") specified opposite its name in the Incremental Facility Notice as if it had been an Original Lender in respect of that Incremental Facility Commitment;
- (iii) each of the Obligors and each Incremental Facility Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and that Incremental Facility Lender would have assumed and/or acquired had that Incremental Facility Lender been an Original Lender in respect of the Assumed Incremental Facility Commitment;
- (iv) each Incremental Facility Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Incremental Facility Lender and those Finance Parties would have assumed and/or acquired had the Incremental Facility Lender been an Original Lender in respect of the Assumed Incremental Facility Commitment; and
- (v) each Incremental Facility Lender shall become a Party as a "Lender".

8.8 **Notification of establishment**

The Agent shall, as soon as reasonably practicable after the establishment of an Incremental Facility notify the Parent and the Lenders of that establishment and the Establishment Date of that Incremental Facility.

8.9 **Incremental Facility fees**

- (a) The Parent shall, on the date on which the establishment of an Incremental Facility becomes effective, pay to the Agent (for its own account) a fee of £2,000.
- (b) Subject to Clause 8.5 (*Restrictions on Incremental Facility Terms and fees*) the Parent may:
 - (i) pay to any Incremental Facility Lender under an Incremental Facility a fee in the amount and at the times agreed between the Parent and that Incremental Facility Lender in a Fee Letter; and
 - (ii) pay to any arranger of any Incremental Facility a fee in the amount and at the times agreed between the Parent and that arranger in a Fee Letter.

8.10 **Incremental Facility costs and expenses**

The Parent shall within five Business Days of written demand pay the Agent and the Security Agent 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 the establishment of an Incremental Facility under this Clause 8.

8.11 **Prior amendments binding**

Each Incremental Facility Lender, by executing an Incremental Facility Notice, 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 establishment of the Incremental Facility requested in that Incremental Facility Notice became effective in accordance with this Agreement and that it is bound by that decision to the same extent as it would have been had it been an Original Lender.

8.12 Limitation of responsibility

Clause 28.5 (*Limitation of responsibility of Existing Lenders*) shall apply mutatis mutandis in this Clause 8 in relation to any Incremental Facility Lender as if references in that Clause to:

- (a) an "**Existing Lender**" were references to all the Lenders immediately prior to the Establishment Date;
- (b) the "**New Lender**" were references to an "**Incremental Facility Lender**"; and
- (c) a "re-transfer" and "re-assignment" were references respectively to a "transfer" and "assignment".

SECTION 4

REPAYMENT, PREPAYMENT AND CANCELLATION

9. REPAYMENT

9.1 Repayment of Term Loans

- (a) The Company shall repay the aggregate Facility B Loans borrowed by it on the Termination Date for Facility B.
- (b) The Borrowers under an Acquisition Facility shall repay the aggregate Acquisition Facility Loans borrowed by it on the Termination Date for the Acquisition Facility.
- (c) The Borrowers under an Incremental Facility shall repay the Incremental Facility Loans under that Incremental Facility on the Termination Date relating to that Incremental Facility.

9.2 Repayment of Revolving Facility Loans

- (a) Subject to paragraph 9.2(d) below, each Borrower which has drawn a Revolving Facility Loan shall repay that Loan on the last day of its Interest Period.
- (b) Subject to the terms of this Agreement, the Borrowers may re-borrow any part of a Revolving Facility Loan and re-utilise any part of the Revolving Facility which is repaid during its Availability Period.
- (c) All amounts outstanding under the Revolving Facility on its Termination Date shall be repaid on that date.
- (d) Without prejudice to each Borrower's obligation under paragraph 9.2(a) above, if:
 - (i) one or more Revolving Facility Loans are to be made available to a Borrower:
 - (1) on the same day that a maturing Revolving Facility Loan is due to be repaid by that Borrower;
 - (2) in the same currency as the maturing Revolving Facility Loan (unless it arose as a result of the operation of Clause 6.2 (*Unavailability of a currency*)); and
 - (3) in whole or in part for the purpose of refinancing the maturing Revolving Facility Loan; and
 - (ii) the proportion borne by each Lender's participation in the maturing Revolving Facility Loan to the amount of that maturing Revolving Facility Loan is the same as the proportion borne by that Lender's participation in the new Revolving Facility Loans to the aggregate amount of those new Revolving Facility Loans,

the aggregate amount of the new Revolving Facility Loans shall, unless the relevant Borrower or the Parent notifies the Agent to the contrary in the relevant Utilisation Request, be treated as if applied in or towards repayment of the maturing Revolving Facility Loan so that:

- (1) if the amount of the maturing Revolving Facility Loan exceeds the aggregate amount of the new Revolving Facility Loans:
 - (2) the relevant Borrower will only be required to make a payment under Clause 34.1 (*Payments to the Agent*) in the relevant currency in an amount equal to that excess; and
 - (3) each Lender's participation (if any) in the new Revolving 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 maturing Revolving Facility Loan and that Lender will not be required to make a payment under Clause 34.1 (*Payments to the Agent*) in respect of its participation in the new Revolving Facility Loans; and
 - (4) if the amount of the maturing Revolving Facility Loan is equal to or less than the aggregate amount of the new Revolving Facility Loans:
 - (5) the relevant Borrower will not be required to make a payment under Clause 34.1 (*Payments to the Agent*); and
 - (6) each Lender will be required to make a payment under Clause 34.1 (*Payments to the Agent*) in respect of its participation in the new Revolving Facility Loans only to the extent that its participation (if any) in the new Revolving Facility Loans exceeds that Lender's participation (if any) in the maturing Revolving Facility Loan and the remainder of that Lender's participation in the new Revolving 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 maturing Revolving Facility Loan.
- (e) 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 applicable to the 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.
- (f) If the Borrower makes a prepayment of a Revolving Facility Loan pursuant to Clause 10.4 (*Voluntary prepayment of Revolving Facility Loans*), a Borrower to whom a Separate Loan is outstanding may prepay that Loan by giving not less than three Business Days' prior notice to the Agent. The proportion borne by the amount of the prepayment of the Separate Loan to the amount of the Separate Loans shall not exceed the proportion borne by the amount of the prepayment of the Revolving Facility Loan to the Revolving Facility Loans. The Agent will forward a copy of a prepayment notice received in accordance with this paragraph 9.2(f) to the Defaulting Lender concerned as soon as practicable on receipt.
- (g) A Borrower to whom a Separate Loan is outstanding may prepay that Loan by giving not less than three Business Days' prior notice to the Agent. The Agent will forward a copy of a prepayment notice received in accordance with this paragraph 9.2(g) to the Defaulting Lender concerned as soon as practicable on receipt.

- (h) 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 Agent (for the account of that Defaulting Lender) on the last day of each Interest Period of that Loan.
- (i) The terms of this Agreement relating to Revolving Facility Loans generally shall continue to apply to Separate Loans other than to the extent inconsistent with paragraphs (e) to (h) above, in which case those Clauses shall prevail in respect of any Separate Loan.

10. **ILLEGALITY, VOLUNTARY PREPAYMENT AND CANCELLATION**

10.1 **Illegality**

If it becomes unlawful in any applicable jurisdiction for a Lender or Affiliate of a Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in any Loan:

- (a) that Lender or Affiliate of a Lender shall promptly notify the Agent upon becoming aware of that event;
- (b) save where such Lender is to be repaid or replaced pursuant to Clause 40.9 (*Replacement of Lender*):
 - (i) upon the Agent notifying the Parent, the Commitment of that Lender will be immediately cancelled; and
 - (ii) to the extent that the Lender's participation has not been transferred pursuant to Clause 40.9 (*Replacement of Lender*), each Borrower shall repay that Lender's (or Affiliate's, as the case may be) participation in the Loans made to that Borrower on the last day of the Interest Period for each Loan occurring after the Agent has notified the Parent or, if earlier, the date specified by the Lender (or Affiliate of a Lender) in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment(s) shall be cancelled in the amount of the participations repaid.

10.2 **Voluntary cancellation**

The Parent may, if it gives the Agent not less than five Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of £250,000) of an Available Facility. Any cancellation under this Clause 10.2 shall reduce the Commitments of the Lenders rateably under that Facility.

10.3 **Voluntary prepayment of Term Loans**

- (a) Subject to paragraph (b) below, a Borrower to which a Term Loan has been made may, if it or the Parent gives the Agent not less than five Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, 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 £250,000).

- (b) A Borrower may, if it gives the Agent not less than 5 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay any amount of a Loan outstanding under Facility B and/or an Acquisition Facility which is constituted by capitalised PIK Interest.
- (c) A Term Loan may only be prepaid after the last day of the Availability Period for the applicable Facility (or, if earlier, the day on which the applicable Available Facility is zero).

10.4 Voluntary prepayment of Revolving Facility Loans

A Borrower to which a Revolving Facility Loan has been made may, if it or the Parent gives the Agent not less than five Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of a Revolving Facility Loan (but if in part, being an amount that reduces the Base Currency Amount of the Revolving Facility Loan by a minimum amount of £250,000).

10.5 Right of cancellation and repayment in relation to a single Lender

- (a) If:
 - (i) any sum payable to any Lender by an Obligor is required to be increased under Clause 15.3 (*Market disruption*) or Clause 17.2(c) (*Tax gross-up*); or
 - (ii) any Lender claims indemnification from the Parent or an Obligor under Clause 17.3 (*Tax indemnity*) or Clause 18.1 (*Increased costs*),

the Parent may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice 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 Loans.

- (b) On receipt of a notice referred to in Clause (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 Loan is outstanding shall repay that Lender's participation in that Loan together with all interest and other amounts accrued under the Finance Documents.

10.6 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 not less than three Business Days' notice of cancellation of each Available Commitment of that Lender.
- (b) On the notice referred to in paragraph 10.6(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 10.6(a) above, notify all the Lenders.

11. MANDATORY PREPAYMENT AND CANCELLATION

11.1 Exit

- (a) Upon the occurrence of:
- (i) a Change of Control; or
 - (ii) the sale of all or substantially all of the assets of the Group whether in a single transaction or a series of related transactions,
- the Facilities will be cancelled and:
- (iii) all outstanding Loans and Ancillary Outstandings, together with accrued interest, and all other amounts accrued under the Finance Documents, shall become immediately due and payable and full cash cover in respect of each contingent liability under each Ancillary Facility shall immediately be due and payable; and
 - (iv) no Lender or Affiliate of a Lender shall be obliged to fund or make a Loan or a utilisation of an Ancillary Facility.

11.2 Disposal, Insurance and Acquisition Proceeds and Excess Cashflow

- (a) For the purposes of this Clause 11.2 and Clause 11.3 (*Application of mandatory prepayments*):

"Acquisition Proceeds" means the Net Proceeds of any claim received by any member of the Group against any seller, or any of their respective Affiliates (or any employee, officer or adviser) in relation to any Acquisition Documents or the provider of any Report in relation to such Report (a **"Recovery Claim"**), to the extent that the Net Proceeds exceed £500,000 (or its equivalent in other currencies) in aggregate in any Financial Year, and except for Excluded Acquisition Proceeds and after deducting any reasonable expenses and Taxes incurred in relation to that Recovery Claim.

"Disposal" means a sale, lease, licence, transfer, loan or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions).

"Disposal Proceeds" means the Net Proceeds received by any member of the Group (including any amount receivable in repayment of intercompany debt) for any Disposal made by any member of the Group to the extent that the Net Proceeds exceed £2,000,000 (or its equivalent in other currencies) (or such lower amount as the Parent may elect) in aggregate in any Financial Year, and except for Excluded Disposal Proceeds.

"Excluded Acquisition Proceeds" means any Net Proceeds of a Recovery Claim which are, or are to be within 12 months of receipt, applied, committed to be applied or designated by the board of directors of the Parent:

- (i) in payment of amounts payable to any seller pursuant to an Acquisition Document by way of adjustment to the purchase price in respect of that Acquisition (except to the extent relating to a working capital adjustment); or

- (ii) to satisfy or otherwise remedy the circumstances giving rise to the Recovery Claim or meet the liabilities (including to satisfy the liability of a member of the Group and in reimbursing a member of the Group that has already discharged a liability) to which those amounts relate; or
- (iii) for application to reinstate, replace or repair any relevant assets,

and if committed to be applied or designated by the board of directors of the Parent for application in that period, are actually applied within 18 months (or such longer period as the Majority Lenders may agree) of receipt by a member of the Group.

"Excluded Disposal Proceeds" means any Net Proceeds received by any member of the Group (including any amount receivable in repayment of intercompany debt) for any Disposal made by any member of the Group which are or are to be, within 12 months of receipt, applied or committed to be applied or designated by the board of directors of the Parent for application in or towards reinvestment in the business, Permitted Acquisition, capital expenditure of the repair or replacement of assets (or reimbursing a member of the Group for the same), and if committed to be applied or designated by the board of directors of the Parent for application in that period, are actually applied within a period of 18 months (or such longer period as the Majority Lenders may agree) of receipt by a member of the Group.

"Excluded Insurance Proceeds" means any proceeds of an insurance claim which are, or are to be, within 12 months of receipt, applied, committed to be applied or designated by the board of directors of the Parent for application:

- (iv) to meet (or to reimburse the Group for meeting) a third party claim;
- (v) to make payments to (or to reimburse payments made to) customers;
- (vi) to cover operating losses in respect of which the relevant claim was made; or
- (vii) to replace, reinstate or repair assets in respect of which such proceeds were received or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made,

and, if committed to be applied or designated by the board of directors of the Parent for application in that period, are actually applied within 18 months (or such longer period as the Majority Lenders may agree) of receipt by a member of the Group.

"Insurance Proceeds" means the Net Proceeds of any insurance claim received by any member of the Group to the extent that the Net Proceeds exceed £500,000 (or its equivalent in other currencies) in aggregate in any Financial Year, and except for Excluded Insurance Proceeds and after deducting any reasonable expenses and Taxes incurred in relation to that claim.

"Net Proceeds" means the proceeds of any disposal, insurance claim or Recovery Claim received in cash by a wholly-owned member of the Group after deducting:

- (i) fees costs and expenses reasonably incurred by any member of the Group with respect to that disposal or claim to persons who are not members of the Group, the Sponsor, management or their affiliates (including without limitation bona fide arm's length bonus payments to management of a disposed business);
- (ii) any tax incurred and required to be paid or reserved for by the seller or claimant in connection with that disposal or claim or the transfer of the proceeds thereof intra-Group (in each case, as reasonably determined by the seller or claimant);
- (iii) amounts retained to cover anticipated liabilities reasonably expected to arise in connection with and within 12 months of that disposal or claim as certified by a director of the Parent (provided that any amounts not actually incurred within 12 months shall then be applied in prepayment);
- (iv) amounts to be repaid to the entity disposed of in respect of intra-Group indebtedness; and
- (v) proceeds of a disposal or of an insurance claim relating to an asset secured by third party debt (as permitted pursuant to and in accordance with this Agreement) and which are to be applied in prepayment or repayment of such third party debt.

"**Relevant Percentage**" for the purposes of paragraph (b)(iv) below shall be the percentage indicated by the table below by reference to Leverage (as defined in Clause 25.1 (*Financial definitions*)) for the relevant Financial Year, until such time (if any) as Leverage falls to the subsequent level, whereupon the applicable percentage for that subsequent level shall apply as follows:

Leverage	Relevant Percentage
Greater than 5.00:1	50%
Greater than 4.00:1 but equal to or less than 5.00:1	25%
Equal to or less than 4.00:1	0%

- (b) The Borrowers shall (and the Parent shall ensure that the Borrowers will) prepay Loans in the following amounts at the times and in the order of application contemplated by Clause 11.3 (*Application of mandatory prepayments and cancellation*):
 - (i) the amount of any Acquisition Proceeds;
 - (ii) the amount of any Disposal Proceeds (but subject to and in accordance with paragraph 11.2(c) below);
 - (iii) the amount of any Insurance Proceeds; and
 - (iv) the Relevant Percentage of the amount of Excess Cashflow for any Financial Year of the Parent ending on or after 31 December 2022.

- (c) The Disposal Proceeds that are required to be applied in prepayment of the Loans and that may (in the Parent's discretion) be applied as Permitted Payments under paragraph (j) of such definition shall be determined by reference to Leverage (calculated by reference to the most recent Compliance Certificate and/or Quarterly Financial Statements delivered to the Agent in accordance with Clause 24.1(b) (*Information undertakings*) and in accordance with Clause 25 (*Financial Covenants*)) as follows:
- (i) *firstly*, until and to the extent that Leverage is greater than 5.50:1, 100% of Disposal Proceeds required to meet that Leverage level shall be applied in prepayment of the Term Loans, on a pro rata basis;
 - (ii) *secondly*, once Leverage reaches or is less than 5.50:1 but until and to the extent that Leverage is greater than 4.00:1:
 - (1) 50% (or more in the discretion of the Parent) of Disposal Proceeds shall be applied in prepayment of the Term Loans, on a pro rata basis; and
 - (2) up to 50% of Disposal Proceeds, plus any amount of Disposal Proceeds waived pursuant to paragraph (d) below, may (in the discretion of the Parent) be applied as a Permitted Payment in accordance with paragraph (j) of the definition of Permitted Payment; and
 - (iii) *thirdly*, once Leverage reaches or is less than 4.00:1, 100% of Disposal Proceeds may (in the discretion of the Parent) be applied as Permitted Payment in accordance with paragraph (j) of the definition of Permitted Payment.
- (d) Any Lender who is entitled to receive prepayments of Disposal Proceeds in accordance with paragraph (c) above, may, if it gives the Agent not less than five Business Days' prior notice, elect to waive all or a specified part of its share of that prepayment of a Term Facility. In such case, notwithstanding anything to the contrary in this Agreement or any other Finance Document, the amount so waived shall constitute Unrestricted Cash and may (in the discretion of the Parent) be applied as a Permitted Payment in accordance with paragraph (j) of the definition of Permitted Payment.

11.3 Application of mandatory prepayments and cancellations

- (a) Unless the Parent makes an election under paragraph (f) below, a prepayment of Loans pursuant to Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*) shall be applied in the following order:
- (i) *firstly*, against the Term Loans on a pro rata basis;
 - (ii) *secondly*, in cancellation of Available Commitments under the Revolving Facility (and the Available Commitments of the Lenders under the Revolving Facility will be cancelled rateably);
 - (iii) *thirdly*, and only to the extent all Available Commitments under the Revolving Facility have been cancelled, in prepayment of the Revolving Facility Loans on a pro rata basis and cancellation of Revolving Facility Commitments in the same amount; and

- (iv) *fourthly*, in repayment and cancellation of the Ancillary Outstandings and Ancillary Commitments.
- (b) Unless the Parent makes an election under paragraph (c) below, the Borrowers shall prepay Loans at the following times:
 - (i) in the case of any prepayment relating to the amounts of Disposal Proceeds, Acquisition Proceeds or Insurance Proceeds, promptly upon receipt of those proceeds (or such proceeds ceasing to be Excluded Disposal Proceeds, Excluded Insurance Proceeds or Excluded Acquisition Proceeds, as the case may be), provided that the Parent shall provide the Agent with notice in respect of a prepayment where an election has been made under Clause 11.4(a) (*Excluded proceeds*); and
 - (ii) in the case of any prepayment relating to an Excess Cashflow Amount, on the last day of the first Interest Period relating to the Facility being prepaid ending not earlier than 30 days after the date on which the Annual Financial Statements for the relevant Financial Year are delivered to the Agent pursuant to Clause 24.1 (*Financial statements*) (unless the Parent elects to pay earlier) (and where multiple Facilities are being prepaid the prepayment shall be split accordingly).
- (c) Subject to paragraph (d) below, the Parent may elect that any prepayment of Disposal Proceeds, Acquisition Proceeds or Insurance Proceeds under Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*), be applied in prepayment of a Loan on the last day of the then current 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 then current Interest Period. Any election made by the Parent under this Clause shall be made:
 - (i) promptly upon receipt of the proceeds; or
 - (ii) in respect of any amounts which have been designated to be applied in respect of Excluded Disposal Proceeds, Excluded Insurance Proceeds and/or Excluded Acquisition Proceeds but which have not been applied by the end of the relevant time period designated in such definitions, promptly following the expiry of such relevant time period.
- (d) If the Parent has made an election under paragraph (c) 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).
- (e) For the avoidance of doubt, there shall be no requirement to deposit any Acquisition Proceeds, Disposal Proceeds or Insurance Proceeds in a holding or blocked account pending application (other than by way of prepayment) pursuant to this Agreement.
- (f) The Parent and the Agent (acting on the instructions of the Majority Lenders) may elect that any prepayment of Disposal Proceeds in respect of a Material Disposal are applied in full in the following order:

- (i) firstly, in prepayment of the Revolving Facility Loans (on a pro rata basis); and
- (ii) then, in accordance with paragraph (c) above.

11.4 Excluded proceeds

- (a) Where Excluded Disposal Proceeds, Excluded Insurance Proceeds and Excluded Acquisition Proceeds include amounts which are intended to be used for a permitted purpose within a specified period (in each case as set out in the relevant definition of Excluded Disposal Proceeds, Excluded Insurance Proceeds or Excluded Acquisition Proceeds), the Parent shall ensure that those amount are used for that permitted 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 (unless applied in prepayment).
- (b) All prepayments to be made under Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*) are subject to permissibility under local law (including, without limitation, financial assistance, corporate benefit restrictions on up streaming of cash intra-group and the fiduciary and statutory duties of the directors of the relevant member of the Group). There will be no requirement to make any such mandatory prepayment and/or provide cash cover where the Tax or other cost to the Group of making that prepayment or making funds available to another member of the Group to enable such prepayment to be made is equal to or exceeds 5% of the amount to be prepaid. The Parent shall ensure that each member of the Group will use its reasonable endeavours and take reasonable steps to overcome any restrictions and/or minimise any costs of prepayment and/or (having regard to the Group's actual and forecast cashflow position) make an equivalent prepayment from other available funds. If at any time those restrictions are removed (or to the extent that equivalent amounts have not been applied to make that prepayment), any relevant proceeds will be applied in prepayment of the Facilities at the end of the next Interest Period.

12. RESTRICTIONS

12.1 Notices of Cancellation or Prepayment

Any notice of cancellation, prepayment, authorisation or other election given by any Party under Clause 10 (*Illegality, voluntary prepayment and cancellation*) or Clause 11.3(c) (*Application of Mandatory Prepayments*) shall (subject to the terms of those Clauses) be irrevocable 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.

12.2 Interest and other amounts

Any prepayment under this Agreement shall be made together with accrued interest (including for the avoidance of doubt, accrued PIK Interest that has not yet been capitalised) on the amount prepaid and, subject to any Break Costs, without premium or penalty.

12.3 No reborrowing of Term Facilities

No Borrower may reborrow any part of a Term Facility which is prepaid.

12.4 Reborrowing of Revolving Facility

Unless a contrary indication appears in this Agreement, any part of the Revolving Facility which is prepaid or repaid may be reborrowed in accordance with the terms of this Agreement.

12.5 Prepayment in accordance with Agreement

No Borrower shall repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

12.6 No reinstatement of Commitments

Subject to Clause 2.3 (*Increase*), no amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

12.7 Agent's receipt of Notices

If the Agent receives a notice under Clause 10 (*Illegality, voluntary prepayment and cancellation*) or an election under Clause 11.3(c) (*Application of mandatory prepayments and cancellation*), it shall promptly forward a copy of that notice or election to either the Parent or the affected Lender, as appropriate.

12.8 Effect of repayment and prepayment on Commitments

If all or part of any Lender's participation in a Loan 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 that Lender's Commitment (equal to the Base Currency Amount of the amount of the Loan which is repaid or prepaid) in respect of that Facility will be deemed to be cancelled on the date of repayment or prepayment.

12.9 Application of prepayments

Any prepayment of a Loan (other than a prepayment pursuant to Clause 10.1 (*Illegality*), Clause 10.5 (*Right of cancellation and repayment in relation to a single Lender*) or Clause 40.9 (*Replacement of Lender*)) shall be applied pro rata to each Lender's participation in that Loan. A Lender in respect of a Term Loan may if it gives the Agent not less than three Business Days prior notice, elect to waive all or a specified part of its share of that prepayment of the relevant Term Loan if the amount waived can be applied in prepayment to reduce other Term Loans under that or another Term Facility.

SECTION 5

COSTS OF UTILISATION

13. INTEREST

13.1 Calculation of interest

(a) **Cash Pay interest:** Subject to the rest of this Clause 13.1, the rate of interest payable in cash ("**Cash Pay Interest**") on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

- (i) Margin; and
- (ii) LIBOR or, in relation to any Loan in euro, EURIBOR.

(b) **PIK Interest**

(i) The Parent may elect that an amount of Margin on all or part of any Facility B Loan or Acquisition Facility Loan in an amount of either:

- (1) 1.00 per cent. per annum; or
- (2) 2.00 per cent. per annum,

is to be capitalised rather than paid in cash at the end of the relevant Interest Period, provided that the Parent has made an election in writing to the Agent no later than five Business Days prior to the end of the relevant Interest Period applicable to that Facility B Loan or Acquisition Facility Loan (as applicable) and provided further that no election shall be made under this paragraph (b)(i) which would have the effect of reducing the Cash Pay Interest in relation to the relevant Interest Period below 5.00 per cent. per annum.

(ii) If any election is exercised by the Parent in accordance with paragraph (i) above, the interest to be capitalised at the end of the Interest Period on the relevant Facility B Loan or Acquisition Facility Loan (as applicable) shall be calculated at a rate of:

- (1) 1.25 per cent. per annum (in the case of an election under paragraph (i)(1) above); or
- (2) 1.50 per cent. per annum (in the case of an election under paragraph (i)(2) above),

on the relevant amount of the Loan (the "**PIK Interest**").

(iii) PIK Interest on a Facility B Loan or Acquisition Facility Loan (as applicable) shall be capitalised as described in paragraph (b)(ii) above on the last day of the relevant Interest Period (and, if the Interest Period is longer than six Months, on the date falling six Months after the first day of the relevant Interest Period) so as to form part of that Facility B Loan or Acquisition Facility Loan (as applicable) and shall thereafter bear interest together with the rest of that Facility B Loan or Acquisition Facility Loan (as applicable) in accordance with this Clause 13.1. Any such PIK Interest shall be payable as part of the Loan in accordance with Clause 9

(Repayment), Clause 10 (Illegality, Voluntary prepayment and cancellation), Clause 11 (Mandatory prepayment and cancellation) and Clause 27.19 (Acceleration).

13.2 Payment of interest

- (a) The Borrower to which a Loan has been made shall pay accrued Cash Pay 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) If the Compliance Certificate received by the Agent which relates to the relevant Annual Financial Statements shows that a higher Margin for a Loan should have applied during a certain period, then the relevant Borrower shall (and the Parent shall ensure that the relevant Borrower will) promptly pay to the Agent any amounts necessary to put the Lenders under that Loan in the position they would have been in had the appropriate rate of the Margin applied during such period provided that such payments shall only be increased in respect of any individual Lender to the extent that such Lender was a Lender during the period in which the higher Margin should have applied.
- (c) If the Compliance Certificate received by the Agent which relates to the relevant Annual Financial Statements shows that a lower Margin for a Loan should have applied during a certain period, then an amount equal to the difference between (i) the amount of the interest that the Borrower would have paid in relation to such period had the correct Margin been applied; and (ii) the amount of interest that the Borrower actually paid in relation to such period (such amount being the "**Excess Margin**"), shall be netted off against the next interest payments on the relevant Loan provided that such netting shall be capped in respect of any individual Lender to the amount of the Excess Margin that such Lender (or its Affiliate) received as a result of it (or its Affiliate) being a Lender during the period in which the lower Margin should have applied.

13.3 Default interest

- (a) If an Obligor fails to pay any amount payable by it under a 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 13.3(b) below, is one per cent per annum 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 13.3 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 per annum 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 but will remain immediately due and payable.

13.4 **Notification of rates of interest**

The Agent shall promptly notify the Lenders and the relevant Borrower (or the Parent) of the determination of a rate of interest under this Agreement.

14. **INTEREST PERIODS**

14.1 **Selection of Interest Periods and Terms**

- (a) A Borrower (or the Parent on its behalf) 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 a Borrower (or the Parent on its behalf) to which that Term Loan was made not later than the Specified Time.
- (c) If a Borrower (or the Parent on its behalf) fails to deliver a Selection Notice to the Agent in accordance with paragraph 14.1(b) above, the relevant Interest Period will be three Months.
- (d) Subject to this Clause 14, a Borrower (or the Parent) may select an Interest Period of one, three or six Months or any other period agreed between the Parent and the Agent (acting on the instructions of all the Lenders in relation to the relevant Loan).
- (e) An Interest Period for a Loan shall not extend beyond the Termination Date applicable to its Facility.
- (f) 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.
- (g) A Revolving Facility Loan has one Interest Period only.

14.2 **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).

14.3 **Consolidation and division of Term Loans**

- (a) Subject to paragraph 14.3(b) below, if two or more Interest Periods:
 - (i) relate to the Term Loans, in each case in the same currency and under the same Facility;
 - (ii) end on the same date; and

(iii) are made to the same Borrower,

those Term Loans (as the case may be) 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 Term Loan (as the case may be) on the last day of the Interest Period.

(b) Subject to Clause 4.4 (*Maximum number of Loans*), and Clause 5.3 (*Currency and amount*) if a Borrower (or the Parent on its behalf) requests in a Selection Notice that a Term Loan be divided into two or more Term Loans, the Term Loan will, on the last day of its Interest Period, be so divided with amounts in the same currency specified in that Selection Notice, having an aggregate amount equal to the amount of that Term Loan immediately before its division.

15. CHANGES TO THE CALCULATION OF INTEREST

15.1 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) Base Reference Bank Rate

If paragraph 15.1(a) above applies but it is not possible to calculate the Interpolated Screen Rate, the applicable LIBOR or EURIBOR for the Interest Period of that Loan shall be the Base 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 Base Reference Bank Rate is available for the relevant currency or Interest Period there shall be no LIBOR or EURIBOR for that Loan and Clause 15.4 (*Cost of funds*) shall apply to that Loan for that Interest Period.

15.2 Calculation of Base Reference Bank Rate

(a) Subject to paragraph (b) below, if LIBOR or EURIBOR is to be determined on the basis of a Base Reference Bank Rate but a Base Reference Bank does not supply a quotation by the Specified Time, the Base Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Base Reference Banks.

(b) If at or about noon on the Quotation Day, none or only one of the Base Reference Banks supplies a quotation, there shall be no Base Reference Bank Rate for the relevant Interest Period.

15.3 Market disruption

If LIBOR or, if applicable, EURIBOR is determined on the basis of a Base Reference Bank Rate and 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 the wholesale market for the relevant currency would be in excess of LIBOR or, if applicable, EURIBOR then Clause 15.4 (*Cost of funds*) shall apply to that Loan for the relevant Interest Period.

15.4 **Cost of funds**

- (a) If this Clause 15.4 applies, the rate of interest on 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 weighted average of the rates notified to the Agent by each Lender as soon as practicable and in any event within three Business Days of the first day of that Interest Period (or, if earlier, on the date falling three 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 15.4 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 15.4 applies pursuant to Clause 15.3 (*Market disruption*); and
 - (i) a Lender's Funding Rate is less than LIBOR or, in relation to any Loan in euro, EURIBOR; or
 - (ii) a Lender does not supply a quotation by the time specified in paragraph (a)(ii) above,
 - (iii) the cost to that Lender of funding its participation in that Loan for that Interest Period shall be deemed, for the purposes of paragraph 15.4 above, to be LIBOR or, in relation to a Loan in euro, EURIBOR.
- (e) If this Clause 15.4 applies pursuant to Clause 15.1 (*Unavailability of Screen Rate*) but any Lender does not supply a quotation by the time specified in paragraph (a)(ii) above the rate of interest shall be calculated on the basis of the quotations of the remaining Lenders.

15.5 **Notification to Parent**

If Clause 15.4 (*Costs of funds*) applies the Agent shall, as soon as is practicable, notify the Parent.

15.6 **Break Costs**

- (a) Each Borrower shall, within five Business Days of written demand by a Finance Party, pay to that 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, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

16. FEES

16.1 Commitment fee

- (a) The Company shall from the Closing Date pay (or shall procure payment) to the Agent:
 - (i) (for the account of each Lender under the Revolving Facility) a fee in the Base Currency computed at the rate of 30 per cent per annum of the applicable Margin on that Lender's Available Commitment under the Revolving Facility for the Availability Period applicable to the Revolving Facility;
 - (ii) (for the account of each Lender under the Acquisition Facility) a fee in the Base Currency computed at the rate of two per cent per annum on that Lender's Available Commitment under the Acquisition Facility for the Availability Period applicable to the Acquisition Facility; and
 - (iii) in relation to an Incremental Facility, the percentage rate per annum specified in the Incremental Facility Notice relating to that Incremental Facility on that Lender's Available Commitment under that Incremental Facility for the Availability Period applicable to that Incremental Facility.
- (b) The accrued commitment fee is payable in arrear on the last day of each successive period of three Months which ends after the Closing Date 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 period prior to the Closing Date or any day on which that Lender is a Defaulting Lender.

16.2 Arrangement fee

- (a) The Company shall pay (or shall procure payment) to the Arranger arrangement fees in the amounts agreed in a Fee Letter.
- (b) The Company shall pay to any Revolving Facility Lender the fees relating to the Revolving Facility at the times and in the amounts agreed in a Fee Letter.

16.3 Agency and Security Agent fee

The Company shall pay (or shall procure payment) to the Agent and the Security Agent (for their own account) an agency fee and security agent fee in the amount and at the times agreed in a Fee Letter.

16.4 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.

16.5 Non completion

Notwithstanding the other provisions of this Clause 16, paragraph (c) of Clause 19.2 or any Fee Letter, if the Closing Date or the Relevant Date does not occur, neither any of the fees referred to in this Clause 16 (other than legal fees of the Arranger up to an agreed cap, which shall remain payable by the Company even if the Closing Date or the Relevant Date does not occur), nor any amount pursuant to paragraph (c) of Clause 19.2, shall be payable.

SECTION 6

ADDITIONAL PAYMENT OBLIGATIONS

17. TAX GROSS-UP AND INDEMNITIES

17.1 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 UK Treaty Lender that is an Original Lender, contains the scheme reference number and jurisdiction of tax residence stated either opposite that Lender's name in Part B of Schedule 1 (*The Original Parties*) or, if applicable following the transfer of Commitments pursuant to Clause 28.12 (*Transfer of Commitments of ACE IV Entities on the Closing Date*), Part C of Schedule 1 (*The Original Parties*) or as otherwise notified by that Lender, and
 - (i) where the Borrower is an Original Borrower and the scheme reference number and jurisdiction of tax residence:
 - (1) is stated opposite that Lender's name in Part B of Schedule 1 (*The Original Parties*) or, if applicable following the transfer of Commitments pursuant to Clause 28.12 (*Transfer of Commitments of ACE IV Entities on the Closing Date*), Part C of Schedule 1 (*The Original Parties*), is filed with HM Revenue and Customs within 30 days of the date of this Agreement (or such longer period as the Agent may permit); or
 - (2) is otherwise notified by that Lender to that Original Borrower, is filed with HM Revenue & Customs within 30 days following such notification,
 - (ii) where the Borrower is an Additional Borrower and the scheme reference number and jurisdiction of tax residence:
 - (1) is stated opposite that Lender's name in Part B of Schedule 1 (*The Original Parties*) or, if applicable following the transfer of Commitments pursuant to Clause 28.12 (*Transfer of Commitments of ACE IV Entities on the Closing Date*), Part C of Schedule 1 (*The Original Parties*), is filed with HM Revenue and Customs within 30 days of the date on which that Borrower becomes an Additional Borrower (or such longer period as the Agent may permit); or
 - (2) is otherwise notified by that Lender to that Additional Borrower, is filed with HM Revenue & Customs within 30 days following such notification; or
- (b) where it relates to a UK Treaty Lender that is a New Lender or an Increase Lender, contains the scheme reference number and jurisdiction of tax residence stated in respect of that Lender in the relevant Transfer Certificate, Assignment Agreement or Increase Confirmation and

- (i) where the Borrower is a Borrower as at the relevant Transfer Date (or date on which the increase in Commitments described in the relevant Increase Confirmation takes effect) is filed with HM Revenue & Customs within 30 days of that Transfer Date (or date on which the increase in Commitments described in the relevant Increase Confirmation takes effect) (or such longer period as the Agent may permit); or
- (ii) where the Borrower is not a Borrower as at the relevant Transfer Date (or date on which the increase in Commitments described in the relevant Increase Confirmation takes effect), is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower (or such longer period as the Agent may permit).

"Irish Qualifying Lender" means a Lender which is beneficially entitled to interest payable to that Lender by an Irish Obligor in respect of an advance under a Finance Document and is:

- (a) a bank which is carrying on a bona fide banking business in Ireland for the purposes of Section 246(3)(a) of the TCA whose Facility Office is located in Ireland;
- (b) a body corporate:
 - (i) which is resident for the purposes of Tax in a Relevant Territory where that Relevant Territory imposes a tax that generally applies to interest receivable in that Relevant Territory by bodies corporate from sources outside that Relevant Territory; or
 - (ii) where the interest payable under a Finance Document:
 - (1) is exempted from the charge to tax under an Irish Treaty in force between Ireland and the country in which the Lender is resident for tax purposes; or
 - (2) would be exempted from the charge to tax under an Irish Treaty signed between Ireland and the country in which the Lender is resident for tax purposes if such Irish Treaty had the force of law by virtue of section 826(1) TCA,

except where such interest is paid under a Finance Document to that body corporate in connection with a trade or business which is carried on in Ireland by it through a branch or agency; or
- (c) a US company that is incorporated in the US and is taxed in the US on its worldwide income except where interest is paid under a Finance Document to the US company in connection with a trade or business which is carried on in Ireland by it through a branch or agency; or
- (d) a US Limited Liability Company ("**LLC**"), where the ultimate recipients of the interest payable under this Agreement are Qualifying Lenders within paragraphs (b) or (c) of this definition and the business conducted through the LLC is so structured for market reasons and not for tax avoidance purposes, provided that such LLC does not provide its commitment in connection with a trade or business which is carried on in Ireland through a branch or agency in Ireland; or

- (e) a qualifying company within the meaning of section 110 TCA whose Facility Office is located in Ireland; or
- (f) an exempt approved scheme within the meaning of section 774 TCA whose Facility Office is located in Ireland; or
- (g) an investment undertaking within the meaning of section 739B TCA whose Facility Office is located in Ireland; or
- (h) a body corporate:
 - (i) which advances money in the ordinary course of a trade which includes the lending of money and whose Facility Office is located in Ireland; and
 - (ii) in whose hands any interest payable in respect of monies so advanced is taken into account in computing the trading income of such company; and
 - (iii) which has made the appropriate notifications under section 246(5)(a) TCA; or
- (i) an Irish Treaty Lender;

"Irish Treaty Lender" means a Lender which:

- (a) is treated as a resident of an Irish Treaty State for the purposes of the Irish Treaty;
- (b) does not carry on a business in Ireland 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 Irish Treaty by residents of that Irish Treaty State for full exemption from withholding tax imposed by Ireland on payments of interest by the Borrower to it, subject to completion of any necessary procedural formalities;

"Irish Treaty State" means a jurisdiction having a double taxation agreement (an **"Irish Treaty"**) with Ireland which makes provision for full exemption from tax imposed by Ireland on interest;

"Protected Party" means a 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 Finance Document.

"Qualifying Lender" means a UK Qualifying Lender or an Irish Qualifying Lender, as applicable;

"Relevant Territory" means:

- (a) a Member State of the European Union (other than Ireland); or
- (b) not being such a Member State, a country with which Ireland has an Irish Treaty in force by virtue of section 826(1) TCA; or
- (c) a country with which Ireland has signed an Irish Treaty which will come into force once the procedures set out in section 826(1) TCA have been completed;

"UK Qualifying Lender" means:

- (a) a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:
 - (i) a Lender:
 - (1) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a 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 payments apart from section 18A of the CTA; or
 - (2) in respect of an advance made under a 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 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:
 - (1) a company resident in the United Kingdom for United Kingdom tax purposes;
 - (2) a partnership each member of which is:
 - (3) a company so resident in the United Kingdom; or
 - (4) 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;
 - (5) 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 UK Treaty Lender; or
- (b) a Lender which is a building society (as defined for the purposes of section 880 of the ITA) making an advance under a Finance Document.

"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 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 under a Finance Document, other than a FATCA Deduction.

"Tax Payment" means either the increase in a payment made by an Obligor to a Finance Party under Clause 17.2 (*Tax gross-up*) or a payment under Clause 17.3 (*Tax indemnity*).

"TCA" means the Taxes Consolidation Act 1997;

"UK Treaty Lender" means a Lender which:

- (a) is treated as a resident of a UK Treaty State for the purposes of the UK 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 Treaty by residents of that Treaty State for full exemption from withholding tax imposed by the United Kingdom on payments of interest by the Borrower to it,

in each case assuming that all applicable filing and administrative requirements and any procedural formalities for the purposes of (a), (b) and (c) above, as applicable, have been complied with.

"UK Treaty State" means a jurisdiction having a double taxation agreement (a "UK 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) an Original Lender listed as a UK Non-Bank Lender in Part B of Schedule 1 (*The Original Parties*) or, if applicable following the transfer of Commitments pursuant to Clause 28.12 (*Transfer of Commitments of ACE IV Entities on the Closing Date*), Part C of Schedule 1 (*The Original Parties*); and
- (b) a Lender which gives a Tax Confirmation in the Assignment Agreement, Transfer Certificate or Increase Confirmation which it executes on becoming a Party.

Unless a contrary indication appears, in this Clause 17 a reference to **"determines"** or **"determined"** means a determination made in the absolute discretion of the person making the determination, acting reasonably.

17.2 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 Lender shall promptly notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender 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 Tax Deduction had been required.
- (d) A payment 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 UK Qualifying Lender, but on that date that Lender is not or has ceased to be a UK Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or UK Treaty or any published practice or published concession of any relevant taxing authority; or
 - (ii) the relevant Lender is a UK Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of UK Qualifying Lender and:
 - (1) 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
 - (2) the payment could have been made to the Lender without any Tax Deduction if that Direction had not been made; or
 - (iii) the relevant Lender is a UK Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of UK Qualifying Lender and:
 - (1) the relevant Lender has not given a Tax Confirmation to the Parent; and
 - (2) the payment could have been made to the Lender without any 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 relevant Lender is a UK Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under paragraphs (h) or (i) below (as applicable).
- (e) A payment shall not be increased under paragraph (c) above by reason of a Tax Deduction on account of Tax imposed by Ireland, 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 an Irish Qualifying Lender, but on that date that Lender is not or has ceased to be an Irish Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or Irish Treaty, or any published practice or published concession of any relevant taxing authority; or
 - (ii) the relevant Lender is an Irish Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under paragraph (h)(i) below;
- (f) 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 and in the minimum amount required by law.
- (g) Within thirty 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 Finance Party entitled to the payment a statement under section 975 of the ITA (in respect of the UK only) or other evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
- (h)
 - (i) Subject to paragraph (h)(ii)(2) below in respect of the UK only, a UK Treaty Lender or an Irish Treaty Lender, as applicable and each Obligor which makes a payment to which that UK Treaty Lender or Irish Treaty Lender is entitled shall co-operate in a timely manner in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.
 - (ii)
 - (1) A UK 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 wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence either opposite its name in Part B of Schedule 1 (*The Original Parties*) or, if applicable following the transfer of Commitments pursuant to Clause 28.12 (*Transfer of Commitments of ACE IV Entities on the*

Closing Date), Part C of Schedule 1 (*The Original Parties*) or by way of separate notification; and

- (2) a New Lender or an Increase Lender that is a UK Treaty Lender that holds a passport under the HMRC DT Treaty Passport scheme, and wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence in the Increase Confirmation, Transfer Certificate or Assignment Agreement which it executes,

and, having done so, that Lender shall be under no obligation pursuant to paragraph (h)(ii) above.

- (i) If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with paragraph (h)(ii)(2) above and:

- (j) a Borrower making a payment to that Lender has not made a Borrower DTTP Filing in respect of that Lender; or

- (i) a Borrower making a payment to that Lender has made a Borrower DTTP Filing in respect of that Lender but:

- (1) that Borrower DTTP Filing has been rejected by HM Revenue & Customs; or

- (2) 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 cooperate in completing any additional formalities necessary for that Borrower to obtain authorisation to make that payment without a Tax Deduction.

- (ii) If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (h)(ii)(2) 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 Loan unless the Lender otherwise agrees.

- (k) 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.

- (l) A UK Non-Bank Lender which is an Original Lender gives a Tax Confirmation to the Parent by entering into this Agreement.

- (m) 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.

- (n) Any Lender which was a Qualifying Lender when it became a party to this Agreement that subsequently ceases to be a Qualifying Lender (other than by reason of any change in any law or Treaty or any published practice or concession of any relevant taxing authority) shall promptly notify the Parent and the Agent upon becoming aware that it has so ceased to be a Qualifying Lender.

- (o) Each Obligor (other than an Irish Obligor) shall treat each payment under this Agreement as UK sourced income in the absence of an administrative determination or judicial ruling to the contrary.
- (p) Any Obligor that receives a direction from HM Revenue & Customs confirming that, on the basis of sovereign immunity from taxation, no Tax Deduction is required in respect of payments made by it to Ares Credit Strategies Feeder III UK LP shall promptly deliver a copy of that direction to the Agent for delivery to the relevant Lender.

17.3 Tax indemnity

- (a) The Company shall (or shall procure that another Obligor will) (within five Business Days of demand by the Agent) pay to a Protected Party 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 Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Finance Party:
 - (1) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
 - (2) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

to the extent 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 Finance Party; or
 - (ii) with respect to any Tax attributable to the Bank Levy; or
 - (iii) to the extent a loss, liability or cost:
 - (1) is compensated for by an increased payment under Clause 17.2 (*Tax gross-up*);
 - (2) would have been compensated for by an increased payment under Clause 17.2 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in Clause 17.2 (*Tax gross-up*) applied; or
 - (3) relates to a FATCA Deduction required to be made by a 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 17.3, notify the Agent.

17.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall promptly pay an amount to the Obligor which that Finance Party reasonably 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.

17.5 Lender Status Confirmation

Except for Ares Credit Strategies Feeder III UK, L.P., each Lender confirms to the Parent that as at the date of this Agreement it is a Qualifying Lender. Each Lender which becomes a Party to this Agreement after the date of this Agreement shall confirm, in the Transfer Certificate, Assignment Agreement or Increase Confirmation which it executes on becoming a Party, and for the benefit of the Agent and any Obligor, which of the following categories it falls in:

- (a) with respect to the UK:
 - (i) not a UK Qualifying Lender;
 - (ii) a UK Qualifying Lender (other than a UK Treaty Lender); or
 - (iii) a UK Treaty Lender; and
- (b) with respect to Ireland:
 - (i) not an Irish Qualifying Lender;
 - (ii) an Irish Qualifying Lender (other than an Irish Treaty Lender); or
 - (iii) an Irish Treaty Lender.

If a New Lender or an Increase Lender fails to confirm its status in accordance with this Clause 17.5 then such New Lender or Increase 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 inform the Parent). For the avoidance of doubt, a Transfer Certificate, Assignment Agreement or Increase Confirmation shall not be invalidated by any failure of a Lender to comply with this Clause 17.5.

17.6 Stamp taxes

The Company shall pay (or will procure that an Obligor shall pay) and, within five 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 Finance Document (save for any Taxes payable in respect of an assignment or transfer of a Lender's interest in respect of a Finance Document prior to a Declared Default which has not been remedied or waived).

17.7 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, such Finance Party shall promptly provide an appropriate VAT invoice to such Party and, provided such an invoice has been provided, that Party must pay to such 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 the VAT.
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any 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 (b)(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 Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party or (at the election of the Parent) where such Party is a member of the Group, the Company shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such 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 17.7 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term "representative member" to have the same meaning as in the Value Added Tax Act 1994 or equivalent under the laws of any other country).
- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must

promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

17.8 **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:
 - (1) a FATCA Exempt Party; or
 - (2) 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 purpose of that other Party's compliance with any similar law, regulation or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to 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 Finance Party to do anything and paragraph (a)(iii) above shall not oblige any other 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 paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the 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.

17.9 **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 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 Parent and the Agent and the Agent shall notify the other Finance Parties.

18. INCREASED COSTS

18.1 Increased costs

- (a) Subject to Clause 18.3 (*Exceptions*) the Company shall, within five Business Days of written demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that 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 or any laws or regulations relating thereto in force at the date of this Agreement including, for the avoidance of doubt, Basel III and/or CRD IV.

- (b) In this Agreement:

"Basel III" means:

- (i) 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 from time to time;
- (ii) 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/or
- (iii) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

"CRD IV" means the European legislation which implements the Basel Committee on Banking Supervision's proposed new standards for bank capital and liquidity requirements (labelled Basel III).

"Increased Costs" means:

- (i) a reduction in the rate of return from a Facility or on a 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 Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or

an Ancillary Commitment or funding or performing its obligations under any Finance Document.

18.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 18.1 (*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 Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

18.3 Exceptions

- (a) Clause 18.1 (*Increased costs*) does not apply to the extent any Increased Cost is:
 - (i) attributable to a Tax Deduction required by law to be made by an Obligor;
 - (ii) attributable to a FATCA Deduction required to be made by a Party;
 - (iii) compensated for by Clause 17.3 (*Tax indemnity*) (or would have been compensated for under Clause 17.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in 17.3(b) of Clause 17.3 (*Tax indemnity*) applied);
 - (iv) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation;
 - (v) attributable to the wilful or grossly negligent breach by the relevant Finance Party or its Affiliates of any law or regulations;
 - (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 ("**Basel II**") or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates), which for the avoidance of doubt shall not include any changes pursuant to Basel III; or
 - (vii) related to amounts for which a Finance Party and/or its Affiliates are liable in respect of the bank levy contained in the Finance Act 2011 (United Kingdom) in the form existing on the date of this Agreement and, in the case of any Lender who becomes a Party to this Agreement after the date of this Agreement, any levy or tax the same in all material respects imposed by the UK or any other jurisdiction in the form existing at the date that Lender becomes a Party (the "Bank Levy").
- (b) In this Clause 18.3 reference to a "**Tax Deduction**" has the same meaning given to the term in Clause 17.1 (*Definitions*).

19. OTHER INDEMNITIES

19.1 Currency indemnity

- (a) If any sum due from an Obligor under the 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 five Business Days of written demand, indemnify the Arranger and each other 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 Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

19.2 Other indemnities

The Company shall (or shall procure that another Obligor will), within five Business Days of written demand, indemnify the Arranger and each other Secured Party against any cost, loss or liability incurred by it as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 33 (*Sharing among the Finance Parties*);
- (c) funding, or making arrangements to fund, its participation in a Loan 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 Finance Party alone);
- (d) indemnifying the Agent or the Security Agent pursuant to Clause 31.11 (*Lenders' indemnity to the Agent*) in respect of any costs, loss or liability incurred by the Agent or the Security Agent pursuant to Clause 34.11 (*Disruption to Payment Systems etc.*); or
- (e) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by a Borrower or the Parent.

19.3 Indemnity to the Agent

The Company shall (or shall procure that an Obligor will) within five Business Days of written demand indemnify the Agent against any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:

- (a) subject to prior consultation with the Parent (where practical to do so), investigating any event which it reasonably believes is, a Default;
- (b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
- (c) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; or
- (d) 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 34.11 (*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 Finance Documents.

19.4 Indemnity to the Security Agent

- (a) The Company shall (or shall procure that an Obligor will) within five Business Days of written demand indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:
 - (i) any failure by the Parent to comply with its obligations under Clause 21 (*Costs and expenses*);
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
 - (iii) the taking, holding, protection or enforcement of the Transaction Security (save for any cost, loss or liability incurred by the Security Agent as a result of its negligence or wilful misconduct);
 - (iv) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;
 - (v) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or
 - (vi) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Charged Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's negligence or wilful misconduct).
- (b) Each Obligor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 19.4 will not be prejudiced by any release or disposal under clause 12 (*Distressed Disposals and Appropriation*) of the Intercreditor Agreement, taking into account the operation of that Clause.
- (c) The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 19.4 and shall have a lien on the Transaction Security and the

proceeds of the enforcement of the Transaction Security for all moneys payable to it.

20. MITIGATION BY THE LENDERS

20.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Parent, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 10.1 (*Illegality*), Clause 17 (*Tax gross-up and indemnities*) or Clause 18 (*Increased Costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

20.2 Limitation of liability

- (a) The Company shall (or shall procure that another Obligor will) within five Business Days of written demand, indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 20.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 20.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

21. COSTS AND EXPENSES

21.1 Transaction expenses

- (a) Unless otherwise agreed, the Company shall (or shall procure that another Obligor will), within five Business Days of written demand on or after the Closing Date pay (or procure payment) to the Agent, the Arranger and the Security Agent the amount of all costs and expenses (including legal fees (which on and following the occurrence of an Event of Default which is continuing, shall include the legal fees of separate legal counsel for the Majority Revolving Facility Lenders if they so require) in each case in accordance with agreed budgets and caps, if any, detailed in an invoice, security perfection and registration costs (including applicable taxes)) 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 and perfection of:
 - (i) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and
 - (ii) any other Finance Documents executed after the date of this Agreement.
- (b) No costs or expenses shall be payable under this Agreement, other than agreed legal fees until the Closing Date.
- (c) Unless an Event of Default is continuing the Agent, Security Agent and the Arranger shall consult with the Parent before incurring material legal fees, costs

and expenses relating to the granting and perfecting of any security, taking into account the requirements of Schedule 10 (*Agreed Security Principles*).

21.2 Amendment costs

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 34.10 (*Change of currency*), the Company shall (or shall procure that another Obligor will), within five Business Days of written demand, reimburse each of the Agent and the Security Agent for the amount of all costs and expenses (including legal fees (which on and following the occurrence of an Event of Default which is continuing, shall include the legal fees of separate legal counsel for the Majority Revolving Facility Lenders if they so require) (subject to any agreed fee arrangements)) 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.

21.3 Enforcement and preservation costs

The Company shall (or shall procure that another Obligor will), within five Business Days of written demand, pay to the Arranger and each other Secured Party the amount of all costs and expenses (including legal fees (which on and following the occurrence of an Event of Default which is continuing, shall include the legal fees of separate legal counsel for the Majority Revolving Facility Lenders if they so require)) incurred by it in connection with the enforcement of or the preservation of any rights under any 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.

SECTION 7

GUARANTEE AND INDEMNITY

22. GUARANTEE AND INDEMNITY

22.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents;
- (b) undertakes with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each 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 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 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 22 if the amount claimed had been recoverable on the basis of a guarantee.

22.2 Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

22.3 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 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, examinership, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 22 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

22.4 Waiver of defences

The obligations of each Guarantor under this Clause 22 will not be affected by an act, omission, matter or thing which, but for this Clause 22, would reduce, release or prejudice any of its obligations under this Clause 22 (without limitation and whether or not known to it or any 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 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 Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

22.5 **Guarantor Intent**

Without prejudice to the generality of Clause 22.4 (*Waiver of defences*), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental and of whatsoever nature and whether or not more onerous) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the 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.

22.6 **Immediate recourse**

Each Guarantor waives any right it may have of first requiring any 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 22. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

22.7 **Appropriations**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each 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 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 22.

22.8 Deferral of Guarantors' rights

Until all amounts which may be or become payable by the Obligors under or in connection with the 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 Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 22:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the 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 Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any 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 22.1 (*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 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 Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the 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 34 (*Payment mechanics*).

22.9 Release of Guarantors' right of contribution

If any Guarantor (a "**Retiring Guarantor**") ceases to be a Guarantor in accordance with the terms of the Finance Documents for the purpose of any sale or other disposal of that Retiring Guarantor 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 Finance Documents; and
- (b) each other Guarantor waives any rights it may have by reason of the performance of its obligations under the Finance Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under any Finance Document or of any other security taken pursuant to, or in connection with, any Finance Document where such rights or security are granted by or in relation to the assets of the Retiring Guarantor.

22.10 **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 Finance Party.

22.11 **Guarantee Limitations**

This guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006 or any equivalent and applicable provisions under the laws of the Original Jurisdiction of the relevant Guarantor and, with respect to any Additional Guarantor, is subject to any limitations set out in the Accession Deed applicable to such Additional Guarantor.

22.12 **Jersey law waivers**

Each Guarantor irrevocably waives and abandons any and all rights under the existing or future laws of Jersey:

- (a) whether by virtue of the *droit de discussion* or otherwise to require that recourse be had by any Finance Party to the assets of any other Obligor or any other person before any claim is enforced against that Obligor in respect of the obligations assumed by it under any of the Finance Documents; and
- (b) whether by virtue of the *droit de division* or otherwise to require that any liability under any guarantee or indemnity contained in any of the Finance Documents be divided or apportioned with any other Obligor or any other person or reduced in any manner whatsoever.

SECTION 8

REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

23. REPRESENTATIONS

23.1 General

Save as otherwise stated, each Obligor makes the representations and warranties set out in this Clause 23 to each Finance Party at the times specified in Clause 23.33 (*Times when representations made*).

Status, authorisations and governing law

23.2 Status

- (a) It and each of its Subsidiaries which is a Material Company is a limited liability corporation, duly incorporated or established and validly existing under the law of its Original Jurisdiction.
- (b) It and each of its Subsidiaries which is a Material Company has the power to own its assets and carry on its business as it is being conducted.

23.3 Binding obligations

Subject to the Legal Reservations and the Perfection Requirements:

- (a) the obligations expressed to be assumed by it in each Finance Document to which it is a party are legal, valid, binding and enforceable obligations; and
- (b) (without limiting the generality of paragraph 23.3(a) above), each Transaction Security Document to which it is a party creates (or will create, upon its execution and delivery) the security interests which that Transaction Security Document purports to create and those security interests are (or will be, upon execution and delivery of that Transaction Security Document) valid and effective.

23.4 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents to which it is a party and the granting of the Transaction Security pursuant to the Agreed Security Principles do not and will not conflict with:

- (a) subject to the Legal Reservations, any law or regulation applicable to it in any material respect;
- (b) the constitutional documents of any member of the Group; or
- (c) any agreement or instrument binding upon it or any member of the Group or any of its or any member of the Group's assets or constitute a default or termination event (however described) under any such agreement or instrument, in each case to the extent such conflict has or is reasonably likely to have a Material Adverse Effect.

23.5 **Power and authority**

- (a) Subject to the Legal Reservations and the Perfection Requirements, it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is or will be a party and the transactions contemplated by those Finance Documents.
- (b) No limit on its powers will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party.

23.6 **Validity and admissibility in evidence**

- (a) Subject to the Legal Reservations and the Perfection Requirements, all Authorisations required:
 - (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and
 - (ii) to make the Finance Documents to which it is a party admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect except for any Authorisation referred to in Clause 23.9 (*No filing or stamp taxes*) which Authorisations will be promptly obtained or effected after the Closing Date.

- (b) All Authorisations necessary for the conduct of its business, trade and ordinary activities have been obtained or effected and are in full force and effect if failure to obtain or effect those Authorisations has or is reasonably likely to have a Material Adverse Effect.

23.7 **Governing law and enforcement**

- (a) Subject to the Legal Reservations, the choice of governing law of the Finance Documents to which it is a party will be recognised and enforced in its Relevant Jurisdictions.
- (b) Subject to the Legal Reservations, any judgment obtained in relation to a Finance Document to which it is a party in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its Relevant Jurisdictions.

No insolvency, default or tax liability

23.8 **Insolvency**

- (a) No:
 - (i) corporate action, legal proceeding or other procedure described in Clause 27.7 (*Insolvency proceedings*); or
 - (ii) creditors' process described in Clause 27.8 (*Creditors' process*),

has been taken, or to the knowledge of the Parent, threatened (and in each case is outstanding) in relation to a member of the Group; and none of the

circumstances described in Clause 27.6 (*Insolvency*) applies to a Material Company.

- (b) On the date of this Agreement or the Closing Date:
 - (i) no Material Company is unable or has admitted inability to pay its debts as they fall due or is deemed to or has been declared to be unable to pay its debts as they fall due under applicable law, suspended or threatened to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commenced negotiations with one or more of its creditors (excluding the Finance Parties) with a view to rescheduling any of its indebtedness;
 - (ii) none of the Parent or the Company has consolidated assets less than its consolidated liabilities; and
 - (iii) no moratorium has been declared in respect of the indebtedness of the Parent or the Company.

23.9 No filing or stamp taxes

Subject to the Legal Reservations, under the laws of its Relevant Jurisdiction, it is not necessary that the 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 Finance Documents or the transactions contemplated by the Finance Documents except the Perfection Requirements and any other registration filing, recording or enrolling or any Tax or fee payable in relation to any Transaction Security Document which is referred to in any Legal Opinion.

23.10 Deduction of Tax

- (a) It is not required to make any deduction for or on account of United Kingdom Tax from any payment it may make under any Finance Document to a Lender which is:
 - (i) a Qualifying Lender:
 - (1) falling within paragraph (a)(i) of the definition of "**Qualifying Lender**";
 - (2) except where a Direction has been given under section 931 of the ITA in relation to the payment concerned, falling within paragraph (a)(ii) of the definition of "Qualifying Lender"; or
 - (3) falling within paragraph (b) of the definition of "**Qualifying Lender**"; or
 - (ii) a Treaty Lender and the payment is one specified in a direction given by the Commissioners of Revenue & Customs under Regulation 2 of the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 (SI 1970/488).
- (b) An Irish Obligor is not required to make any deduction for or on account of Irish Tax from any payment it may make under any Finance Document to a Lender which is an Irish Qualifying Lender.

23.11 Taxation

- (a) Except for Legacy Matters, it is not (and none of its Subsidiaries is) overdue in the filing of any Tax returns and it is not overdue in the payment of any amount in respect of Tax (taking into account any extension or grace period), in each case to an extent which has or is reasonably likely to have a Material Adverse Effect.
- (b) Except for Legacy Matters, no claims or investigations are being, or are reasonably likely to be, made or conducted against it (or any of its Subsidiaries) with respect to Taxes such that a liability of, or claim against, any member of the Group which has or is reasonably likely to have a Material Adverse Effect is reasonably likely to arise.
- (c) It is resident for Tax purposes only in its jurisdiction of incorporation or (in the case of the Parent or the Company) the United Kingdom.

23.12 No default

- (a) No Event of Default and, on the date of this Agreement and the Closing Date, no Default is continuing or is reasonably likely to result from the making of any Loan or the entry into, the performance of, or any transaction contemplated by, any Finance Document.
- (b) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which, in each case, has or is reasonably likely to have a Material Adverse Effect.

Provision of information – general

23.13 No misleading information

- (a) Save as disclosed in writing to the Agent and/or the Arranger prior to the date of this Agreement, to the best of the knowledge and belief of the Parent after making due and careful enquiry:
 - (i) any material factual information contained in the Information Package was true and accurate in all material respects as at the date of the relevant report or document containing the information or, as the case may be, as at the date the information is expressed to be given;
 - (ii) the Base Case Model has been prepared in a manner consistent with the Accounting Principles as applied to the Original Financial Statements, and the financial projections contained in the Base Case Model have been prepared on the basis of recent historical information and on reasonable assumptions at the time such statements were prepared and have been approved by the board of directors of the Parent;
 - (iii) any financial projection or forecast contained in the Information Package has been prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair (as at the date of the

relevant report or document containing the projection or forecast) and arrived at after careful consideration;

- (iv) the expressions of opinion or intention provided by or on behalf of an Obligor for the purposes of the Information Package were made after careful consideration and (as at the date of the relevant report or document containing the expression of opinion or intention) were fair and based on reasonable grounds;
- (v) no event or circumstance has occurred or arisen and no information has been omitted from the Information Package and no information has been given or withheld that may be reasonably expected to result in the information, opinions, intentions, forecasts or projections contained in the Information Package taken as a whole being untrue or misleading in any material respect; and
- (vi) all other written information provided by any member of the Group to a Finance Party after the date of this Agreement was, so far as the Parent was aware at the time, 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 such date (save as otherwise specifically caveated by the relevant member of the Group).

23.14 Financial Statements

(a) The Original Financial Statements

- (i) in the case of the audited Original Financial Statements, were prepared in accordance with the Accounting Principles consistently applied and give a true and fair view of the consolidated financial condition of the Target as at the end of, and the results of operations of the Target for, the financial year to which they relate (unless expressly disclosed to the Agent in writing to the contrary prior to the date of this Agreement); and
 - (ii) in the case of the unaudited Original Financial Statements, fairly present the consolidated financial condition of the Target Group as at the end of, and the consolidated results of operations of the Target Group for, the period to which they relate (unless expressly disclosed to the Agent in writing to the contrary prior to the date of this Agreement and excluding normal year-end adjustments).
- (b) Its most recent financial statements delivered pursuant to Clause 24.1 (*Financial statements*) have been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements (or otherwise in accordance with Clause 24.3 (*Requirements as to financial statements*) or otherwise disclosed to the Agent in writing prior to the date of this Agreement); and give a true and fair view of (if audited) or fairly present (if unaudited) its consolidated (or, in the case of the monthly or quarterly financial statements, aggregated) financial condition as at the end of, and consolidated (or, in the case of the monthly or quarterly financial statements, aggregated) results of operations for, the period to which they relate.
- (c) The Budgets 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 reasonable as at the date they were prepared and supplied.

- (d) The references to "**Target Group**" in the representations in paragraphs (a) and (b) above shall be deemed to include any Joint Venture which is not a Subsidiary which is included in the relevant financial statements in accordance with the Accounting Principles.

23.15 **Accounting reference date**

The accounting reference date of each Obligor falls on or about the Accounting Reference Date (or, if different for any Obligor acquired pursuant to a Permitted Acquisition, will be the Accounting Reference Date within 90 days of its acquisition (or such later date as permitted for it to be changed under applicable laws and Accounting Principles).

No proceedings or breach of laws

23.16 **No proceedings pending or threatened**

Except for Legacy Matters, no litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which is reasonably likely to be adversely determined and, if adversely determined, would be reasonably likely to have a Material Adverse Effect (taking into account reserves made or the benefit of warranties, indemnities or insurance cover in respect thereof which the Agent, acting reasonably, believes are adequate) have been started and are on-going or (to the best of its knowledge and belief) threatened in writing against any Obligor.

23.17 **No breach of laws**

- (a) Except for Legacy Matters, it has not (and none of its Subsidiaries has) breached any law or regulation binding on it 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.

23.18 **Environmental laws**

- (a) To the best of its knowledge and belief, each Obligor is in material compliance with Clause 26.3 (*Environmental compliance*) and to the best of its knowledge and belief, no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.
- (b) To the best of its knowledge and belief, no material Environmental Claim has been commenced or, to the best of its knowledge and belief, is threatened in writing against any Obligor where that claim is reasonably likely to be adversely determined and, if adversely determined, would be reasonably likely to have a Material Adverse Effect.

23.19 **Anti-corruption laws**

Except for Legacy Matters, to the best of the knowledge and belief of the Parent (having made due and careful enquiry), each member of the Target Group conducts its

businesses in compliance with applicable Anti-Corruption Laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

Ownership of assets

23.20 Security and Financial Indebtedness

- (a) No Security or Quasi-Security exists over all or any of the present or future assets of any member of the Group, other than as permitted by this Agreement.
- (b) No member of the Group has any Financial Indebtedness outstanding other than as permitted by this Agreement.

23.21 Ranking

Subject to the Legal Reservations and the Perfection Requirements, the Transaction Security has or will have the ranking in priority which it is expressed to have in the Transaction Security Documents and it is not subject to any prior ranking or *pari passu* ranking Security, other than as permitted by this Agreement.

23.22 Good title to assets

It, and each of its Subsidiaries, has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, or otherwise has the right to use, the assets necessary to carry on its business as presently conducted, in each case if failure to do so has or is reasonably likely to have a Material Adverse Effect.

23.23 Legal and beneficial ownership

It is the sole legal and beneficial owner of the respective assets and shares over which it purports to grant Transaction Security, other than as permitted by this Agreement, provided that this Clause 23.23 shall only apply in respect of the Company's ownership of the Target Shares from the date on which it acquires such Target Shares, it being acknowledged that the Target Shares so acquired are beneficially but not legally owned until those Target Shares are registered in the register of members of the Target, which registration will be made as soon as reasonably practicable after the relevant acquisition.

23.24 Shares

The shares of any member of the Group 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 of companies (other than Dormant Subsidiaries) whose shares are subject to the Transaction Security do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security.

23.25 Intellectual Property

- (a) It is the sole legal and beneficial owner of or has licensed to it 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 as it is being conducted and as contemplated in the Base Case Model.
- (b) It does not (nor does any of its Subsidiaries), in carrying on its business, infringe any Intellectual Property of any third party in any respect which would have a Material Adverse Effect.

- (c) It has taken all formal or procedural actions (including payment of fees) required to maintain any material Intellectual Property owned by it save where failure to do so would not reasonably be expected to have a Material Adverse Effect.

Provision of information – Group

23.26 Group Structure Chart

The Group Structure Chart delivered to the Agent pursuant to Part A of Schedule 2 (*Conditions Precedent*) is true, complete and accurate in all material respects (assuming completion of the Target Acquisition).

23.27 Obligors

- (a) Subject to the Agreed Security Principles, each Subsidiary of the Parent which is a Material Company is or will be an Obligor within 30 days (in the case of a Subsidiary incorporated in England and Wales) or 60 days (in the case of a Subsidiary incorporated in a jurisdiction other than England and Wales) of the Closing Date.
- (b) Subject to the Agreed Security Principles, the Guarantor Coverage Test shall be met within 60 days of the Closing Date, tested by reference to the Consolidated Original Financial Statements.

Miscellaneous

23.28 Centre of main interests

For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the "**Regulation**"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in its Original Jurisdiction or the United Kingdom.

23.29 Pensions

- (a) Neither it nor any of its Subsidiaries is an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993) and which has not at the date of this Agreement been wound up.
- (b) Neither it nor any of its Subsidiaries is "connected" with or an "associate" of (as those terms are used in sections 38 and 43 of the Pensions Act 2004) such an employer.

23.30 Target Acquisition

- (a) The Scheme Press Announcement and the Scheme Circular:
 - (i) do not (or will not) contain any untrue statement by the Company or omit any information which makes any statement for which the Company or its directors are responsible misleading in any material respect, and all expressions of expectation, intention, belief and opinion of the Company and/or its directors contained in the Scheme Press Announcement or the Scheme Circular were honestly made on reasonable grounds after due and careful consideration by the Company and the Parent; and
 - (ii) taken as a whole, contain all the material terms of the Scheme.

- (b) If an Offer Conversion occurs, the contents of the Offer Press Announcement and the Offer Document shall:
 - (i) not contain any untrue statement by the Company or omit any information which makes any statement for which the Company or its directors are responsible misleading in any material respect, and all expressions of expectation, intention, belief and opinion of the Company and/or its directors contained in the Offer Press Announcement or the Offer Document have been honestly made on reasonable grounds after due and careful consideration by the Company and the Parent; and
 - (ii) taken as a whole, contain all the material terms of the Offer.
- (c) The Scheme Documents and (if an Offer Conversion occurs) the Offer Press Announcement, the Offer Document and the Offer, each comply in all material respects with the Irish Companies Act, the Takeover Rules and all other relevant laws and the requirements, rules and regulations of the Court and all applicable regulatory authorities and bodies.

23.31 Holding Companies

- (a) Except as may arise under or in connection with the Transaction Documents and for Acquisition Costs, before the Closing Date neither the Parent nor the Company has traded or incurred any material liabilities or commitments (actual or contingent, present or future) other than in the case of the Parent acting as a Holding Company of the Company.
- (b) Immediately before the Closing Date in respect of Facility B, the Company has, and has had, no Subsidiaries.

23.32 Sanctions

- (a) Neither it nor any of its Subsidiaries nor (to the best of its knowledge after making due and careful enquiries) any of its directors or officers:
 - (i) is a Restricted Party or is engaging in any transaction or conduct that could result in it becoming a Restricted Party;
 - (ii) is subject to any claim, proceeding, formal notice or investigation with respect to Sanctions;
 - (iii) is engaging in any transaction that evades or avoids, or has the purpose of evading or avoiding, or breaches or attempts to breach, directly or indirectly, any Sanctions applicable to it; or
 - (iv) is engaging, directly or indirectly, in any trade, business or other activities with or for the benefit of any Restricted Party.
- (b) No Loan, nor the proceeds from any Loan, has been used, directly or indirectly, to lend, contribute, provide or has otherwise been made available to fund any activity or business in any Sanctioned Jurisdiction or to fund any activity of or business with any Restricted Party, or in any other manner that resulted in any violation by any Finance Party of Sanctions.

- (c) The undertakings contained in paragraphs (a) and (b) above shall not apply to the extent that any such undertaking would breach any provision of Council Regulation EC No. 2271/96, as amended from time to time (known as the "**Blocking Regulation**"), or any applicable implementing legislation.

23.33 Times when representations made

- (a) All the representations and warranties in this Clause 23 are made by each Original Obligor on the date of this Agreement except for the representations and warranties set out in paragraphs 23.13(a)(i) to 23.13(a)(v) of Clause 23.13 (*No misleading information*) and the representations and warranties set out in Clause 23.30 (*Target Acquisition*).
- (b) All the representations and warranties in this Clause 23 are deemed to be made by each Obligor on the Closing Date.
- (c)
 - (i) The representations and warranties set out in paragraphs 23.13(a)(i) to 23.13(a)(v) of Clause 23.13 (*No misleading information*) are deemed to be made, with respect to the Base Case Model, by each Obligor on the date of this Agreement.
 - (ii) If and to the extent that they relate to the Scheme, the representations and warranties set out in Clause 23.30 (*Target Acquisition*) are deemed to be made by each Obligor on the date of the Scheme Press Announcement (if and to the extent that they relate to the Scheme Press Announcement) and on the date the Scheme Circular is published (if and to the extent that they relate to the Scheme Circular).
 - (iii) If an Offer Conversion occurs, the representations and warranties set out in Clause 23.30 (*Target Acquisition*), if and to the extent that they relate to the Offer, are deemed to be made by each Obligor on the date of the Offer Press Announcement (if and to the extent that they relate to the Offer Press Announcement) and on the date the Offer Document is published (if and to the extent that they relate to the Takeover Offer Documents).
- (d) The Repeating Representations are deemed to be made by each Obligor:
 - (i) on the date of each Utilisation Request;
 - (ii) on each Utilisation Date;
 - (iii) on the first day of each Interest Period;
 - (iv) on the date of each Incremental Facility Notice; and
 - (v) on each Establishment Date,

(except, in each case, that those contained in paragraph 23.14(b) of Clause 23.14 (*Financial Statements*) will cease to be so made once subsequent financial statements have been delivered under this Agreement).
- (e) All the representations and warranties in this Clause 23 except Clause 23.4 (*Non-conflict with other obligations*), Clause 23.13 (*No misleading information*), Clause 23.15 (*Accounting Reference Date*), Clause 23.26 (*Group Structure*

Chart), 23.27 (*Obligors*), Clause 23.30 (*Target Acquisition*) and Clause 23.31 (*Holding Companies*) are deemed to be made by each Additional Obligor (with respect to itself only) on the day on which it becomes (or it is proposed that it becomes) an Additional Obligor.

- (f) Each representation or warranty deemed to be made after the date of this Agreement shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

24. INFORMATION UNDERTAKINGS

The undertakings in this Clause 24 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

In this Clause 24:

"Annual Financial Statements" means the financial statements of the Parent for a Financial Year delivered pursuant to Clause 24.1(a) (*Financial statements*).

"Monthly Financial Statements" means the financial statements delivered pursuant to Clause 24.1(c) (*Financial statements*).

"Quarterly Financial Statements" means the financial statements delivered pursuant to Clause 24.1(b) (*Financial statements*).

24.1 Financial statements

The Parent shall supply to the Agent in sufficient copies for all the Lenders:

- (a) as soon as they are available, but in any event within 180 days after the end of each of its Financial Years:
 - (i) its audited consolidated financial statements for that Financial Year; and
 - (ii) the financial statements (consolidated if appropriate and audited, if required by applicable law to be produced) of each Obligor for that Financial Year;
- (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, its consolidated financial statements for that Financial Quarter. This 45 day period shall be extended to 60 days until the expiry of the first three full Financial Quarters falling after the Closing Date; and
- (c) as soon as they are available, but in any event within 35 days after the end of each Month ending after the Closing Date, its management accounts on a consolidated basis for that Month (to include cumulative management accounts for the Financial Year to date). This 35 days period shall be extended to 45 days until the expiry of the first three full Financial Quarters falling after the Closing Date.

24.2 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) Each Compliance Certificate shall, amongst other things:
 - (i) set out (in reasonable detail) compliance with Clause 25 (*Financial Covenants*);
 - (ii) set out (in reasonable detail) computations as to the applicable Margin for any Loan;
 - (iii) set out (in reasonable details) computations as to BoE Base Rate Swap Payments and the Maximum BoE Base Rate Swap Payment Amount;
 - (iv) details of the Known Exceptional Items;
 - (v) where required to be delivered with the Annual Financial Statements:
 - (1) set out the amount (if any) of Excess Cashflow for the relevant Financial Year which is required to be applied in mandatory prepayment;
 - (2) identify the extent that (and reasonable details of) any Cash Overfunding, Retained Excess Cash and Unrestricted Cash has been applied for any purpose under this Agreement during the Relevant Period to which the Compliance Certificate relates (and the current balance of each such item);
 - (3) confirm which members of the Group are Material Companies; and
 - (4) confirm compliance with Clause 26.34 (*Guarantors*).
- (c) Each Compliance Certificate shall be signed by two directors of the Parent (one of whom shall be the CFO or the CEO) and, if required to be delivered with the Annual Financial Statements of the Parent, shall be reported on by the Parent's Auditors in the form agreed by the Parent's Auditors and the Majority Lenders.

24.3 Requirements as to financial statements

- (a) The Parent shall procure that each set of Annual Financial Statements, Quarterly Financial Statements and Monthly Financial Statements includes a balance sheet, profit and loss account (or equivalent income statement) and cashflow statement. In addition the Parent shall procure that:
 - (i) each set of Annual Financial Statements shall be audited by the Parent's Auditors; and
 - (ii) each set of Monthly Financial Statements is accompanied by a statement by the directors of the Parent commenting on the performance of the Group for the Relevant Period to which the management accounts relate (including commenting on the Key Performance Indicators) and the Financial Year to date and any material developments or proposals affecting the Group or its business.

- (b) Each set of financial statements delivered pursuant to Clause 24.1 (*Financial statements*):
- (i) shall be certified by two directors of the Parent (one of whom shall be the CFO or the CEO) as giving a true and fair view of (in the case of Annual Financial Statements for any Financial Year), or fairly representing (in other cases), its financial condition and operations as at the date as at which those financial statements were drawn up and, in the case of the Annual Financial Statements, shall (unless firms of auditors of international repute have adopted a general policy of not providing such reports) be accompanied by any letter that contains a qualification, adverse opinion or disclaimer opinion addressed to the management of the relevant company by the Parent's Auditors and accompanying those Annual Financial Statements;
 - (ii) in the case of the Quarterly Financial Statements shall be accompanied by a statement by the directors of the Parent comparing actual performance (referring specifically to the balance sheet, profit and loss account and cashflow statements) 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;
 - (iii) in the case of consolidated financial statements of the Group, shall be accompanied by a statement by the directors of the Parent comparing actual performance (referring specifically to the balance sheet, profit and loss account and cashflow statements) for the period to which the financial statements relate to:
 - (1) the projected performance for that period set out in the Budget; and
 - (2) the actual performance for the corresponding period in the preceding Financial Year of the Group; and
 - (iv) save as disclosed to the Agent prior to the date of this Agreement, shall be prepared in accordance with the applicable Accounting Principles, and with the accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements of that Obligor and (to the extent applicable and in the case of the Parent) the Base Case Model unless in relation to any set of financial statements or management accounts, the Parent notifies the Agent that there has been a change in the Accounting Principles, the accounting practices or the financial reference periods and the Parent, at the request of the Agent, delivers to the Agent:
 - (1) a description of any change necessary for those financial statements to reflect those Accounting Principles, accounting practices or financial reference periods upon which the Base Case Model (to the extent applicable) or, as the case may be, that Obligor's Original Financial Statements were prepared; and
 - (2) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 25 (Financial covenants) has been complied with, to

determine the Margin for any Loan as set out in the definition of "**Margin**", to determine the amount of any prepayments to be made from Excess Cashflow under Clause 11.2 (*Disposal, Insurance and Acquisition and Excess Cashflow*), to make an accurate comparison between the financial position indicated in those Financial Statements and the Base Case Model (in the case of the Parent) or that Obligor's Original Financial Statements (in the case of any other Obligor).

- (c) 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, as the case may be the Original Financial Statements were prepared.
- (d) If an Event of Default is continuing and as a consequence the Agent wishes to discuss the financial position of any Obligor with the Parent's Auditors, the Agent may notify the Parent, stating the questions or issues which the Agent wishes to discuss with the Parent's Auditors. In this event, the Parent must ensure that the Parent's Auditors are authorised (at the expense of the Parent):
 - (i) to discuss the financial position of that Obligor with the Agent on request from the Agent; and
 - (ii) to disclose to the Agent for the Finance Parties any information which the Agent may reasonably request.
- (e) Notwithstanding any other term of this Agreement no Event of Default shall occur, or be deemed to occur, as a result of any restriction on the identity of the Parent's Auditors contained in this Agreement being prohibited, unlawful, ineffective, invalid or unenforceable pursuant to the Audit Law.
- (f) If any consolidated financial statements include the results of any Joint Venture which is not a Subsidiary, the Parent shall, at the request of the Agent, deliver to the Agent a description of the changes necessary for those financial statements to not include those results.

24.4 **Budget**

- (a) The Parent shall supply to the Agent in sufficient copies for all the Lenders, as soon as the same become available but in any event no later than 30 days after the start of each of its Financial Years, an annual Budget for that Financial Year. For the avoidance of doubt, such Budget shall be provided for information only and shall not be subject to any approval or consent requirement from any Finance Party.
- (b) The Parent shall ensure that each Budget:
 - (i) includes a projected consolidated profit and loss account, balance sheet, cashflow statement for the Group and projected financial covenant calculations;
 - (ii) is prepared in accordance with the Accounting Principles and the accounting practices and financial reference periods applied to financial statements or management accounts under Clause 24.1 (*Financial statements*); and

- (iii) has been approved by the directors of the Parent.
- (c) If the Parent materially updates or changes the Budget, it shall promptly deliver to the Agent, in sufficient copies for each of the Lenders, such updated or changed Budget together with a written explanation of the main changes in that Budget.

24.5 **Group companies**

The Parent shall if there is a dispute between the Parent and the Agent in respect of the identity of the Material Companies or whether the Parent is in compliance with Clause 26.34 (*Guarantors*), at the request of the Agent, supply to the Agent a report issued by the Parent's Auditors stating which of its Subsidiaries are Material Companies and confirming whether or not the Guarantor Coverage Test is met.

24.6 **Presentations and meetings**

The CFO and CEO shall give a presentation (at a time and in a location as mutually agreed and which may be by telephone or teleconference) to the Finance Parties about the on-going business and financial performance of the Group:

- (a) until 31 December 2020, once in each half of each Financial Year; and
- (b) at all times thereafter, once in each Financial Year.

24.7 **Year-end**

The Parent shall not change its accounting reference date from the Accounting Reference Date.

24.8 **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 Obligor 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 in writing or pending against any Obligor which, if adversely determined, are reasonably likely to have a Material Adverse Effect;
- (c) promptly upon becoming aware of them, the details or any claim, notice or other communication received by it or by any member of the Group from any Regulatory Authority which could reasonably be expected to have a Material Adverse Effect;
- (d) promptly upon becoming aware that a prepayment will be required, details of any Disposal, insurance claim or report claim which, in each case, will give rise to an obligation to apply Disposal Proceeds, Insurance Proceeds or Acquisition Proceeds in prepayment under Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*); and
- (e) promptly on request, such further information regarding the financial condition, assets or operations of the Group and/or any member of the Group as any Finance Party (through the Agent) may reasonably request.

24.9 Notification of default

- (a) Each Obligor shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).
- (b) Promptly upon a request by the Agent, 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).

24.10 "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 or any Lender (or, in the case of paragraph (a)(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 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 any Lender) or any Lender (for itself or, in the case of the event described in paragraph (a)(iii) above, on behalf of any prospective new Lender) in order for the Agent, such Lender or, in the case of the event described in paragraph (a)(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 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) 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 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 30 (*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 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 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 any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the 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.

25. FINANCIAL COVENANTS

25.1 Financial definitions

In this Agreement:

"BoE Base Rate Swap" any hedging arrangement entered into by a member of the group with a third party for the purpose of hedging the Bank of England base rate (whether or not referencing Bank of England base rate);

"BoE Base Rate Swap Payments" means the amount of any net cash payment received by any member of the Group under the terms of any BoE Base Rate Swap, provided that, in any Relevant Period, such amount shall not exceed the Maximum BoE Base Rate Swap Payment Amount;

"Borrowings" means, at any time, (without double counting) the outstanding principal, capital or nominal amount of Financial Indebtedness, excluding:

- (a) any Treasury Transaction;
- (b) the amount of any liability in respect of pension obligations of the Group;
- (c) Financial Indebtedness owed by one member of the Group to another member of the Group;
- (d) any Subordinated Debt and Permitted Investor Injections and any other amounts owed by a member of the Group which are subordinated under the Intercreditor Agreement (or otherwise to the satisfaction of the Agent, acting reasonably);
- (e) Financial Indebtedness arising in respect of credit card, merchant services, payment processing, BACS, CHAPS, "Faster Payment" (or similar) or daylight facilities incurred in the ordinary course of the Group's day-to-day banking, payment processing and merchant services arrangements;
- (f) any increase or decrease in the amount of Borrowings arising solely and directly due to the application of FRS 26; and
- (g) any actual or contingent liability in relation to any client investment fund or other client investment vehicle or platform and any indebtedness for, under, or in respect of any Trading Investment Arrangement;

"Capital Expenditure" means any expenditure paid in cash to any person who is not a member of the Group which in accordance with the Accounting Principles is treated as capital expenditure insofar as such expenditure is not funded by an insurance claim in respect of damage to any tangible assets and including the capital element of any

expenditure or obligation incurred in connection with a finance or capital lease. For the avoidance of doubt, any cash expenditure for a Permitted Acquisition or any cash expenditure arising from any operating lease (which, in accordance with the Accounting Principles as at the date of this Agreement, is treated as an operating lease) shall not constitute Capital Expenditure for the purposes of this definition and where assets are replaced and part of the purchase price is by way of part exchange, only the actual cash payment shall be taken into account;

"Cashflow Cover" means, in respect of any Relevant Period, the ratio of Consolidated Cashflow for that Relevant Period to Consolidated Debt Service for that Relevant Period, provided that for these purposes only, for any Relevant Period ending on or prior to 31 December 2020, Consolidated Cashflow shall be calculated by substituting Consolidated Pro Forma EBITDA for Consolidated EBITDA;

"Cash Overfunding" means:

- (a) the amount identified as such in a certificate signed by a director of the Parent and delivered by the Parent to the Agent pursuant to Part A of Schedule 2 (*Conditions precedent to signing this Agreement*) of this Agreement,

plus

- (b) in respect of any Relevant Period ending on or prior to the date falling 12 months after the Closing Date, any amounts designated in the Funds Flow Statement as at the date of this Agreement to fund Acquisition Costs, Known Exceptional Items, Debt-Like Items, 'Hedge Options' or the Regulatory Capital Amount and not forming Cash Overfunding under paragraph (a) above, but which are not required following the Closing Date to fund any such items, as certified by the Parent to the Agent (together with supporting calculations) within 6 months of the Closing Date as not so required, in a maximum aggregate amount not exceeding £3,000,000,

in each case, as such amount is applied and reduced from time to time in accordance with this Agreement as confirmed in each Compliance Certificate;

"Consolidated Cashflow" means, in respect of any Relevant Period, Consolidated EBITDA for that Relevant Period after:

adding:

- (a) any decrease in the amount of Working Capital;
- (b) the amount of any cash receipts during that Relevant Period in respect of any Exceptional Items not already taken account of in calculating Consolidated EBITDA for any Relevant Period;
- (c) any cash receipt in the Relevant Period in respect of any tax rebate/credits or refund;
- (d) the amount of any cash paid to a member of the Group in the Relevant Period that represents repayment of any loan made to a Joint Venture;
- (e) any increase in provisions, other non-cash debits and other non-cash charges (which are not Current Assets or Current Liabilities) taken into account in establishing Consolidated EBITDA;

- (f) any gains or deducting any loss on realised foreign exchange transactions, for the avoidance of doubt with an actual cash impact, and not already taken into account in Consolidated EBITDA;
- (g) amounts designated by the Parent as released from the Regulatory Capital Amount in respect of that period
- (h) solely for the purpose of testing the ability of the Parent to perform its obligations under Clause 25.2 (*Financial condition*) (and not, for the avoidance of doubt, the calculation of Excess Cashflow), any Cash Overfunding that has been used to fund a deduction from Consolidated Cashflow; and
- (i) (to the extent not already taken into account in determining Consolidated EBITDA) the amount of any dividends or other profit distributions in each case received in cash by any member of the Group during that Relevant Period from any Joint Venture and any other Non-Group Entity,

and deducting:

- (j) to the extent not already deducted or taken account of in determining Consolidated EBITDA:
 - (i) any amount of Capital Expenditure;
 - (ii) the aggregate of the Total Purchase Price in cash for any Permitted Acquisition;
 - (iii) the amount of any investment made in a Joint Venture; and
 - (iv) any payment in respect of any Known Exceptional Items (excluding for the avoidance of doubt any Acquisition Costs),

in each case, actually paid in cash by any member of the Group in the Relevant Period, to the extent not funded by:

- (1) Unrestricted Cash;
 - (2) Permitted Investor Injections (as designated by the Parent by notice to the Agent no later than the date the relevant Compliance Certificate is delivered);
 - (3) a Term Facility or any Permitted Financial Indebtedness; or
 - (4) capital contributions received from any actual or potential landlord, property developer or other third party in relation to Real Property:
 - (A) in respect of which a member of the Group is or will be a tenant or licensee; or
 - (B) which is or will be the subject of a Permitted Acquisition, Permitted Disposal or Permitted Joint Venture;
- (k) any increase in the amount of Working Capital;

- (l) to the extent not already deducted or taken account of in determining Consolidated EBITDA, any cash payment in the Relevant Period in respect of any Exceptional Items (other than Known Exceptional Items) excluding;
 - (i) for the avoidance of doubt, any Acquisition Costs; and
 - (ii) in respect of any Relevant Period ending on or prior to 31 December 2020, any Exceptional Items (other than Known Exceptional Items) relating to central costs restructuring, to the extent that such payments are funded by:
 - (1) Unrestricted Cash;
 - (2) Permitted Investor Injections (as designated by the Parent by notice to the Agent no later than the date the relevant Compliance Certificate is delivered);
 - (3) a Term Facility or any Permitted Financial Indebtedness; or
 - (4) capital contributions received from any actual or potential landlord, property developer or other third party in relation to Real Property:
 - (A) in respect of which a member of the Group is or will be a tenant or licensee; or
 - (B) which is or will be the subject of a Permitted Acquisition, Permitted Disposal or Permitted Joint Venture;
- (m) amounts designated by the Parent to increase the Regulatory Capital Amount in respect of that period;
- (n) any amount actually paid in the Relevant Period in respect of taxes on the profits of any member of the Group;
- (o) any decrease in provisions and other non-cash credits which are not Current Assets or Current Liabilities taken into account in establishing Consolidated EBITDA;
- (p) the amount of any cash cost of Pension Items during that Relevant Period to the extent not taken into account in establishing Consolidated EBITDA;
- (q) (to the extent not already deducted in determining Consolidated EBITDA) the amount of any Permitted Payment made in cash in that Relevant Period, to the extent not funded by Unrestricted Cash; and
- (r) (to the extent not already deducted in determining Consolidated EBITDA) the amount of any dividends paid in cash during the Relevant Period to any person who is not a member of the Group in their capacity as minority shareholders in members of the Group,

and so that no amount shall be included more than once and there shall be excluded the effect of all cash movements associated with the Target Acquisition, any Permitted Bolt-on Acquisition and any Acquisition Costs and excluding for the avoidance of doubt the cash movements of any drawing or repayment under any overdraft or revolving facility (including the Revolving Facility and any Ancillary Facility);

"Consolidated Debt Service" means, in respect of any Relevant Period, the aggregate of Consolidated Total Net Cash Interest Expenses for such period:

- (a) plus the aggregate of all scheduled repayments of any Borrowings (as reduced by any prior voluntary prepayment) falling due, but excluding:
 - (i) any amounts falling due under any overdraft or revolving facility (including, without limitation any Ancillary Facility) and which were available for simultaneous redrawing according to the terms of such facility (save as a result of Clause 4.2 (*Further conditions precedent*));
 - (ii) any mandatory prepayment under Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*) and any voluntary prepayments;
 - (iii) any such obligations owed to any member of the Group;
 - (iv) any repayment of Borrowings on or within five Business Days after the Closing Date, as shown in the Funds Flow Statement; and
- (b) plus the amount of the capital element of any payments in respect of that Relevant Period payable under any Finance Lease entered into by any member of the Group,

and so that no amount shall be included more than once;

"Consolidated EBITDA" for any period, means the operating profits of the Group from ordinary activities profit of the Group for such Relevant Period after adding back:

- (a) any depreciation or amortisation charged to the consolidated operating profits of the Group for such period (including, for the avoidance of doubt, those related to Borrowings);
- (b) any amount related to the impairment or negative revaluation of any asset during such period;
- (c) any loss against book value incurred by the Group on the disposal of any asset (other than the sale of trading stock or the sale of any Cash Equivalent Investments held by the Group in the ordinary course of business) during such period and any business interruption loss incurred which is covered by insurance;
- (d) any negative Exceptional Items (or provision made for such Exceptional Items) for such period;
- (e) financial charges or losses (including, for the avoidance of doubt, fees and commissions payable under any Finance Document, potential losses related to hedging instruments and financial charges and losses related to Financial Indebtedness);
- (f) the Total Purchase Price, acquisition related costs in relation to any Permitted Acquisition, and costs in relation to the BoE Base Rate Swap or any Pre-paid Cap, in each case charged or amortised in that period to, or against, the consolidated profit and loss account of the Group;
- (g) any amount of Tax on profits, gains or income paid or payable by the Group during such period;

- (h) interest accrued as an obligation of or owed to any member of the Group whether or not paid, deferred or capitalised during such period;
- (i) any Acquisition Costs and any management bonuses paid in connection with any Acquisition (plus any National Insurance payments made in connection therewith);
- (j) monitoring, operating and Sponsor advisory fees paid to the shareholders during such period to the extent permitted by the Agreement, and any amounts under paragraph (e) of the definition of Permitted Payment;
- (k) pension provisions;
- (l) any unrealised losses due to exchange rate movements;
- (m) any loss arising as a result of Debt Purchase Transactions;
- (n) any non-cash charges represented by expenses related to employee incentive programmes;
- (o) any dividends or other profit distributions (net of withholding tax) received by any member of the Group from any person who is not a member of the Group to the extent that amount is actually received in cash;
- (p) any fees, costs amortisation or charges of a non-recurring nature relating to any equity offering, investments, acquisitions or Financial Indebtedness permitted under the Finance Documents (whether or not successful); and
- (q) any BoE Base Rate Payments received during such period,

but after deducting:

- (r) financial income or gain;
- (s) any positive Exceptional Items for such period (or the release of any provisions made for such Exceptional Items);
- (t) any amount of any rebate or credit or refund in respect of Tax on profits, gains or income received or receivable by the Group during such period;
- (u) any gain over book value arising in favour of the Group on the sale, lease or other disposal of any asset (other than the sale of trading stock in the ordinary course of business) during such period and any gain arising on any revaluation of any asset during such period;
- (v) the release of pension provisions;
- (w) any gain arising as a result of Debt Purchase Transactions;
- (x) any unrealised gains due to exchange rate movements;
- (y) the amount of any profit of any member of the Group which is attributable to minority interests; and
- (z) the amount of any profit of any Non-Group Entity to the extent that the amount of the profit included in the financial statements of the Group exceeds the amount actually received in cash by members of the Group through distributions by the

Non-Group Entity (and not, for the avoidance of doubt, including any losses of any such person),

in each case, without double counting and to the extent added, deducted or taken into account, as the case may be, for the purposes of determining profits of the Group from ordinary activities before taxation;

"Consolidated Pro Forma EBITDA" means, in relation to a Relevant Period, Consolidated EBITDA for that Relevant Period adjusted by:

- (a) including the operating profit before interest, tax, depreciation, and amortisation and impairment charges (calculated on the same basis as Consolidated EBITDA) of a member of the Group (or attributable to a business, undertaking or collection of assets) acquired during the Relevant Period for that part of the Relevant Period prior to its becoming a member of the Group or (as the case may be) prior to the acquisition of the business or assets;
- (b) excluding the operating profit before interest, tax, depreciation, and amortisation and impairment charges (calculated on the same basis as Consolidated EBITDA) attributable to any member of the Group (or to any business, undertaking or collection of assets) disposed of or closed during the Relevant Period for that part of the Relevant Period; and
- (c) any applicable Pro Forma Cost Savings;

"Consolidated Total Gross Debt" in respect of the Group at any time, means the aggregate at that time of all Borrowings of members of the Group calculated on a consolidated basis including, in the case of Finance Leases, only the capitalised value of that Finance Lease;

"Consolidated Total Net Cash Interest Expenses" means for any period, the aggregate of interest, commitment or non-utilisation fees and annual agency fees relating to the Facilities accruing as a payable (whether or not paid) during a period plus or minus net amounts received or paid by the Group under the Hedging Agreements and adjusted as follows:

- (a) plus interest, commitment fees and other periodic fees on any other Borrowings (including the interest element of Finance Leases) accruing as a payable (whether or not paid) during a period;
- (b) plus consideration given by the Group during that period, and relating to that period whether by way of discount or otherwise in connection with any acceptance credit, bill discounting, debt factoring or other like arrangement included in Borrowings;
- (c) less interest income accrued as a receivable (whether or not paid) on Cash or Cash Equivalent Investments or Permitted Loans (other than from another member of the Group);
- (d) excluding any amortisation of Acquisition Costs (to the extent included);
- (e) excluding agent's, security agent's and arranger's agency and arrangement fees with respect to any Borrowings (including those payable under the Finance Documents);

"Current Assets" means the aggregate of inventory, trade and other receivables of each member of the Group including sundry debtors and prepayments (but excluding Cash and Cash Equivalent Investments) maturing within twelve months from the date of computation and excluding:

- (a) receivables in relation to Tax;
- (b) Exceptional Items and other non-operating items;
- (c) insurance claims; and
- (d) any accrued interest owing to any member of the Group;

"Current Liabilities" means the aggregate of all liabilities (including trade creditors, accruals and provisions) falling due within twelve months from the date of computation but excluding:

- (a) liabilities for Borrowings and Consolidated Total Net Cash Interest Expenses and excluding Acquisition Costs and agent's, security agent's and arranger's front end, management, arrangement, original issue discount and participation fees with respect to any Financial Indebtedness;
- (b) liabilities for Tax;
- (c) Exceptional Items and other non-operating items;
- (d) insurance claims;
- (e) liabilities in relation to dividends declared but not paid by the Parent or by a member of the Group in favour of a person which is not a member of the Group; and
- (f) amounts owed to the vendor(s) in connection with the Target Acquisition falling due within twelve months of the Closing Date;

"Exceptional Items" means any exceptional, one off, non-recurring or extraordinary items or any other items of an unusual or non-recurring nature which represent gains or losses, including those identified by the Parent as arising on:

- (a) the restructuring of the activities of an entity and reversals of any provisions for the cost of restructuring (including in each case in relation to redundancies);
- (b) disposals (including any gain or loss over or against book value arising in favour of or incurred by any member of the Group), revaluations, write downs or impairment of non-current assets or any reversal of any write down or impairment;
- (c) disposals of assets associated with discontinued operations; and
- (d) Known Exceptional Items,

provided that (other than in the case of Known Exceptional Items):

- (i) such items constitute, in the reasonable opinion of the Parent, exceptional items under the Accounting Principles; and

- (ii) the aggregate of all such Exceptional Items when aggregated with all Pro Forma Cost Savings which may be taken into account for the purposes of this definition shall not in any Relevant Period exceed 20% (in respect of any Relevant Period ending on or prior to 31 December 2020) or 15% (in respect of any Relevant Period ending after 31 December 2020) of Consolidated EBITDA for that Relevant Period (or in each case such higher percentage or amount as may be agreed by the Agent, acting on the instructions of the Majority Lenders);

"Excess Cashflow" means, for any period for which it is being calculated, Consolidated Cashflow for that period less:

- (a) Consolidated Debt Service;
- (b) any voluntary prepayments and mandatory prepayments of the Facilities;
- (c) any Retained Excess Cash or any Permitted Financial Indebtedness used in the Relevant Period to fund any amount of Capital Expenditure or Known Exceptional Items, in each case to the extent not already deducted or taken into account in the calculation of Consolidated Cashflow;
- (d) (to the extent not already deducted or taken into account in calculating Consolidated Cashflow) all Acquisition Costs paid in such year and any management bonuses paid in connection with the any Acquisition (plus any National Insurance payments made in connection therewith);
- (e) amounts forming part of Consolidated Cashflow and permitted to be retained by members of the Group pursuant to the provisions of this Agreement governing Acquisition Proceeds, Disposal Proceeds and Insurance Proceeds (whether under the baskets or reinvestment mechanisms or otherwise);
- (f) (to the extent not already deducted or taken into account in calculating Consolidated Cashflow) any payment to fund the purchase of management equity or other compensation to existing management;
- (g) any amounts in respect of Permitted Acquisitions, Capital Expenditure and Exceptional Items (for these purposes disregarding the proviso in paragraph (ii) of that definition) to the extent that any such amount is committed to be paid but is not paid during that period (provided that if any such amount so deducted is not actually paid in the next following Financial Year it shall be added to Excess Cashflow for that next following Financial Year);
- (h) any non-cash item included in or added to the calculation of Cashflow for that period;
- (i) any amount received by any member of the Group in respect of any BoE Base Rate Swap during such period;
- (j) any amounts designated by the Parent as released from the Regulatory Capital Amount in respect of that period; and
- (k) £1,000,000,

in each case without double counting, and provided that (for the avoidance of doubt) Consolidated Cashflow for the purposes of calculating Excess Cashflow shall be deemed not to include the proceeds of any Permitted Investor Injections or Cash Overfunding;

"Finance Lease" means any finance lease or capital lease (other than any which is or would have been classified as an operating lease under the Accounting Principles in force as at the date of this Agreement);

"Financial Quarter" means each 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 or about the Accounting Reference Date in each year;

"Group Initiative" means any Group restructuring, reorganisation, integration or cost saving initiative;

"Known Exceptional Items" means:

- (a) the Elysian Payment;
- (b) payment of charges levied by HMRC in relation to Dual Trustee SIPPs, to the extent that these are not funded by the proceeds of insurance claims;
- (c) any other "Legacy Issues" specified in Appendix B of the Legal Due Diligence Report; and
- (d) any other items identified in the Funds Flow Statement as related to the exit of head office and lease costs;

"Leverage" means, in respect of any Relevant Period, the ratio of Consolidated Total Gross Debt on the last day of that Relevant Period to Consolidated Pro Forma EBITDA for that Relevant Period;

"Maximum BoE Base Rate Swap Payment Amount" means, in respect of any Relevant Period, an amount equal to the decrease in revenue of members of the Group as a result of the Bank of England Base Rate applicable at any time to client cash held on account by members of the Group being lower than the rate applied by members of the Group in calculating amounts payable to clients in respect of such client cash held on account;

"Non-Group Entity" means any investment or entity (which is not itself a member of the Group (including associates and Joint Ventures)) in which any member of the Group has an ownership interest;

"Pension Items" means any income or charge attributable to a post-employment benefit scheme other than the current service costs and any past service costs and curtailments and settlements attributable to the scheme;

"Permitted Investor Injection" means proceeds of:

- (a) Subordinated Debt made available to the Parent or by the Parent to the Company after the Closing Date; or
- (b) a Permitted Share Issue under paragraph (c) of that definition;

"Pre-paid Cap" means an interest rate cap where the fee is paid in full and in advance;

"Pro Forma Cost Savings" means any cost savings and synergies which are bona fide and reasonably anticipated (for the avoidance of doubt including on a pro forma annualised look forward basis) to arise in relation to a Permitted Acquisition, Permitted Joint Venture, Permitted Disposal or a Group Initiative (each, an **"Event"**), provided that:

- (a) if they are 7.5% or less of Consolidated EBITDA in respect of any individual Event, the Parent certifies in the Compliance Certificate relating to the Relevant Period in which those Pro Forma Cost Savings are first applied that it believes that the amount is a reasonable estimate of the anticipated cost savings and synergies (including calculations and explanations in reasonable detail and taking into account the estimated cost of achieving them);
- (b) if they are more than 7.5% of Consolidated EBITDA in respect of any individual Event, shall be commented on by the Parent's Auditors (or another third party accounting firm or third party due diligence provider of national repute commissioned by a member of the Group as not being an unreasonable estimate of the anticipated cost savings and synergies (including calculations and explanations in reasonable detail and taking into account the estimated cost of achieving them));
- (c) they are reasonably capable of being realised within 12 Months of the date of the relevant Event (or 18 Months, to the extent that such cost savings and synergies are reasonably capable of being realised on or prior to 31 December 2020) (and, once realised or the Group becomes aware that they will not be realised, or if they have not been realised within 12 Months (or 18 Months, to the extent that such cost savings and synergies are reasonably capable of being realised on or prior to 31 December 2020), these savings shall cease to be included); and
- (d) the aggregate of all such Pro Forma Cost Savings, when aggregated with all Exceptional Items (other than Known Exceptional Items), which may be taken into account for the purposes of this definition shall not in any Relevant Period exceed 20% (in respect of any Relevant Period ending on or prior to 31 December 2020) or 15% (in respect of any Relevant Period ending after 31 December 2020), of Consolidated EBITDA for that Relevant Period and shall not, in any Relevant Period thereafter, exceed 15% of Consolidated EBITDA for that Relevant Period (or, in each case, such higher percentage or amount as may be agreed by the Agent, acting on the instructions of the Majority Lenders);

"Quarter Date" means 31 March, 30 June, 30 September and 31 December in each Financial Year of the Group;

"Relevant Period" means each period of 12 months ending on a Quarter Date;

"Retained Excess Cash" means, on any date on which it is required to be calculated, the aggregate of the Excess Cashflow for each Financial Year (or part thereof, commencing from the Closing Date and whether or not any prepayment from Excess Cashflow was required in respect thereof) which is not required to be applied in prepayment of the Facilities, to the extent not designated or applied for any other purpose permitted by this Agreement;

"Retained Proceeds" means any Acquisition Proceeds, Disposal Proceeds or Insurance Proceeds not required to be used in prepayment of the Facilities in accordance with Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*);

"Unrestricted Cash" means, at any time, the aggregate of the following to the extent not spent or applied as a Permitted Payment:

- (a) the net cash proceeds from any Permitted Investor Injection (after any mandatory prepayment made pursuant to Clause 25.4 (*Equity cure*));
- (b) any amount permitted to be paid in accordance with paragraph (c) or (f) of the definition of Permitted Payment, but which has been retained by the Group (and certified as such by a director of the Parent);
- (c) any Retained Excess Cash plus the cumulative amount deducted pursuant to paragraph (k) of the definition of Excess Cashflow;
- (d) any Retained Proceeds;
- (e) the balance of any Cash Overfunding; and
- (f) any amounts of Disposal Proceeds:
 - (i) waived by any Lender pursuant to paragraph 11.2(c) or paragraph 11.2(d) of Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*); or
 - (ii) not applied by the Parent as a Permitted Payment in accordance with paragraph (j) of the definition of Permitted Payment pursuant to paragraph (c)(iii) of Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*),

in each case without double counting, to the extent not otherwise applied and retained by the Parent and in an amount from time to time as confirmed in each Compliance Certificate; and

"Working Capital" means on any date Current Assets less Current Liabilities.

25.2 Financial condition

The Parent shall ensure that:

- (a) *Cashflow Cover*: Cashflow Cover in respect of any Relevant Period expiring on or after 31 March 2020 shall not be less than 1:00:1.
- (b) *Leverage*: In respect of any Relevant Period specified in column 1 below Leverage shall not exceed the ratio set out in column 2 below opposite that Relevant Period.

Column 1 Relevant Period expiring on the Quarter Date below	Column 2 Ratio
31 March 2020	8.77:1
30 June 2020	8.62:1
30 September 2020	8.49:1
31 December 2020	8.37:1

31 March 2021	8.27:1
30 June 2021	8.17:1
30 September 2021	8.07:1
31 December 2021	7.97:1
31 March 2022	7.90:1
30 June 2022	7.82:1
30 September 2022	7.74:1
31 December 2022	7.67:1
31 March 2023	7.61:1
30 June 2023	7.41:1
30 September 2023	7.20:1
31 December 2023	7.00:1
31 March 2024	6.81:1
30 June 2024	6.63:1
30 September 2024	6.44:1
31 December 2024	6.25:1
31 March 2025 and thereafter	6.00:1

- (c) *Super Senior Minimum EBITDA*: In respect of each Financial Year, Consolidated Pro Forma EBITDA of the Group shall at no time be less than the lower of:
- (i) the Total Revolving Facility Commitments as at the time of the relevant test; and
 - (ii) £5,000,000.

25.3 Financial testing

- (a) The financial covenants set out in Clause 25.2 (*Financial condition*) shall be calculated in accordance with the Accounting Principles and tested by reference to each of the financial statements delivered pursuant to Clauses 24.1(a) and 24.1(b) (*Financial statements*) and/or each Compliance Certificate delivered pursuant to Clause 24.2 (*Provision and contents of Compliance Certificate*) for the relevant Financial Year of the Parent, or other period in relation to which the calculation falls to be made.
- (b) For the purposes of the calculations set out in Clause 25.2 (*Financial condition*) for any Relevant Period ending before the date falling twelve Months after the Closing Date: (i) Consolidated Debt Service shall be calculated by dividing Consolidated Debt Service for the period from the Closing Date to the end of that Relevant Period by the number of days in that period and multiplying the resulting

number by 365; and (ii) all other amounts shall be calculated on a last twelve months basis by reference to the actual results of the Group for the period starting 12 months before the end of the Relevant Period and ending at the end of the Relevant Period.

- (c) For the avoidance of doubt, for the purpose of determining Leverage in Clause 25.2(b), Consolidated EBITDA shall be calculated by reference to the actual historic data over the previous 12 Months.
- (d) For the purpose of any calculation of any amount under Clause 25.2 (*Financial condition*):
 - (i) no item shall be deducted or credited more than once;
 - (ii) any amount to be paid to a member of the Group by the vendor under the Scheme Documents or, if applicable, the Takeover Offer Documents shall be ignored;
 - (iii) the financial results of any Joint Venture (including, without limitation, items from the income statement, balance sheet and cashflow) shall be included in the relevant amount for the Group only to the extent of the relevant Group member's proportional share of the ownership interest in that Joint Venture (as set out or calculated consistently with the treatment in the Base Case Model); and
 - (iv) the effect of any unrealised currency exchange gains and losses shall be excluded.
- (e) The terms of Clause 1.6 (*Fluctuations in exchange rates*) shall apply to the calculation of the Financial Covenants.

25.4 **Equity cure**

- (a) If, in respect of any Relevant Period the Parent is, or believes that it will be, in breach of any of the financial covenants referred to in Clauses 25.2(a) (*Cashflow Cover*) and/or 25.2(b) (*Leverage*) (collectively the "**Financial Covenants**"), the Parent may receive cash proceeds (the "**Cure Amount**") pursuant to any Permitted Investor Injection and the Financial Covenants will be calculated or recalculated for that Relevant Period (or the immediately following Relevant Period) giving effect to the following adjustments (in each case without such amount being applied more than once in relation to each Financial Covenant or in a manner resulting in any double-counting):
 - (i) for the purpose of calculating Cashflow Cover, Consolidated Cashflow for the Financial Quarter immediately prior to receipt of the Cure Amount (or immediately after, if received before the start of the Relevant Period) shall be increased by an amount equal to the Cure Amount; and/or
 - (ii) for the purpose of calculating Leverage, Consolidated Total Gross Debt will be reduced by the Cure Amount,

provided that in each case the Parent elects to apply those amounts in accordance with paragraphs (a)(i) and/or (a)(ii) above and applies the Cure Amount on or before the date which is 20 Business Days after the date of delivery of the relevant Compliance Certificate and 50% of such Cure Amount is applied in

prepayment of outstanding amounts under the Term Facilities (such prepayment to be treated as mandatory prepayment), unless the Parent has elected to only apply the Cure Amount for the purpose of calculating Cashflow Cover in accordance with paragraph (a)(i) above, in which case no prepayment shall be made, and any Cure Amount not applied in prepayment shall be retained on the Group's balance sheet.

- (b) If, after giving effect to the adjustments and recalculations referred to above, the requirements of the Financial Covenants are met, then such requirements shall be deemed to have been satisfied as at the relevant original date of determination, no Default will have occurred and the relevant recalculated Financial Covenants will apply for all purposes under the Finance Documents.
- (c) No Cure Amount shall increase Excess Cashflow for the purposes of the definition of that term, or the mandatory prepayment of Excess Cashflow pursuant to Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*).
- (d) The Cure Amount shall be applied in accordance with paragraphs (a)(i) and/or (a)(ii) above notwithstanding that any one (or two) Financial Covenants would have been breached in the absence of such Cure Amount, unless the Parent has elected to only apply the Cure Amount for the purpose of calculating Cashflow Cover in accordance with paragraph (a)(i) above (and in which case only that Financial Covenant shall be effected).
- (e) No action shall be capable of being taken to accelerate the Facilities or enforce the Transaction Security Documents solely on account of a breach of the Financial Covenants whilst a period is continuing in which an equity cure pursuant to this Clause 25.4 may be effected.
- (f) A Permitted Investor Injection may only be received or, as applicable, designated for the purpose of effecting a recalculation of a Financial Covenant and/or cure of a Financial Covenant breach pursuant to this Clause 25.4 as a Cure Amount:
 - (i) subject to a paragraph (h)(ii) below, a maximum of four times during the life of this Agreement; and
 - (ii) not in consecutive Financial Quarters.
- (g) For the avoidance of doubt:
 - (i) no amount of the Cure Amount in excess of the amount required to remedy or prevent the occurrence of a breach of the Financial Covenants shall be included in the calculation of the amount required to be applied in mandatory prepayment;
 - (ii) there will be no limit on the amount which may be applied as a Cure Amount pursuant to this Clause; and
 - (iii) the Parent may designate a Cure Amount to be applied before as well as after the end of the Relevant Period in which the breach of the relevant Financial Covenants occurs provided that such Cure Amount is applied in the manner set out in this Clause 25.4 and shall constitute a utilisation of one of the Parent's rights to cure a breach of the Financial Covenants pursuant to this Clause 25.4.

- (h) No Default or Event of Default shall occur in respect of the breach of any Financial Covenant and any such breach shall be deemed to be cured for all purposes under the Finance Documents (a "**Deemed Cure**") if, on the subsequent test date, the relevant Financial Covenant is complied with for the Relevant Period ending on that test date, provided that:
- (i) the Parent shall only be entitled to rely on a Deemed Cure under this paragraph (i) once during the life of the Facilities; and
 - (ii) any Deemed Cure effected under this paragraph (h) shall be deemed to constitute an application of a Cure Amount for the purpose of the limits described in paragraph (f) above.
- (i) No Default, Event of Default or Material Event of Default consisting of a breach of the Financial Covenant in paragraph 25.2(c) (*Super Senior Minimum EBITDA*) of Clause 25.2 (*Financial condition*) shall occur if by the relevant test date (or, if later, the latest date on which the relevant Compliance Certificate is required to be delivered under Clause 24.2 (*Provision and contents of Compliance Certificate*)) all Revolving Facility Utilisations and any Ancillary Outstandings have been repaid and the Revolving Facility has been cancelled.

25.5 **Unrestricted Cash**

Unrestricted Cash may be used or applied by the Group at any time for any purpose not prohibited under this Agreement.

26. **GENERAL UNDERTAKINGS**

The undertakings in this Clause 26 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

Authorisations and compliance with laws

26.1 **Authorisations**

Each Obligor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect and, if requested, shall supply certified copies to the Agent of any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

- (a) enable it to perform its obligations under the Finance Documents, the Scheme Documents and, if an Offer Conversion occurs, the Takeover Offer Documents;
- (b) subject to the Legal Reservations, ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document; and
- (c) enable it to carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

26.2 **Compliance with laws**

Each Obligor shall (and the Parent shall ensure that each member of the Group will) comply in all respects with all laws to which it may be subject, if failure to so comply has or is reasonably likely to have a Material Adverse Effect.

26.3 **Environmental compliance**

Each Obligor shall (and the Parent shall ensure that each member of the Group will):

- (a) comply with all Environmental Law to which it is subject;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Permits; and
- (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law,

where failure to do so has or is reasonably likely to have a Material Adverse Effect.

26.4 **Environmental claims**

Each Obligor shall (through the Parent) promptly upon becoming aware of the same, inform the Agent in writing of:

- (a) any Environmental Claim against any member of the Group which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,

where the claim, if determined against that member of the Group, has or is reasonably likely to have a Material Adverse Effect.

26.5 **Taxation**

Each Obligor shall (and the Parent shall ensure that each member of the Group will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed or, if later, before incurring material penalties unless and only to the extent that:

- (a) such payment is being contested in good faith;
- (b) adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Agent under Clause 24.1 (*Financial statements*) or will be disclosed in the next set of financial statements delivered to Agent under Clause 24.1 (*Financial statements*); and
- (c) such payment can be lawfully withheld (or withheld without material penalty),

where failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.

Restrictions on business focus

26.6 **Merger**

No Obligor shall (and the Parent shall ensure that no other member of the Group will) enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction other than a Permitted Transaction, a Permitted Acquisition or a Permitted Disposal.

26.7 **Change of business**

The Parent shall procure that no substantial change is made to the general nature of the business of the Group taken as a whole at the date of this Agreement (provided that no Permitted Acquisitions, Permitted Disposal, Permitted Merger or Permitted Joint Venture shall be deemed to constitute or result in any such change).

26.8 **Acquisitions**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will):
 - (i) acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or
 - (ii) incorporate a company.
- (b) Paragraph (a) above does not apply to an acquisition of a company, of shares, securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company which is:
 - (i) a Permitted Acquisition;
 - (ii) a Permitted Transaction;
 - (iii) a Permitted Joint Venture; or
 - (iv) a Permitted Merger.

26.9 **Joint ventures**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will):
 - (i) enter into, invest in or acquire (or agree to acquire) any shares, stocks, securities or other interest in any Joint Venture; or
 - (ii) transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture (or agree to do any of the foregoing).
- (b) Paragraph (a) above does not apply to any such transaction which is a Permitted Acquisition, a Permitted Disposal, a Permitted Loan, a Permitted Guarantee, Permitted Security, a Permitted Transaction or a Permitted Joint Venture.

26.10 **Anti-corruption law**

- (a) No Obligor shall (and the Parent shall ensure that no other member of the Group will) directly or indirectly use the proceeds of the Facilities for any purpose which would breach Anti-Corruption Laws.
- (b) Each Obligor shall (and the Parent shall ensure that each other member of the Group will):

- (i) conduct its businesses in compliance with applicable Anti-Corruption Laws; and
- (ii) maintain policies and procedures designed to promote and achieve compliance with such Anti-Corruption Laws.

26.11 Holding Companies

The Parent and the Company shall not trade, carry on any business, acquire any assets or incur any liabilities except for:

- (a) the provision of management and administrative services (including, in the case of the Company only, treasury services) to other members of the Group of a type customarily provided by a holding company to its Subsidiaries;
- (b) ownership of shares in its Subsidiaries, intra-Group debit balances, intra-Group credit balances and other credit balances in bank accounts, cash and Cash Equivalent Investments and any other assets customarily owned or operated by a holding company but only if those shares, credit balances, cash and Cash Equivalent Investments and other assets are, or on the Closing Date will be, subject to the Transaction Security;
- (c) any rights or liabilities under or in connection with the Transaction Documents to which it is a party, any Permitted Financial Indebtedness under paragraphs (b) and (i) of the definition of that term and professional fees and administration costs and any Tax incurred in the ordinary course of business as a holding company;
- (d) any rights or liabilities under service contracts with any of its directors, executives or consultants (or their employer) customarily agreed by a holding company and any arrangements in connection with an employee share scheme;
- (e) any rights or liabilities under any hedging transaction permitted under Clause 26.32 (*Treasury Transactions*);
- (f) any arrangement in respect of (or which is permitted to be satisfied by) a Permitted Payment or a Permitted Distribution;
- (g) the payment of any Acquisition Costs;
- (h) any assets or liabilities expressly contemplated as being acquired or incurred by the Parent or the Company in the Structure Memorandum;
- (i) any rights or liabilities in connection with incurring, issuing or receiving a Permitted Investor Injection; and
- (j) any Permitted Transaction, Permitted Merger, Permitted Guarantee or Permitted Security.

Restrictions on dealing with assets and Security

26.12 Preservation of assets

Each Obligor shall (and the Parent shall ensure that each member of the Group will) maintain in good working order and condition (ordinary wear and tear excepted) or have the right to use all of its assets necessary in the conduct of its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

26.13 **Pari passu ranking**

Each Obligor shall ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

26.14 **Negative pledge**

In this Clause 26.14, "**Quasi-Security**" means an arrangement or transaction described in paragraph (b) below.

Except as permitted under paragraph (c) below:

- (a) No Obligor shall (and the Parent shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets.
- (b) No Obligor shall (and the Parent shall ensure that no other member of the Group will):
 - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group;
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (iv) enter into any other preferential arrangement having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.
- (c) Paragraphs (a) and (b) above do not apply to any Security or (as the case may be) Quasi-Security, which is:
 - (i) Permitted Security; or
 - (ii) a Permitted Transaction.

26.15 **Disposals**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no member of the Group will) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer, assign, exclusively license or otherwise dispose of any asset.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer, assignment, exclusive license or other disposal which is:
 - (i) a Permitted Disposal; or

- (ii) a Permitted Transaction.

26.16 Arm's length basis

- (a) Except as permitted by paragraph (b) below, no Obligor shall (and the Parent shall ensure no member of the Group will) enter into any transaction with any person that is not a member of the Group except on arm's length terms or (from the perspective of the relevant member of the Group) terms which are more favourable than arm's length terms.
- (b) The following transactions shall not be a breach of this Clause 26.16:
 - (i) intra-Group loans permitted under Clause 26.17 (*Loans or credit*);
 - (ii) Permitted Distributions, Permitted Payments or Permitted Transactions;
 - (iii) transactions with employees, directors or consultants of members of the Group in relation to staff discounts, loans, bonuses, incentive schemes, accommodation or the payment of reasonable costs and expenses; and
 - (iv) any Liabilities Acquisition which is permitted by, and as defined in, the Intercreditor Agreement.

Restrictions on movement of cash – cash out

26.17 Loans or credit

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no member of the Group will) be a creditor in respect of any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to a Permitted Loan, Permitted Payment, Permitted Guarantee or Permitted Transaction.

26.18 No Guarantees or indemnities

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no member of the Group will) incur or allow to remain outstanding any guarantee in respect of any obligation of any person.
- (b) Paragraph (a) does not apply to a guarantee which is a Permitted Guarantee or Permitted Transaction.

26.19 Dividends and share redemption

- (a) Except as permitted under paragraph (b) below, the Parent shall not (and will ensure that no other member of the Group will):
 - (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
 - (ii) repay or distribute any dividend or share premium reserve;

- (iii) pay or allow any member of the Group to pay any management, advisory or other fee to or to the order of any of the shareholders of the Parent; or
 - (iv) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.
- (b) Paragraph (a) above does not apply to:
- (i) a Permitted Distribution;
 - (ii) a Permitted Payment;
 - (iii) a Permitted Transaction; or
 - (iv) a Permitted Merger.

26.20 **Subordinated Debt**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will):
- (i) repay or prepay any principal amount (or capitalised interest) outstanding under the Subordinated Debt;
 - (ii) pay any interest, fee or any other amounts payable in connection with the Subordinated Debt; or
 - (iii) purchase, redeem, defease or discharge any amount outstanding with respect to the Subordinated Debt.
- (b) Paragraph (a) above does not apply to the capitalisation or compounding of any interest or any other amounts payable in cash, or to a payment, repayment, prepayment, purchase, redemption, defeasance or discharge which is a Permitted Payment, Permitted Transaction, a Permitted Distribution or is otherwise permitted under the Intercreditor Agreement.

Restrictions on movement of cash- cash in

26.21 **Financial Indebtedness**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to Financial Indebtedness which is:
- (i) Permitted Financial Indebtedness; or
 - (ii) a Permitted Transaction.

26.22 **Share capital**

No Obligor shall (and the Parent shall ensure no member of the Group will) issue any shares except pursuant to:

- (a) a Permitted Share Issue; or

- (b) a Permitted Transaction.

Target Acquisition undertakings

26.23 Scheme undertakings

(a) **Scheme Press Announcement**

The Parent and the Company will procure the issue of the Scheme Press Announcement within three Business Days of the date of this Agreement.

(b) **Scheme Circular**

The Parent and the Company will:

- (i) use reasonable endeavours to procure that the Scheme Circular is dispatched as soon as practicable and in any event within 28 days (or such longer period permitted by the Takeover Panel) of the date of issue of the Scheme Press Announcement; and
- (ii) use reasonable endeavours to procure that the form and terms of the Scheme Circular do not vary in any respect which is material to the interests of the Lenders from the form and terms of the draft Scheme Press Announcement delivered as a condition precedent to signing this Agreement unless:
 - (1) the Agent has consented in writing to such change in advance (such consent not to be unreasonably withheld or delayed), it being acknowledged that such consent shall not be withheld or delayed in respect solely of an increase in the aggregate amount of cash payable for the Target Shares from that stated in the draft Scheme Press Announcement delivered as a condition precedent to signing this Agreement where it is demonstrated that such increase will be funded entirely (directly or indirectly) by the subscription for shares in, or subordinated loans to, the Parent by the Investors 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; or
 - (2) the variation is required by the Takeover Rules, the Takeover Panel or any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority.

(c) **Progress of Scheme**

The Parent and the Company will keep the Agent 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 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 aggregate amount of cash payable for the Target Shares 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 Investors 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) not take any action (and procure, so far as they are legally able to do so, that no person, acting in concert with it takes any action) which would compel it (or any person acting in concert with it) to make a mandatory offer to shareholders in the Target under Rule 9 of the Takeover Rules; and
- (iii) not waive or amend (and use reasonable endeavours to ensure there is no waiver or amendment to) or declare or treat as satisfied any condition of the Scheme where such waiver or consent would be materially prejudicial to the interests of the Finance Parties except either:
 - (1) where the Agent has given its consent; or
 - (2) to the extent required by the Takeover Rules, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority or the Court;
- (iv) comply in all material respects with its obligations under the Scheme and the Scheme Documents; and
- (v) comply in all material respects with its obligations under the Irish Companies Act and the Takeover Rules, subject to any applicable waivers by the Takeover Panel.

26.24 Offer undertakings

The undertakings in this Clause 26.24 shall apply only if an Offer Conversion occurs.

(a) Issue of Offer Document

- (i) The Company shall despatch the Offer Document as soon as practicable and in any event within 28 days (or such longer period permitted by the Takeover Panel) of the date of issuing the Offer Press Announcement.
- (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 Lenders with those terms recorded in the Scheme Press Announcement or Scheme Circular (as applicable), except for the acceptance condition (which shall be in the usual form for an Offer and which shall facilitate the completion of the Squeeze Out Procedures) or as otherwise required by the Takeover Rules, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority, unless the Agent has consented to such change in advance (such consent not to be unreasonably withheld or delayed). It is agreed that such consent will not be withheld or delayed solely on the ground of an increase in the

aggregate amount of cash payable for the Target Shares from that stated in the Scheme Press Announcement or Scheme Circular (as applicable) where it is demonstrated that such an increase is to be funded entirely (directly or indirectly) by the subscription for shares in, or subordinated loans to, the Parent by the Investors and such monies are passed down (directly or indirectly) to the Company by way of subscription for shares or intercompany loan which is subordinated under the terms of the Intercreditor Agreement.

(b) **Progress of Offer**

The Parent and the Company 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.

(c) **Terms of the Offer**

(i) Without the prior written consent of the Agent, no Obligor shall:

- (1) take any action (and procure, so far as it is legally able to do so, that no person acting in concert with it takes any action) which would compel it to make a mandatory offer to shareholders in the Target under Rule 9 of the Takeover Rules;
- (2) declare the Offer unconditional unless (i) it has achieved an acceptance level of at least 90% of each class of Target Shares to which the Offer relates and (ii) the Company has become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice;
- (3) without prejudice to paragraph (a)(ii) above, not increase, and ensure there is no increase in, the aggregate amount of cash payable for the Target Shares pursuant to the Offer, 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 Investors 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;
- (4) waive or amend any other condition of the Offer where such waiver or amendment would be materially prejudicial to the interests of the Lenders, unless required to do so by the Takeover Rules, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority; or
- (5) (unless the Unconditional Date shall have occurred) extend the Offer beyond 81 days from the date on which the Offer Document is published, unless required to do so by the Takeover Rules, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority.

- (ii) The Company will procure that the Offer is initially made on the terms and conditions set out in the Offer Press Announcement and that the Offer Document repeats such terms in all material respects, in each case save as required by the Takeover Rules, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority
- (iii) The Parent and the Company shall:
 - (1) comply in all material respects with its obligations under the Offer and the Takeover Offer Documents; and
 - (2) comply in all material respects with its obligations under the Irish Companies Act and the Takeover Rules, subject to any applicable waivers by the Takeover Panel.

(d) **Potential lapse of Offer**

If any member of the Group 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, if needed) to lapse the Offer, it shall promptly notify the Agent.

(e) **Completion of purchase of remaining shares in the Target**

Within 14 days of the date on which the Company has (i) by virtue of the Offer acquired, or unconditionally contracted to acquire, not less than 90% in value of the Target Shares and (in a case where the shares of any class of the Target Shares are voting shares) not less than 90% of the voting rights carried by those shares and (ii) become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice, the Company shall:

- (i) give notice to all the remaining Target Shareholders that it intends to acquire their shares pursuant to the Squeeze Out Procedures;
- (ii) subsequently purchase such shares as soon as legally possible; and
- (iii) comply with the provisions of the Squeeze Out Procedures.

26.25 General Acquisition Undertakings

(a) **Announcements**

The Obligors agree that:

- (i) they will deliver to the Agent copies of all publicity material, press releases and announcements intended to be published in relation to the Target Acquisition or the Facilities as soon as practicable prior to their publication; and
- (ii) 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 or body relating to the Target Acquisition, or (for the avoidance of doubt), the

Scheme, the Scheme Documents, the Offer or the Takeover Offer Documents;

(b) **Disclosure**

The Obligors shall make full written disclosure to the Agent as soon as practicable of all information which comes to the attention of any member of the Group and which is material to any decision about whether to waive any condition of the Scheme or Offer (as the case may be) or which suggests that any condition to the Target Acquisition will or may not be satisfied, or will or may require to be waived.

(c) **Regulatory clearances and authorisations**

Except to the extent necessary to comply with any obligations of confidentiality to any regulatory authority, the Obligors shall keep the Agent reasonably informed as to:

- (i) the terms and conditions of any assurance or undertaking proposed to be given by or on behalf of any member of the Group (or, so far as the Company is aware, any member of the Target Group) to any person for the purpose of obtaining any authorisation or clearance necessary in connection with the Target Acquisition; and
- (ii) any terms or conditions proposed in connection with any Authorisation necessary in connection with the Target Acquisition.

(d) **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 Target Acquisition.

(e) **Take Private Procedure**

The Obligors shall submit all required documents to the Registrar of Companies to procure the re-registration of the Target as a private company pursuant to Part 20 of the Irish Companies Act within 14 days of the date on which the Target becomes a wholly-owned subsidiary of the Company.

(f) **Security over Target Shares**

- (i) The Obligors shall procure that as soon as reasonably practicable and in any event within 5 Business Days of the re-registration of the Target as a private company in accordance with Clause 26.24(e), share certificates and stock transfer forms executed in blank in respect of the shares of Target acquired by the Company, are delivered to the Security Agent.
- (ii) The Obligors shall procure that as soon as is reasonably practicable after the Company acquires other shares in Target, share certificates and stock transfer forms executed in blank in respect of those shares are delivered to the Security Agent.

Miscellaneous

26.26 Insurance

- (a) Each Obligor shall (and the Parent shall ensure that each member of the Group (except for any Dormant Subsidiaries) will) (or the Parent shall on a group policy basis) maintain insurances (including business interruption risk) on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.
- (b) All insurance must be with reputable independent insurance companies or underwriters.

26.27 Pensions

- (a) The Parent shall procure that no member of the Group is:
 - (i) an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (and which has not at the date of this Agreement been wound-up) (both terms as defined in the Pension Schemes Act 1993); or
 - (ii) "connected" with or an "associate" of (as those terms are used in sections 38 or 43 of the Pensions Act 2004) such an employer.
- (b) Each Obligor shall promptly notify the Agent of any investigation or proposed investigation by the Pensions Regulator which may lead to the issue of a Financial Support Direction or a Contribution Notice to it.
- (c) Each Obligor shall promptly notify the Agent if it receives a Financial Support Direction or a Contribution Notice from the Pensions Regulator.

26.28 Access

If an Event of Default is continuing, each Obligor shall, and the Parent shall ensure that each member of the Group will, permit the Agent and/or the Security Agent and/or accountants or other professional advisers and contractors engaged by the Agent or Security Agent reasonable access at all reasonable times and on reasonable notice to:

- (a) view the premises or assets and inspect the books, accounts and records of each Obligor; and
- (b) meet and discuss matters with Senior Management,

in each case only to the extent the Agent (acting reasonably) considers it to be necessary to investigate and plan any action in connection with the Event of Default that is continuing referred to above, and provided that all information obtained as a result of such access shall be subject to the confidentiality obligations and restrictions set out in this Agreement.

26.29 Intellectual Property

Each Obligor shall (and the Parent shall procure that each Group member will):

- (a) preserve and maintain the subsistence and validity of the Intellectual Property necessary for the business of the relevant member of the Group;

- (b) use reasonable endeavours to prevent any infringement or other misuse in any material respect of that Intellectual Property;
- (c) make registrations and pay all registration, renewal and other official fees and taxes necessary to maintain that Intellectual Property in full force and effect and record its interest and, subject to the Agreed Security Principles, that of the Security Agent (if any) in that Intellectual Property;
- (d) not use or permit that Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Intellectual Property which may materially and adversely affect the existence or value of that Intellectual Property or adversely affect the right of any member of the Group to use such Intellectual Property; and
- (e) not discontinue the use of that Intellectual Property,

where failure to do so, in the case of paragraphs (a),(b) and (c) above, or, in the case of paragraphs (d) and (e) above, such use, permission to use, omission or discontinuation, would have or would be reasonably likely to have a Material Adverse Effect.

26.30 **Amendments**

- (a) No Obligor shall (and the Parent shall ensure that no other member of the Group will) amend, vary, novate, supplement, supersede, waive or terminate any term of a Finance Document except in writing:
 - (i) in accordance with the provisions of Clause 40 (*Amendments and Waivers*);
 - (ii) to the extent that that amendment, variation, novation, supplement, superseding, waiver or termination is permitted by the Intercreditor Agreement; or
 - (iii) in a way which could not be reasonably expected materially and adversely to affect the interests of the Finance Parties.
- (b) The Parent shall promptly on request supply to the Agent a copy of any document relating to any of the matters referred to in paragraphs (a)(i) to (a)(iii) above.

26.31 **Financial assistance**

Each Obligor shall (and the Parent shall procure that each other member of the Group will) comply in all respects with section 82 of the Irish Companies Act and any equivalent legislation in other jurisdictions including (to the extent required by law) in relation to the execution of the Transaction Security Documents and payment of amounts due under this Agreement.

26.32 **Treasury Transactions**

No Obligor shall (and the Parent will procure that no members of the Group will) enter into any Treasury Transaction, other than any:

- (a) Permitted Hedging Transactions; or
- (b) Trading Investment Arrangements.

26.33 Compliance with Hedging Letter

The Parent shall ensure that all interest rate hedging arrangements required by the Hedging Letter are implemented and maintained in accordance with the terms of the Hedging Letter.

26.34 Guarantors

- (a) Subject to paragraphs (b) and (c) below and the Agreed Security Principles, the Parent shall ensure that, on and from the day falling 60 days after the Closing Date, the Guarantor Coverage Test is met (by reference to the Consolidated Original Financial Statements or once the same are available, the most recent Annual Financial Statements).
- (b) The Guarantor Coverage Test requirement in paragraph (a) above will be tested on the date falling 60 days after the Closing Date and, thereafter, on each date on which a Compliance Certificate is delivered under Clause 24.2 (*Provision and contents of Compliance Certificate*) in relation to any Annual Financial Statements.
- (c) The Parent's obligations under paragraph (a) above are subject to the limitations and restrictions set out under the Agreed Security Principles. Subject to the other provisions of the Agreed Security Principles, each Obligor must use its reasonable endeavours to mitigate the effect of any such limitations and restrictions (including any personal liability for that person's officers or management) which arise pursuant to applicable law or regulation. This includes agreeing to a limit on the amount guaranteed. The Agent may (but shall not be obliged to) agree to such a limit if, in its opinion, to do so would avoid the relevant unlawfulness or personal liability.
- (d) Subject to paragraph (c) above, the Parent shall ensure that sufficient members of the Group become Additional Guarantors to ensure that paragraph (a) above is complied with and, subject to the Agreed Security Principles, that those Additional Guarantors grant Transaction Security as the Agent may require and accede to the Intercreditor Agreement as soon as possible but in any event within 30 days after the delivery of a Compliance Certificate that first shows that the requirements under paragraph (a) above are not being complied with or within 30 days of the acquisition of a Material Company (in each case, within 60 days in the case of any member of the Group incorporated or established outside of England and Wales).

26.35 Further assurance

- (a) Subject to the Agreed Security Principles, each Obligor shall (and the Parent shall procure that each member of the Group will) promptly do all such acts or execute all such documents (including 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, 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 Finance Parties provided by or pursuant to the Finance Documents or by law;

- (ii) to confer on the Security Agent or confer on the 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) 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 shall (and the Parent shall procure that each member of the Group shall) take all such action as is reasonably available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of the Transaction Security.

26.36 Sanctions

- (a) No member of the Group may:
- (i) use, lend, contribute or otherwise make available any part of the proceeds of any Loan or other transaction contemplated by this Agreement directly or indirectly:
 - (1) for the purpose of financing any trade, business or other activities involving, or for the benefit of, any Restricted Party; or
 - (2) in any other manner that would reasonably be expected to result in any person being in breach of any Sanctions or becoming a Restricted Party;
 - (ii) engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or breaches or attempts to breach, directly or indirectly, any Sanctions applicable to it; or
 - (iii) fund all or part of any payment in connection with a Finance Document out of proceeds derived from business or transactions with a Restricted Party, or from any action which is in breach of any Sanctions.
- (b) Each member of the Group must ensure that appropriate controls and safeguards are in place designed to prevent any action being taken that would be contrary to paragraph (a) above.

26.37 Conditions subsequent

- (a) The Company (and/or other Obligor(s)) shall enter into the Hedging Agreements required to be entered into pursuant to the terms of the Hedging Letter by no later than the date falling 90 days after the Closing Date.
- (b) The Parent shall:
- (i) within five Business Days of the Closing Date, deliver to the Agent evidence that the £5,000,000 overdraft facility made available by Barclays Bank Ireland PLC has been discharged and released in full; and

- (ii) within 15 Business Days of the Closing Date, deliver to the Agent evidence that the security in favour of Barclays Bank Ireland PLC listed in section 10.2.5 (*Banking*) of the Legal Due Diligence Report has been discharged and released in full;
- (c) The Parent shall procure that a letter of engagement with the Finance Parties from the Parent's Auditors which will be reporting for the Financial Year ending 31 December 2019 on the Compliance Certificate accompanying the Annual Financial Statements is delivered to the Agent by no later than the date falling 30 days prior to the first date on which such Compliance Certificate must be delivered.
- (d) Subject to the Agreed Security Principles, the Parent shall procure that by the date falling no later than 30 days after the Closing Date, each member of the Target Group (other than any Joint Venture or Dormant Subsidiary) which is required to do so in accordance with the Intercreditor Agreement has acceded to the Intercreditor Agreement as an Intra-Group Lender (as such terms are defined therein) in accordance with the Intercreditor Agreement.

27. EVENTS OF DEFAULT

27.1 Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by:
 - (i) administrative or technical error; or
 - (ii) a Disruption Event; andpayment is made within three Business Days of its due date;
- (b) that amount is payable pursuant to an Ancillary Facility which an Obligor is able to refinance by drawing under the Revolving Facility within three Business Days of the due date for payment under that Ancillary Facility; or
- (c) such amount is not principal, interest, fees or commitment commission and is paid within five Business Days of its due date.

27.2 Financial covenants and other obligations

- (a) Subject to Clause (a) below, any requirement of Clause 25 (*Financial covenants*) is not satisfied and is not cured (if capable of being cured) in accordance with Clause 25.4 (*Equity Cure*) or an Obligor does not comply with the provisions of Clause 24.1 (*Financial statements*), Clause 24.2 (*Provision and contents of Compliance Certificate*), Clause 24.4 (*Budget*), Clause 26.6 (*Merger*), Clause 26.8 (*Acquisitions*), Clause 26.14 (*Negative Pledge*), Clause 26.15 (*Disposals*) or Clause 26.18 (*No Guarantees or indemnities*).
- (b) No Event of Default shall occur in respect of a breach of Clauses 24.1 (*Financial statements*), 24.2 (*Provisions and contents of Compliance Certificate*) and 24.4

(Budget) if the relevant information or document is provided within three Business Days of the due date.

27.3 Other obligations

- (a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 27.1 (Non-payment) and Clause 27.2 (*Financial covenants and other obligations*)).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 15 Business Days of the Agent giving written notice to the Company or the relevant Obligor or the Company or such Obligor becoming aware of the failure to comply.

27.4 Misrepresentations

- (a) Any representation made or deemed to be made by an Obligor in the Finance Documents is or proves to have been incorrect or misleading in any material respect when made or deemed to be made by reference to the facts and circumstances then existing.
- (b) No Event of Default under paragraph (a) above will occur if the circumstances causing such misrepresentation are capable of remedy and are remedied within 15 Business Days of the earlier to occur of the Agent giving written notice to the Company or the relevant Obligor or the Company or an Obligor becoming aware of the misrepresentation.

27.5 Cross default

- (a) Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- (d) Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) No Event of Default will occur under this Clause 27.5 if:
 - (i) the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than £1,000,000 (or its equivalent in any other currency or currencies);
 - (ii) any event falling within paragraphs (a) to (d) above is in respect of Financial Indebtedness which is:
 - (1) outstanding under an Ancillary Facility where a Revolving Facility Loan is available and can be borrowed to refinance such Financial Indebtedness;

- (2) not paid in order to comply with the terms of this Agreement or the Intercreditor Agreement;
- (3) owed by one member of the Group to another member of the Group; or
- (iii) a finance lease of a member of the Group in existence on the date of the relevant Permitted Acquisition is terminated as a result of a change of control occurring under the relevant finance lease as a consequence of a Permitted Acquisition.

27.6 Insolvency

- (a) A Material Company is unable or admits inability to pay its debts as they fall due or is deemed to (save by reason of its liabilities exceeding the value of its assets) or declared to be unable to pay its debts as they fall due under applicable law (other than under section 123(1)(a) of the Insolvency Act where demand is made for an amount of less than £1,000,000 and such demand is settled and/or discharged within 14 days of being made) or suspends or threatens in writing to suspend making payments on its debts generally by reason of actual or anticipated financial difficulties or commences (other than with a Finance Party in relation to the Facilities) negotiations with one or more of its creditors with a view to rescheduling any of its Financial Indebtedness.
- (b) A moratorium is declared in respect of any indebtedness of any Material Company.

27.7 Insolvency proceedings

- (a) Any corporate action or legal proceeding or formal procedure or step is taken in relation to:
 - (i) the suspension of payments of its debts generally, a moratorium of any indebtedness, winding-up, dissolution, administration, examinership or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Material Company other than a solvent liquidation or reorganisation of a Material Company;
 - (ii) a composition, compromise, assignment or similar arrangement with any creditor of any Material Company as part of a general composition, compromise, assignment or similar arrangement with respect to such company's creditors generally by reason of actual or anticipated financial difficulties;
 - (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not a Material Company), receiver, administrator, administrative receiver, compulsory manager, examiner or other similar officer in respect of any Material Company or any of its assets; or
 - (iv) enforcement of any Security over any assets greater than £1,000,000 (or its equivalent in other currencies) in aggregate value of any Material Company,

or any analogous actions or legal proceedings are taken in any jurisdiction.

- (b) Paragraph (a) above shall not apply to:
- (i) any winding-up petition (or an analogous document in a jurisdiction outside the United Kingdom) or any step preliminary to such a petition or document which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement or, if earlier, the date on which it is advertised, or any solvent liquidation or reorganisation of any Material Company which is not an Obligor, so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other Obligors or Material Companies; or
 - (ii) any application by a person (who is neither a member of the Group nor a director of a member of the Group) for the appointment of an administrator which is frivolous or vexatious and is stayed, withdrawn or dismissed within 14 days of the application being made or presented.

27.8 Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Material Company having an aggregate value of £1,000,000 (or its equivalent in other currencies) and is not discharged within 15 Business Days.

27.9 Unlawfulness and invalidity

- (a) Subject to the Agreed Security Principles, it is or becomes unlawful for any Obligor or any other member of the Group that is a party to the Intercreditor Agreement to perform any of its obligations under the Finance Documents or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective or any subordination created under the Intercreditor Agreement is or becomes unlawful and this individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents taken as a whole.
- (b) Any obligation or obligations of any Obligor under any Finance Document or any member of the Group under the Intercreditor Agreement are not (subject to the Legal Reservations and the Agreed Security Principles) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents.
- (c) Any Finance Document ceases (subject to the Legal Reservations and the Perfection Requirements) to be in full force and effect or any Transaction Security or any subordination created under the Intercreditor Agreement ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective (in each case where this is materially and adversely to the detriment of the Lenders taken as a whole and, if capable of remedy, is not remedied within 15 Business Days of the earlier of (i) the Company becoming aware of such matter and (ii) the Agent giving notice to the Company requesting that the relevant matter be remedied).

27.10 **Intercreditor Agreement**

- (a) Any party to the Intercreditor Agreement (other than a Finance Party, Hedge Counterparty or Obligor) 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 that party 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 15 Business Days of the earlier of the Agent giving notice to that party or that party becoming aware of the non-compliance or misrepresentation.

27.11 **Cessation of business**

Any Material Company suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business except as a result of a transfer of such business or disposal which is in either case a Permitted Disposal, a Permitted Transaction or a Permitted Merger.

27.12 **Change of Ownership**

After the Closing Date, any Obligor (other than the Company) ceases to be a direct or indirect wholly-owned Subsidiary of the Company other than as a result of a Permitted Disposal or a Permitted Transaction.

27.13 **Audit qualification**

The Auditors of the Group qualify their report on the audited annual consolidated financial statements of the Parent:

- (a) on the grounds of inability to continue as a going concern or lack of material information; or
- (b) in a manner or to an extent which is reasonably likely to have or which has a Material Adverse Effect.

27.14 **Expropriation**

The authority or ability of any member of the Group to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to a member of the Group or any of its assets if such acts or such curtailment has or is reasonably likely to have a Material Adverse Effect.

27.15 **Repudiation and rescission of agreements**

- (a) Any Obligor rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Finance Document or any Transaction Security.
- (b) Any party (other than a Finance Party or Hedge Counterparty) to the Intercreditor Agreement rescinds or purports to rescind or repudiates or purports to repudiate such agreement in whole or in part where to do so has or is reasonably likely to

have a material adverse effect on the interests of the Lenders under the Finance Documents.

27.16 Litigation

Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened in writing in relation to the Transaction Documents or the transactions contemplated in the Transaction Documents or against any member of the Group or its assets which has or is reasonably likely to have a Material Adverse Effect.

27.17 Material adverse change

Any event or circumstance occurs which has a Material Adverse Effect which is continuing.

27.18 Regulatory compliance

Any Regulatory Authorisation which is required by Financial Services Laws to be maintained by a member of the Group which is a Regulated Entity in order to conduct its business is terminated or ceases to be in effect without being renewed or replaced or extended within any period allowed therefor, or is varied, limited or has a requirement imposed on it and such termination, cessation, loss, variation, limitation or requirement is not remedied or removed within 20 Business Days of the date of such Regulatory Authorisation being so terminated or ceasing to be in effect (or such longer period as may be allowed by law or regulation), and has or is reasonably likely to have a Material Adverse Effect. For the avoidance of doubt, no Event of Default shall occur under this Clause 27.18 to the extent a member of the Group voluntarily surrenders or terminates or allows to lapse or expire, any Regulatory Authorisation which it does not require, or no longer requires, to conduct its business.

27.19 Acceleration

- (a) Subject to Clause 27.20 (*Clean-up Period*), on and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders, by notice to the Parent:
- (i) cancel the Total Commitments and/or Ancillary Commitments at which time they shall immediately be cancelled;
 - (ii) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable;
 - (iii) declare that all or part of the Loans be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders;
 - (iv) declare all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities to be immediately due and payable at which time they shall become immediately due and payable;

- (v) declare that all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Revolving Facility Lenders; and/or
 - (vi) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.
- (b) If permitted by the terms of clause 3.12 (*Permitted Enforcement: Revolving Facility Lenders*) of the Intercreditor Agreement and otherwise subject to the terms of the Intercreditor Agreement, on and at any time after the occurrence of a Material Event of Default which is continuing, the Agent may, and shall, if so directed by the Majority Revolving Facility Lenders, by notice to the Parent:
- (i) cancel the Revolving Facility Commitments and/or Ancillary Commitments at which time they shall immediately be cancelled;
 - (ii) declare that all or part of the Loans under the Revolving Facility, together with accrued interest, and all other amounts accrued or outstanding under the Loans under the Revolving Facility be immediately due and payable, at which time they shall become immediately due and payable;
 - (iii) declare that all or part of the Loans under the Revolving Facility be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Revolving Facility Lenders;
 - (iv) declare all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities to be immediately due and payable at which time they shall become immediately due and payable;
 - (v) declare that all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Revolving Facility Lenders; and/or
 - (vi) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

27.20 **Clean-Up Period**

Notwithstanding any other provision of any Finance Document:

- (a) any breach of a representation under Clause 23 (*Representations*) or an undertaking under Clauses 24 (*Information undertakings*) or 26 (*General Undertakings*); or
- (b) any Default or Event of Default,

other than a Non-Clean Up Default, will be deemed not to be a breach of representation or warranty, a breach of an undertaking, a Default, an Event of Default or a reason for any

Lender not to comply with its obligations under Clause 5.4 (*Lenders' participation*) (as the case may be) if:

- (i) it would have been (if it were not for this provision) a breach of representation or warranty, a breach of an undertaking, a Default or an Event of Default only by reason of circumstances or matters relating exclusively to a person, business or undertaking which is the subject of a Permitted Acquisition (or any obligation for any member of the Group to procure or ensure in relation to any person, business or undertaking which is the subject of a Permitted Acquisition);
- (ii) it is capable of remedy and, if the Parent is aware of it, reasonable steps are going to be taken to remedy it;
- (iii) the circumstances giving rise to it have not been procured by or approved by the Parent or an Original Obligor;
- (iv) it does not have Material Adverse Effect; and
- (v) the circumstances giving rise to it do not exist after Clean-up Date.

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 Finance Parties).

SECTION 9

CHANGES TO PARTIES

28. CHANGES TO THE LENDERS

28.1 Assignments and transfers by the Lenders

Subject to this Clause 28 and to Clause 28.12(a) (*Restrictions on 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 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**").

28.2 Conditions of assignment or transfer

- (a) An Existing Lender must obtain the consent of the Parent (such consent not to be unreasonably withheld or delayed) before it may make an assignment or transfer in accordance with this Clause 28 (with each transferee in respect of which consent has been granted being then added to the White List in the relevant part thereof as specified by the Parent) unless (subject to paragraph (b) below) the assignment or transfer is:

- (i) to another Lender or an Affiliate of a Lender;
- (ii) if the Existing Lender is a fund, to a fund which is a Related Fund of the Existing Lender;
- (iii) made at a time when an Event of Default is continuing; or
- (iv) to an entity which appears on the White List,

provided that any assignment or transfer to made on or prior to the date falling one day after the last day of the Certain Funds Period shall in all circumstances require the prior consent of the Parent (which may be given or refused in its absolute discretion).

- (b) Except with the prior written consent of the Parent (acting in its absolute discretion), a New Lender may not be:
 - (i) a competitor or a fund owned, managed and/or advised by a competitor or a person who owns or controls a majority interest in a competitor of the Group (each a "Trade Competitor"); or
 - (ii) a Distressed Fund, unless the assignment or transfer is made at a time when an Event of Default is continuing under Clause 27.1 (*Non-payment*) or Clause 27.6 (*Insolvency*) to Clause 27.8 (*Creditors' process*) (inclusive).
- (c) (At all times on and from the date falling one day after the last day of the Certain Funds Period), the Parent will be deemed to have given its consent if it has not responded within 10 Business Days after the Existing Lender has requested

consent to an assignment or transfer pursuant to paragraph (a). For the avoidance of doubt, where the consent of the Parent to an assignment or transfer is required pursuant to paragraph (a) above, it shall be reasonable for the Parent to withhold consent to that assignment or transfer if it is to a hedge fund.

- (d) A copy of the request for consent under paragraph (a) or (b) above made by the Agent or an Existing Lender shall be sent to the Sponsor (by email to Owen.Wilson@epiris.co.uk and Bill.Priestley@epiris.co.uk or any substitute email address as the Parent may notify to the Agent by not less than five Business Days' notice) at the same time as the request is issued to the Parent.
- (e) The assignment or transfer (when aggregated with, for this purpose, the participations and all Participation Arrangements, as defined below, of its Affiliates and Related Funds) must not be less than a minimum aggregate principal amount of £2,000,000 (or the equivalent amount in other currencies) or if less the Existing Lender's aggregate Commitments under the Facility to be assigned or transferred.
- (f) 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 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
 - (iii) the performance by the 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 to the Existing Lender and the New Lender.
- (g) 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 the procedure set out in Clause 28.6 (*Procedure for transfer*) is complied with.
- (h) If:
 - (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
 - (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 17 (*Tax gross-up and indemnities*) or Clause 18 (*Increased costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under that Clause to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred. This paragraph (h) shall not apply in relation to Clause 17.2 (*Tax gross up*), to a Treaty Lender that has confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph 17.2(h)(ii)(2) of Clause 17.2 (*Tax gross up*) if the

Obligor making the payment has not made a Borrower DTTP Filing in respect of that Treaty Lender to the extent required to do so under this Agreement.

- (iii) 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.

28.3 Sub-participations

- (a) A Lender may, subject to this Clause 28.3, enter into sub-participation (whether funded or unfunded), sub-contract or similar arrangements in respect of its rights and obligations under this Agreement provided that the Lender remains liable under this Agreement in relation to those obligations (each a "**Participation Arrangement**").
- (b) The prior consent of the Parent (such consent not to be unreasonably withheld or delayed) is required to any Participation Arrangement pursuant to the terms of which voting rights of a Lender are transferred or are capable of being transferred to the respective counterparty of a Participation Arrangement (with each counterparty in respect of which consent has been granted being then added to the White List in the relevant part thereof as specified by the Parent), unless (subject to paragraph (c) below) the Participation Arrangement is:
 - (i) to a counterparty which is another Lender or an Affiliate of a Lender;
 - (ii) if the Existing Lender is a fund, to a counterparty which is a fund which is a Related Fund of the Existing Lender;
 - (iii) to a counterparty which appears on the White List; or
 - (iv) made at a time when an Event of Default is continuing,provided that any Participation Arrangement entered into on or prior to the date falling one day after the last day of the Certain Funds Period shall in all circumstances require the prior consent of the Parent (which may be given or refused in its absolute discretion).
- (c) Except with the prior written consent of the Parent, a counterparty to a Participation Arrangement may not be:
 - (i) a Trade Competitor; or
 - (ii) a Distressed Fund, unless the Participation Arrangement is made at a time when an Event of Default is continuing under Clause 27.1 (*Non-payment*) or Clause 27.6 (*Insolvency*) to Clause 27.8 (*Creditors' process*) (inclusive).
- (d) (At all times on and from the date falling one day after the last day of the Certain Funds Period), the Parent will be deemed to have given its consent if it has not responded within 10 Business Days after the Existing Lender has requested consent pursuant to paragraph (b)) above. For the avoidance of doubt, where the

consent of the Parent to a Participation Arrangement is required pursuant to paragraph (b) above, it shall be reasonable for the Parent to withhold consent to that Participation Arrangement if it is with a counterparty that is a hedge fund.

- (e) A copy of the request for consent under paragraph (b) or (c) above made by a Lender shall be sent to the Sponsor (by email to Owen.Wilson@epiris.co.uk and Bill.Priestley@epiris.co.uk or any substitute email address as the Parent may notify to the Agent by not less than five Business Days' notice) at the same time as the request is issued to the Parent.
- (f) The aggregate sub-participation of each sub-participant in the Facilities (when aggregated with, for this purpose, the participations, sub-participations and all other Commitments of its Affiliates and Related Funds) must not be less than £2,000,000 (or the equivalent amount in other currencies).
- (g) For the avoidance of doubt, the Agent shall not be obliged to monitor sub-participations.

28.4 **Assignment or transfer fee**

Unless the Agent otherwise agrees and excluding an assignment or transfer (i) to an Affiliate of a Lender or (ii) to 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.

28.5 **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 or any other member of the Group 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 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 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 Transaction Documents or any Commitment is in force.

- (c) Nothing in any 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 28; 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 Finance Documents or otherwise.

28.6 Procedure for transfer

- (a) Subject to the conditions set out in Clause 28.2 (*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 shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) Subject to Clause 28.11 (*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 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 Finance Documents and in respect of the Transaction Security and their respective rights against one another under the 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 Arranger, the Security Agent, the New Lender, the other Lenders 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 Arranger, the Security Agent and any relevant Ancillary Lender and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

- (iv) the New Lender shall become a Party as a "**Lender**".

28.7 Procedure for assignment

- (a) Subject to the conditions set out in Clause 28.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph 28.6(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 shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) Subject to Clause 28.11 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) the Existing Lender will assign absolutely to the New Lender its rights under the 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 28.7 to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with Clause 28.6 (*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 28.2 (*Conditions of assignment or transfer*).
- (e) The Agent, acting solely for this purpose as an agent of the Borrowers, shall maintain a copy of each Assignment Agreement and Transfer Certificate delivered to it and register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive evidence absent manifest error, and the Borrowers, the Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

28.8 **Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Parent**

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate, an Assignment Agreement or an Increase Confirmation, send to the Parent a copy of that Transfer Certificate, Assignment Agreement or Increase Confirmation.

28.9 **Accession of Hedge Counterparties**

Any person which becomes a party to the Intercreditor Agreement as a Hedge Counterparty shall, at the same time, become a Party to this Agreement as a Hedge Counterparty in accordance with clause 19.10 (*Creditor Accession Undertaking*) of the Intercreditor Agreement.

28.10 **Security over Lenders' rights**

In addition to the other rights provided to Lenders under this Clause 28, 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 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 or governmental body; 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 Finance Documents or substitute the beneficiary of the relevant charge, assignment or other Security for the Lender as a party to any of the 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 Finance Documents.

28.11 **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 28.6 (*Procedure for transfer*) or any assignment pursuant to Clause 28.7 (*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 28.11, have been payable to it on that date, but after deduction of the Accrued Amounts.

28.12 Transfer of Commitments of ACE IV Entities on the Closing Date

- (a) In this Clause 28.12:
 - "**ACE IV Entities**" means Ares Capital Europe IV (E) Investments S.a r.l.; Ares Capital Europe IV (G) Investments S.a r.l.; Ares Capital Europe IV (G) (L) Investments S.a r.l.; and Ares Capital Europe IV (E) (L) Investments S.a r.l.;
 - "**Transferee Lenders**" means the entities listed in Part C of Schedule 1; and
 - "**Shadow Commitments**" means the amounts listed under the headings Facility B Commitment, Acquisition Facility Commitment and Revolving Facility Commitment in Part C of Schedule 1.
- (b) Notwithstanding anything to the contrary in this Clause 28, subject to paragraph (c) below, no assignment, transfer, sub-participation (whether funded or unfunded and whether with or without voting rights), sub-contract or other syndication of any rights, benefits or obligations under any Finance Document (or any of them) of the ACE IV Entities (or any of them) may be (or is capable of being) made prior to the date falling 1 day after the last day of the Certain Funds Period, without the prior written consent of the Parent (which consent may be given or refused in the Parent's absolute discretion).
- (c) In the event that the Target Acquisition is being effected by way of Scheme and the Effective Date has occurred, without prejudice to paragraph (b) above and the ACE IV Entities' obligations as Lenders under this Agreement to fund Loans on or prior to the end of the Certain Funds Period:
 - (i) the Transferee Lenders may make available to the Agent (and the Agent may accept) amounts which in aggregate are equal to the aggregate participations required to be funded by the ACE IV Entities in each Loan if such amounts are received by the Agent from the Transferee Lenders in the proportion borne by their respective Shadow Commitments to the relevant Available Commitment immediately prior to the making of the Loan;
 - (ii) the Agent may apply such amounts as if they had been amounts received from the Lenders pursuant to paragraph (a) of Clause 5.4 (*Lenders' participations*), in the making of Loans to the Company (and the Company may receive and apply such amounts accordingly); and
 - (iii) the ACE IV Entities and the Transferee Lenders agree that immediately following the receipt by the Company of any Loan received by it during the Certain Funds Period (the time of such receipt being the "**Transfer Time**"), all of the rights and obligations of the ACE IV Entities under this

Agreement and the other Finance Documents which relate to such portions of the ACE IV Entities' Commitments under this Agreement as are equal to the Shadow Commitments of the Transferee Lenders (other than the ACE IV Entities) (the "**Transferred Commitments**") shall be transferred by novation to the Transferee Lenders (other than the ACE IV Entities) such that the Commitments of each Transferee Lender are in the amounts set opposite its name in Part C of Schedule 1 and, immediately following the Transfer Time:

- (1) in respect of the Transferred Commitments, each of the Obligors and the ACE IV Entities shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the "**Discharged Rights and Obligations**"); and
 - (2) each of the Obligors and the Transferee Lenders (other than the ACE IV Entities) 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 Transferee Lender have assumed and/or acquired the same in place of that Obligor and the ACE IV Entities.
- (d) For the avoidance of doubt, no transfer of Commitments may take place in accordance with paragraph (c) above (each a "**Funding Transfer**") before Facility B has been utilised in full by way of Loans received by the Company.

29. RESTRICTIONS ON DEBT PURCHASE TRANSACTIONS

29.1 Prohibition on Debt Purchase Transactions

The Parent shall not, and shall procure that each other member of the Group shall not (i) enter into any Debt Purchase Transaction or (ii) 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 paragraphs (b) or (c) of the definition of Debt Purchase Transaction.

29.2 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:
 - (1) the Majority Lenders or Super Majority Lenders or the Majority Revolving Facility Lenders or the Security Super Majority Lenders;
or
 - (2) whether:

- (3) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments; or
- (4) the agreement of any specified group of Lenders,

has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents such Commitment shall be deemed to be zero; and

- (ii) for the purposes of Clause 40.3 (*All Lender matters*), 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).
- (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 A of Schedule 12 (*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 B of Schedule 12 (*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 (if so requested by the Agent), it shall not attend or participate in the same or 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 request of, or on the instructions of, the Agent or one or more of the Lenders.

29.3 **Sponsor Affiliates' notification to other Lenders of Debt Purchase Transactions**

Any Sponsor Affiliate which is or becomes a Lender and which enters into a Debt Purchase Transaction as a purchaser or a participant shall, by 5.00 pm on the Business Day following the day on which it entered into that Debt Purchase Transaction, notify the Agent of the extent of the Commitment(s) or amount outstanding to which that Debt Purchase Transaction relates. The Agent shall promptly disclose such information to the Lenders.

30. CHANGES TO THE OBLIGORS

30.1 Assignment and transfers by Obligors

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

30.2 Additional Borrowers

- (a) Subject to compliance with the provisions of Clauses 24.10(c) and 24.10(d) ("*Know your customer*" checks), the Parent may request that any of its wholly owned Subsidiaries becomes a Borrower. That Subsidiary shall become a Borrower if:
- (i) it is incorporated in a jurisdiction which is a member of the European Union, European Economic Area, the United Kingdom or an OECD country (in each case that is not a Sanctioned Jurisdiction), or in the same jurisdiction as an existing Obligor or otherwise if all the Lenders approve the addition of that Subsidiary;
 - (ii) the Parent and that Subsidiary deliver to the Agent a duly completed and executed Accession Deed;
 - (iii) the Subsidiary is (or becomes) a Guarantor prior to becoming a Borrower;
 - (iv) the Parent confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and
 - (v) the Agent has received all of the documents and other evidence listed in Part B of Schedule 2 (*Conditions Precedent*) in relation to that Additional Borrower, each in form and substance satisfactory to the Agent (acting reasonably).
- (b) The Agent shall notify the Parent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part C 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.

30.3 Resignation of a Borrower

- (a) In this Clause 30.3, Clause 30.5 (*Resignation of a Guarantor*) and Clause 30.7 (Resignation and release of Security on disposal), "**Third Party Disposal**" means the (direct or indirect) disposal of an Obligor to a person which is not a member of the Group where that disposal constitutes a Permitted Disposal or a Permitted Transaction or is made with the approval of the Majority Lenders (and the Parent has confirmed this is the case).
- (b) If a Borrower is subject to a Third Party Disposal, the Parent may request that a Borrower (other than the Company) 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 Finance Parties 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) the Borrower is under no actual or contingent obligations as a Borrower under any Finance Documents; and
 - (iii) where the Borrower is also a Guarantor (unless its resignation has been accepted in accordance with Clause 30.5 (*Resignation of a Guarantor*)), its obligations in its capacity as Guarantor continue to be legal, valid, binding and enforceable and in full force and effect (subject to the Legal Reservations) and the amount guaranteed by it as a Guarantor is not decreased (and the Parent has confirmed this is the case); and
 - (iv) the Parent has confirmed that it shall ensure that any relevant Disposal Proceeds will be applied in accordance with Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*).
- (d) Upon notification by the Agent to the Parent of its acceptance of the resignation of a Borrower, that company shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents as a Borrower.
- (e) The Agent may, at the cost and expense of the Parent, require a legal opinion from counsel to the Agent confirming the matters set out in paragraph (c)(iii) above and the Agent shall be under no obligation to accept a Resignation Letter until it has obtained such opinion in form and substance satisfactory to it.

30.4 **Additional Guarantors**

- (a) Subject to compliance with the provisions of paragraphs 24.10(c) and 24.10(d) of Clause 24.10 (*"Know your customer" checks*), the Parent may request that any of its Subsidiaries become a Guarantor.
- (b) Subject to the Agreed Security Principles, the Parent shall procure that any member of the Group which is required to become a Guarantor pursuant to paragraph 26.34(a) of Clause 26.34 (*Guarantors*) and/or which is identified as a Material Company pursuant to paragraph 24.2(b) of Clause 24.2 (*Provision and contents of Compliance Certificate*) or following an acquisition shall, within 30 days (in the case of an entity incorporated in England and Wales) or 60 days (in the case of an entity incorporated in a jurisdiction other than England and Wales) after the delivery of the relevant Compliance Certificate accompanying the Annual Financial Statements or the relevant acquisition and subject to the Agreed Security Principles, become an Additional Guarantor and grant Security as the Agent may require and shall accede to the Intercreditor Agreement.
- (c) Subject to the Agreed Security Principles, 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 C of Schedule 2 (*Conditions Precedent*) in relation to that Additional

Guarantor, each in form and substance satisfactory to the Agent (acting reasonably).

- (d) The Agent shall notify the Parent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part C 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 30.3(e) 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.

30.5 Resignation of a Guarantor

- (a) The Parent may request that a Guarantor (other than the Company) ceases to be a Guarantor by delivering to the Agent a Resignation Letter if:
 - (i) that Guarantor is being disposed of by way of a Third Party Disposal (as defined in Clause 30.3 (*Resignation of a Borrower*)) and the Parent has confirmed this is the case; or
 - (ii) in respect of any member of the Group which is not a Material Company, Clause 26.34 (*Guarantors*) would still be complied with when taking such resignation into account; or
 - (iii) the Majority Lenders have consented to the resignation of that Guarantor.
- (b) Subject to the terms of the Intercreditor Agreement, 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 Guarantor under Clause 22.1 (*Guarantee and indemnity*);
 - (iii) where the 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 30.3 (*Resignation of a Borrower*); and
 - (iv) the Parent has confirmed that it shall ensure that the Disposal Proceeds will be applied in accordance with Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*).
- (c) Upon notification by the Agent to the Parent of its acceptance of the resignation of a Guarantor, that company shall cease to be a Guarantor and shall have no further rights or obligations under the Finance Documents as a Guarantor.

30.6 Repetition of Representations

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in Clauses 23.33(b) and 23.33(c)(i) (*Times when representations made*) are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

30.7 **Resignation and release of Security on disposal**

If a Borrower or Guarantor is or is proposed to be the subject of a Third Party Disposal, or (in the case of a Guarantor) if the Agreed Security Principles require it, then:

- (a) where that Borrower or Guarantor (and/or any of its Subsidiaries) created Transaction Security over any of its assets or business in favour of the Security Agent, or Transaction Security in favour of the Security Agent was created over the shares (or equivalent) of that Borrower, Guarantor and/or any of its Subsidiaries, the Security Agent shall, at the cost and request of the Parent, release those assets, business or shares (or equivalent) and issue certificates of non-crystallisation;
- (b) the resignation of that Borrower or Guarantor and related release of Transaction Security referred to in paragraph (a) above shall not become effective until the date of that disposal or (as applicable) the date on which the Agreed Security Principles require it; and
- (c) if the disposal of that Borrower or Guarantor is not made (and the Parent notifies the Agent that such disposal has not been made), the Resignation Letter of that Borrower or Guarantor and the related release of Transaction Security referred to in paragraph (a) above shall have no effect and the obligations of the Borrower or Guarantor (and its Subsidiaries) and the Transaction Security created or intended to be created by or over that Borrower or Guarantor (or its Subsidiaries) shall continue in such force and effect as if that release had not been effected.

SECTION 10

THE FINANCE PARTIES

31. ROLE OF THE AGENT, THE ARRANGER AND OTHERS

31.1 Appointment of the Agent

- (a) The Arranger and the Lenders appoint the Agent to act as their agent under and in connection with the Finance Documents.
- (b) The Arranger and the Lenders authorise 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 Finance Documents together with any other incidental rights, powers, authorities and discretions.

31.2 Instructions

- (a) The Agent shall:
 - (i) unless a contrary indication appears in a 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:
 - (1) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision;
 - (2) the Majority Revolving Facility Lenders if the relevant Finance Document stipulates that the matter is a Revolving Facility Consent Provision;
 - (3) the Security Super Majority Lender if the relevant Finance Document stipulates that the matter is a Security Super Majority Lender decision;
 - (4) the Super Majority Lenders if the relevant Finance Document stipulates that the matter is a Super Majority Lender decision; and
 - (5) 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 (a)(i) above.
- (b) The Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant 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 those instructions or that clarification.
- (c) Save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent by

the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties save for the Security Agent.

- (d) The Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
- (e) In the absence of instructions, the Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- (f) 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 Finance Document. This Clause (f) 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.

31.3 Duties of the Agent

- (a) The Agent's duties under the 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 28.8 (*Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Parent*), paragraph (b) above shall not apply to any Transfer Certificate, any Assignment Agreement or any Increase Confirmation.
- (d) Except where a 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 Finance Parties.
- (f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent, the Arranger or the Security Agent) under this Agreement it shall promptly notify the other Finance Parties.
- (g) The Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

31.4 **Role of the Arranger**

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

31.5 **No fiduciary duties**

- (a) Nothing in this agreement constitutes the Agent and/or the Arranger as a trustee or fiduciary of any other person.
- (b) None of the Agent, the Security Agent, the Arranger 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.
- (c) To the extent applicable to any of the Agent, the Security Agent and/or the Arranger and to the extent permitted by law, no statutory duty of care applies or will apply to any of the Agent, the Security Agent and/or the Arranger or any trust created by any Finance Document.

31.6 **Business with the Group**

The Agent, the Security Agent, the Arranger and each Ancillary Lender may accept deposits from, lend money to and generally engage in any kind of banking, payment processing and merchant services arrangements or other business with any member of the Group.

31.7 **Rights and discretions**

- (a) The Agent may rely on:
 - (i) any representation, communication, notice or document (including, without limitation, any notice given by a Lender pursuant to Clause 29.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates*)) believed by it to be genuine, correct and appropriately authorised; and
 - (ii) 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.
- (b) The Agent may assume that:
 - (i) 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 Finance Documents; and
 - (ii) unless it has received notice of revocation, that those instructions have not been revoked.
- (c) The Agent may rely on a certificate from any person:
 - (i) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

- (ii) 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 (c)(i) above, may assume the truth and accuracy of that certificate.

- (d) 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 27.1 (*Non-payment*));
 - (ii) any right, power, authority or discretion vested in any Party or any group of 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; and
 - (iv) no Notifiable Debt Purchase Transaction:
 - (1) has been entered into;
 - (2) has been terminated; or
 - (3) has ceased to be with a Sponsor Affiliate or Investor.
 - (e) Subject to prior consultation with the Parent (provided that, whilst an Event of Default is continuing, such consultation requirement applies only where practical to do so), the Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisors, surveyors or other professional advisors or experts.
 - (f) Without prejudice to the generality of paragraph (e) above or paragraph (g) below, 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.
 - (g) The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
 - (h) The Agent may act in relation to the Finance Documents through its officers, employees and agents and the Agent shall not:
 - (i) be liable for any error of judgment made by any such person; or
 - (i) 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 person,
- unless such error or such loss was directly caused by the Agent's gross negligence or wilful misconduct.

- (ii) Unless a Finance Document expressly provides otherwise, the Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (j) Without prejudice to the generality of paragraph (i) above, the Agent:
 - (i) may disclose; and
 - (ii) on the written request of the Parent or the Majority Lenders shall, as soon as reasonably practicable, disclose,
the identity of a Defaulting Lender to the Parent and to the other Finance Parties.
- (k) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent or the Arranger are 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.
- (l) Notwithstanding any provision of any 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 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.

31.8 Responsibility for documentation

None of the Agent, the Arranger, the Security Agent 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 Arranger, an Ancillary Lender, an Obligor or any other person given in or in connection with any Finance Document or the Reports or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any 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 Finance Document or the Transaction Security; or
- (c) any determination as to whether any information provided or to be provided to any 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.

31.9 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 Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

31.10 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent or any Ancillary Lender), none of the Agent nor 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 Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct;
 - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Transaction Security; or
 - (iii) without prejudice to the generality of paragraphs (a)(i) and (a)(ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
 - (1) any act, event or circumstance not reasonably within its control; or
 - (2) 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 or an Ancillary Lender (as applicable)) may take any proceedings against any officer, employee or agent of the Agent or any Ancillary Lender, in respect of any claim it might have against the Agent 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 Transaction Document and any officer, employee or agent of the Agent or any Ancillary Lender may rely on this Clause subject to Clause 1.4 (*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 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 Arranger 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 Arranger 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 Arranger.
- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Agent's liability, any liability of the Agent arising under or in connection with any 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.

31.11 Lenders' indemnity to the Agent

- (a) 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 34.11 (*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 Finance Documents (unless the Agent has been reimbursed by an Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Parent shall promptly following written demand reimburse any Lender for any payment that Lender makes to the Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Agent to an Obligor.

31.12 Resignation of the Agent

- (a) The Agent may resign 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 (after consultation with the Parent) 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 (after consultation with the Parent) may appoint a successor Agent (acting through an office in the United Kingdom).
- (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, subject to obtaining the consent of the Parent (such consent not to be unreasonably withheld or delayed and to be deemed to have been provided where the Parent has not confirmed or refused a request within five Business Days of the provision of such request) (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 31 and any other term of this Agreement dealing with the rights or obligations of the Agent consistent with the 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 Finance Documents. The Parent shall, within five Business Days of written demand, reimburse the retiring Agent for the amount of all costs and expenses (including legal fees subject to any agreed fee arrangements) reasonably and properly incurred by it in making available such documents and records and providing such assistance.
- (f) The Agent's resignation notice shall only take effect upon the appointment of a successor.
- (g) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of this Clause 31 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (h) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to 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 Finance Documents, either:
 - (i) the Agent fails to respond to a request under Clause 17.8 (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 17.8 (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.

- (i) Notwithstanding any other provision of this Clause 31.12, the Agent may not resign during the period from the date of this Agreement until the date falling one day after the last day of the Certain Funds Period.

31.13 Replacement of the Agent

- (a) After consultation with the Parent, the Majority Lenders may, by giving not less than 30 days' written 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 (acting through an office in the United Kingdom).
- (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 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 Finance Documents (other than its obligations under paragraph (b) above) but shall remain entitled to the benefit of Clause 19.3 (*Indemnity to the Agent*) and this Clause 31 (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 had been an original Party.
- (e) Notwithstanding any other provision of this Clause 31.13, the Agent may not be replaced during the period from the date of this Agreement until the date falling one day after the last day of the Certain Funds Period.

31.14 Confidentiality

- (a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its 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 Finance Document to the contrary, neither the Agent nor the Arranger are 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 regulation or a breach of a fiduciary duty.

31.15 Relationship with the Lenders

- (a) Subject to Clause 28.11 (*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 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 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 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 Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 36.6 (*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 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 36.2 (*Addresses*) and Clause 36.6(a)(ii) (*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.

31.16 Credit appraisal by the Lenders and Ancillary Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender and Ancillary Lender confirms to the Agent, the Arranger, the Security Agent 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 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 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 Finance Document or the Transaction Security;
- (c) whether that Lender or Ancillary Lender 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 Finance Document, the Transaction Security or the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (d) the adequacy, accuracy and/or completeness of the Information Package and any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any 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.

31.17 Deduction from amounts payable by the Agent

If any Party owes an amount to the Agent under the 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 Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

31.18 Reliance and engagement letters

Each Finance Party and Secured Party confirms that the Arranger and the Agent have authority to accept on their behalf (and ratifies the acceptance on their behalf of any letters or reports already accepted by the Arranger 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 Finance Documents or the transactions contemplated in the 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.

31.19 Role of Base Reference Banks

- (a) No Base Reference Bank is under any obligation to provide a quotation or any other information to the Agent.
- (b) No Base Reference Bank will be liable for any action taken by it under or in connection with any 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 Base Reference Bank) may take any proceedings against any officer, employee or agent of any Base Reference Bank in respect of any claim it might have against that Base Reference Bank or in

respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Base Reference Bank may rely on this Clause 31.19 subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.

31.20 **Third party Base Reference Banks**

A Base Reference Bank which is not a Party may rely on Clause 31.19 (*Role of Base Reference Banks*), Clause 40.4 (*Other exceptions*) and Clause 42 (*Confidentiality of funding rates and reference bank quotation*) subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.

32. **CONDUCT OF BUSINESS BY THE FINANCE PARTIES**

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any 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 Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

33. **SHARING AMONG THE FINANCE PARTIES**

33.1 **Payments to Finance Parties**

- (a) Subject to paragraph (b) below, if a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 34 (*Payment mechanics*) (a "**Recovered Amount**") and applies that amount to a payment due under the Finance Documents then:
 - (i) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;
 - (ii) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 34 (*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 Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 34.6 (*Partial payments*).
- (b) Paragraph (a) above shall not apply to any amount received or recovered by an Ancillary Lender in respect of any cash cover provided for the benefit of that Ancillary Lender.

33.2 **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 Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with Clause 34.6 (*Partial payments*) towards the obligations of that Obligor to the Sharing Finance Parties.

33.3 **Recovering Finance Party's rights**

On a distribution by the Agent under Clause 33.2 (*Redistribution of payments*), of a payment received by a Recovering Finance Party from an Obligor, as between the relevant Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Obligor.

33.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering 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 Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "**Redistributed Amount**"); and
- (b) as between the relevant Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.

33.5 **Exceptions**

- (a) This Clause 33 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified the other Finance Party of the legal or arbitration proceedings; and
 - (ii) the other 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.

33.6 **Ancillary Lenders**

- (a) This Clause 33 shall not apply to any receipt or recovery by a Lender in its capacity as an Ancillary Lender at any time prior to the Agent exercising any of its rights under Clause 27.19 (*Acceleration*).
- (b) Following the exercise by the Agent of any of its rights under Clause 27.19 (*Acceleration*), this Clause 33 shall apply to all receipts or recoveries by Ancillary

Lenders except to the extent that the receipt or recovery represents a reduction of the Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Net Outstandings.

SECTION 11

ADMINISTRATION

34. PAYMENT MECHANICS

34.1 Payments to the Agent

- (a) Subject to paragraph (b) below, on each date on which an Obligor or a Lender is required to make a payment under a Finance Document, excluding a payment under the terms of an Ancillary Document, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a 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) On each date on which a Revolving Facility Lender is required to make a payment to a Borrower in respect of a Revolving Facility Loan, the relevant Revolving Facility Lender shall make such payment directly to that Borrower (and not the Agent).
- (c) 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, as specified by the Agent) and with such bank as the Agent, in each case, specifies.

34.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 34.3 (*Distributions to an Obligor*) and Clause 34.4 (*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 specified by that Party 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, as specified by that Party).

34.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with Clause 35 (*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 Finance Documents or in or towards purchase of any amount of any currency to be so applied.

34.4 Clawback

- (a) Where a sum is to be paid to the Agent or the Security Agent under the Finance Documents for another Party, the Agent or Security Agent, as the case may be, 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 or Security Agent pays an amount to another Party and it proves to be the case that the Agent or Security Agent had not actually received that amount, then:
 - (i) the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent or Security Agent shall on demand refund the same to the Agent or the Security Agent (as the case may be); and
 - (ii) the person from whom such sum should have been made available or, if that person fails to do so, the person to whom such sum was made available, shall on request pay to the Agent or the Security Agent (as the case may be) the amount (as certified by the Agent or the Security Agent, as the case may be) which will indemnify the Agent or Security Agent (as the case may be) against any funding cost incurred by it as a result of paying such sum before receiving it.

34.5 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 Finance Documents to the Agent in accordance with Clause 34.1 (*Payments to the Agent*) may instead either
 - (i) pay that amount direct to the required recipient(s); or
 - (ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Obligor or the Lender making the payment (the "**Paying Party**") and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the "Recipient Party" or "**Recipient Parties**").

In each case such payments must be made on the due date for payment under the Finance Documents.

- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties pro rata to their respective entitlements.
- (c) A Party which has made a payment in accordance with this Clause 34.5 shall be discharged of the relevant payment obligation under the 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 31.13 (*Replacement of the Agent*), each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) 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 to the relevant Recipient Party or Recipient Parties in accordance with Clause 34.2 (*Distributions by the Agent*).

- (e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:
- (i) that it has not given an instruction pursuant to paragraph (d) above; and
 - (ii) that it has been provided with the necessary information by that Recipient Party,
- give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

34.6 Partial payments

- (a) If the Agent receives a payment for application against amounts due in respect of any Finance Documents that is insufficient to discharge all the amounts then due and payable by an Obligor under those Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under those Finance Documents in the following order:
- (i) first, in or towards payment pro rata of any unpaid fees, costs and expenses of the Agent and the Security Agent under those Finance Documents;
 - (ii) secondly, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under those Finance Documents;
 - (iii) thirdly, in or towards payment pro rata of any principal due but unpaid under those Finance Documents; and
 - (iv) fourthly, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by all the Lenders, vary the order set out in paragraphs (a)(ii) to (a)(iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

34.7 Set-off by Obligors

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim (save as provided under Clause 9.2 (*Repayment of Revolving Facility Loans*)).

34.8 Business Days

- (a) Any payment under the Finance Documents 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.

34.9 **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 Finance Document.
- (b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated, pursuant to this Agreement, 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, pursuant to this Agreement, 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.

34.10 **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 Finance Documents to, and any obligations arising under the 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, 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.

34.11 **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 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 Finance Documents notwithstanding the provisions of Clause 40 (Amendments and Waivers);
- (e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 34.11; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

35. **SET-OFF**

- (a) At any time following the occurrence of a Declared Default, a Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the 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 Finance Documents be applied first in reduction of the overdraft provided under that Ancillary Facility in accordance with its terms.

36. **NOTICES**

36.1 **Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by e-mail or letter.

36.2 **Addresses**

The address and e-mail address (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 Finance Documents is that identified with its name next to its signature block below or notified in writing to the Agent on or prior to the date on which it becomes a Party, or any substitute address, e-mail address 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.

36.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
 - (i) if by way of e-mail, when received in readable 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 36.2 (*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, with notice to the Obligors, for this purpose).
- (c) Subject to Clause 36.5 (*Communication when Agent is Impaired Agent*), 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 36.3 will be deemed to have been made or delivered to each of the Obligors.
- (e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

36.4 Notification of address and e-mail address

Promptly upon changing its own address or e-mail address, the Agent shall notify the other Parties.

36.5 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 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.

36.6 Electronic communication

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means 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 and if those two Parties:

- (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt 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 electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Lender to the Agent or the Security Agent only if it is addressed in such a manner as the Agent or Security Agent shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

36.7 Use of websites

- (a) The Parent 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, 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, 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 paragraphs (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 comply with any such request as soon as reasonably practicable.

36.8 **English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any 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.

37. **CALCULATIONS AND CERTIFICATES**

37.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are prima facie evidence of the matters to which they relate.

37.2 **Certificates and determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

37.3 **Day count convention**

Any interest, commission or fee accruing under a 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 365 days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.

38. **PARTIAL INVALIDITY**

If, at any time, any provision of a Finance Document 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.

39. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Secured Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document. No election to affirm any Finance Document on the part of any Finance Party or Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

40. **AMENDMENTS AND WAIVERS**

40.1 **Intercreditor Agreement**

This Clause 40 is subject to the terms of the Intercreditor Agreement.

40.2 **Required consents**

- (a) Subject to Clause 40.3 (*All Lender matters*), Clause 40.4 (*Other exceptions*) and Clause 40.5 (*Structural Adjustment*) any term of the 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 Finance Party, any consent, amendment or waiver permitted by this Clause 40.
- (c) Without prejudice to the generality of Clauses 31.7(c) to 31.7(e) (*Rights and discretions*), subject to prior consultation with the Parent where practical to do so, the Agent may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.
- (d) Each Obligor agrees to any such consent, amendment or waiver permitted by this Clause 40 which is agreed to by the Parent. This includes any consent, amendment or waiver which would, but for this paragraph (d), require the consent of all of the Guarantors.

40.3 **All Lender matters**

- (a) Subject to Clause 40.5 (*Replacement of Screen Rate*) and Clause 40.7 (*Structural Adjustment*), an amendment or waiver that has the effect of changing or which relates to:
 - (i) the definition of "**Change of Control**", "**Majority Lenders**", "**Majority Revolving Facility Lenders**", "**Super Majority Lenders**" or "**Security Super Majority Lenders**";
 - (ii) the definition of "**Material Event of Default**";
 - (iii) an extension to the date of payment of any amount under the Finance Documents;

- (iv) a reduction in the Margin, PIK Interest or a reduction in the amount of any payment of principal, interest, fees or commission payable;
- (v) an increase in or an extension of any Commitment or the Total Commitments other than pursuant to Clause 2.2 (*Increase*);
- (vi) a change in currency of payment of any amount under the Finance Documents;
- (vii) any provision which expressly requires the consent of all the Lenders;
- (viii) Clause 2.4 (*Finance Parties' rights and obligations*), this Clause 40, Clause 45 (*Governing law*) or Clause 46 (*Enforcement*);
- (ix) Clause 11 (*Mandatory Prepayment and Cancellation*), Clause 28 (*Changes to the Lenders*), Clause 33 (*Sharing among the Finance Parties*) or Clause 34.6 (*Partial payments*) (and save to the extent assignments or transfers are made easier by such amendment);
- (x) any amendment to the order of priority or subordination under the Intercreditor Agreement or the manner in which the proceeds of enforcement of the Transaction Security are distributed;
- (xi) a change to the Borrowers or Guarantors other than in accordance with Clause 30 (*Changes to the Obligors*);
- (xii) Clause 40.5 (*Structural Adjustment*);
- (xiii) the provision of a new facility or tranche; and

shall not be made without the prior consent of all the Lenders.

- (b) Subject to Clause 40.5 (*Structural Adjustment*), an amendment or waiver that has the effect of changing or which relates to the nature or the scope of the Transaction Security, (unless permitted under this Agreement or any other Finance Document) shall not be made without the prior consent of the Super Majority Lenders.
- (c) Notwithstanding paragraph (a) above, a reduction in the Margin or a reduction in the amount of fees or commission payable (other than for any Revolving Facility Loan as provided for by application of the Margin ratchet) shall only require the consent of those Lenders affected by such reduction (the "**Affected Lenders**").
- (d) Any manifest error in the Finance Documents which is of a typographical nature may be amended by agreement between the Agent and the Parent and any such amendment will be binding on all Parties.

40.4 Other exceptions

- (a) An amendment or waiver which relates to the rights or obligations of the Agent, the Arranger, the Security Agent, any Ancillary Lender or a Hedge Counterparty (each in their capacity as such) may not be effected without the consent of the Agent, the Arranger, the Security Agent, that Ancillary Lender or, as the case may be, that Hedge Counterparty.

- (b) An amendment or waiver or a consent of, or in relation to, any term of any Finance Document that has the effect of waiving or changing a Revolving Facility Consent Provision shall not be made or given, without the prior consent of the Majority Lenders and the Majority Revolving Facility Lenders.

40.5 Jackson Demerger

If the Parent requests, the Parent and the Lenders agree to consider proposals and to negotiate promptly, reasonably and in good faith in respect of:

- (a) implementation of a senior financing in relation to the Jackson Group on equivalent terms mutatis mutandis to those contained in this Agreement (including agreeing financial covenant levels which have at least equivalent headroom over the relevant base case model (prepared on a comparable basis to the Base Case Model) as those contained in this Agreement) but without any commitment on the part of any Lender to provide any such financing;
- (b) necessary or desirable amendments to this Agreement to reflect the Jackson Demerger (including agreeing revised covenant levels with at least equivalent headroom over the revised base case model (prepared on a comparable basis to the Base Case Model) as the levels in Clause 25.2 (*Financial condition*) represent in relation to the Base Case Model); and
- (c) agreeing to the release of any applicable security and guarantees which would be required in order to implement the Jackson Demerger (other than any such releases in accordance with Clause 30.7 (*Resignation and release of Security on disposal*) which, for the avoidance of doubt, shall not require any consent of any Finance Party).

40.6 Replacement of Screen Rate

Subject to paragraph (a) of Clause 40.4 (*Other 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 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.

"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.

"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 that Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Obligors' Agent, an appropriate successor to a Screen Rate.

"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) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
 - (ii) 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;

- (i) 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;
 - (ii) 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
 - (iii) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used; or
- (c) the administrator of that Screen Rate determines that that Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
- (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Obligors' Agent) temporary; or
 - (ii) that Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than maximum contingency period determined by the Majority Lenders and the Obligors' Agent from time to time; or
- (d) 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.

40.7 **Structural Adjustment**

- (a) In this Agreement:
- (i) **"Structural Adjustment"** means, otherwise than as contemplated under Clause 2.2 (*Increase*):
 - (1) the introduction of any additional tranche or facility under the Finance Documents or under separate documentation, in each case with such ranking as the Super Majority Lenders may approve (provided that such tranche or Facility may not rank senior to the Term Facilities without the consent of the Majority Lenders) (a **"New Tranche"**);
 - (2) any increase in or addition of any Term Facility Commitment (other than pursuant to Clause 2.2 (*Increase*), any extension of a Term Facility Commitment's availability, the redenomination of a Term Facility Commitment into another currency, the re-tranching of any Term Facility Commitment and any extension of the date for, or maturity of, or redenomination of, or a re-tranching or reduction (other than as set out under paragraph (3) below) of, any amount owing under the Finance Documents (other than in relation to the Revolving Facility) (in each case not arising as a result of any change to any mandatory prepayment provision or related definitions); and

- (3) changes to any Finance Documents (including changes to, the taking of, or the release coupled with the immediate retaking of Transaction Security) that are consequential on or required by reason of applicable law to implement effectively or reflect any of the foregoing.
- (b) Any Structural Adjustment shall be permitted with the consent of:
- (i) each Lender that is participating in that additional tranche or facility or increasing, extending or redenominating its Commitments or, as applicable, extending or redenominating or reducing any amount due to it; and
 - (ii) the Super Majority Lenders (for which purpose the existing Commitments of each such Lender will be taken into account).

40.8 **Non-responding Lender**

If any Lender fails to accept or refuse a request for a consent, waiver, amendment of or in relation to any of the terms of any Finance Document or other vote of Lenders under the terms of this Agreement within 10 Business Days (unless the Parent and the Agent agree to a longer time period in relation to any request) of that request being received by the Agent and notified to the Lenders, its Commitments shall not be included for the purpose of calculating the Total Commitments under the relevant Facility/ies when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request.

40.9 **Replacement of Lender**

- (a) If at any time:
- (i) any Lender becomes a Non-Consenting Lender (as defined in paragraph (c) below); or
 - (ii) an Obligor becomes obliged to repay any amount in accordance with Clause 10.1 (*Illegality*) or to pay additional amounts pursuant to Clause 18.1 (*Increased Costs*), Clause 17.2 (*Tax gross-up*), Clause 15.3 (*Market disruption*) or Clause 17.3 (*Tax indemnity*),

then the Parent may, on not less than five Business Days' prior written notice to the Agent and that Lender:

- (1) prepay such Lender and/or cancel its Commitments from the proceeds of Unrestricted Cash (or any other source consented to by the Majority Lenders) (and any such prepayment shall be deemed a mandatory prepayment under this Agreement); and/or
- (2) replace that Lender by requiring that Lender to (and, to the extent permitted by law, that Lender shall) transfer pursuant to Clause 28 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement to:
- (3) one or more Sponsor Affiliates or Investors; or

- (4) a Lender or other bank, financial institution, trust, fund or other entity (a "**Replacement Lender**") selected by the Parent and which confirms its willingness to assume and does assume all the obligations of the transferring Lender, in either case, 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 Loans and all accrued interest (to the extent that the Agent has not given a notification under Clause 28.11 (*Pro rata interest settlement*)), Break Costs and other amounts payable in relation thereto under the Finance Documents.
- (b) The prepayment or replacement of a Lender pursuant to this Clause shall be subject to the following conditions:
 - (i) the Parent shall have no right to prepay or 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 prepayment or replacement of a Non-Consenting Lender such prepayment or replacement must take place no later than 30 days after the earlier of:
 - (1) the date the Non-Consenting Lender notifies the Parent and the Agent of its failure or refusal to agree to any consent, waiver or amendment to the Finance Documents requested by the Parent; and;
 - (2) the first date in respect of which Clause 40.8 (*Non-responding Lender*) applies to the relevant consent, waiver or amendment;
 - (iv) in no event shall the Lender prepaid or replaced under this paragraph 40.11(b)(iv) be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents; and
 - (v) the Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a)(ii)(2) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer.
- (c) A Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Parent when it is satisfied that it has complied with those checks.
- (d) In the event that:
 - (i) the Parent or the Agent (at the request of the Parent) has requested the Lenders to consent to a waiver or amendment of any provisions of the Finance Documents;
 - (ii) the consent, waiver or amendment in question requires the consent of all the Lenders or is in relation to a Structural Adjustment; and

(iii) the Super Majority Lenders have consented to such waiver or amendment, then any Lender who does not and continues not to agree to such waiver or amendment shall be deemed a "**Non-Consenting Lender**".

40.10 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 Revolving Facility Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents, that Defaulting Lender's Commitments will be reduced by the amount of its Available Commitments under the relevant Facility/ies and, to the extent that that reduction results in that Defaulting Lender's Total Commitments being zero, that Defaulting Lender shall be deemed not to be a Lender for the purposes of paragraphs 40.9(d)(i) and 40.9(d)(ii) above.
- (b) For the purposes of this Clause 40.10, 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 paragraphs (a), (b) or (c) 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.

40.11 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, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 28 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement;
 - (ii) require such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 28 (*Changes to the Lenders*) all (and not part only) of the undrawn Revolving Facility Commitment of the Lender; or
 - (iii) require such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 28 (*Changes to the Lenders*) all (and not part only) of its rights and obligations in respect of the Revolving Facility,

to a Lender or other bank, financial institution, trust, fund or other entity (a "**Replacement Lender**") selected by the Parent, and which (unless the Agent is an Impaired Agent) is acceptable to the Agent (acting reasonably) and 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 Loans and all accrued interest (to the extent that the Agent has not given a notification under Clause 28.11 (*Pro rata interest settlement*)), Break Costs and other amounts payable in relation thereto under the Finance Documents.

- (b) Any transfer of rights and obligations of a Defaulting Lender pursuant to this Clause (b) 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 Replacement Lender;
 - (iii) the transfer must take place no later than 10 Business Days after the notice referred to in paragraph (a) above;
 - (iv) in no event shall the Defaulting Lender be required to pay or surrender to the Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Finance Documents; and
 - (v) the Defaulting Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer to the Replacement Lender.
- (c) The Defaulting Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Parent when it is satisfied that it has complied with those checks.

41. CONFIDENTIALITY

41.1 Confidential Information

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 41.2 (*Disclosure of Confidential Information*) and Clause 41.3 (*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.

41.2 Disclosure of Confidential Information

Any Finance Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that 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 (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent or Security Agent and, in each case, 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 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 Finance Party or by a person to whom paragraphs (b)(i) or (b)(ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph 31.15(c) of Clause 31.15 (*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 paragraphs (b)(i) or (b)(ii) above;
- (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 Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 28.10 (*Security over Lenders' rights*);
- (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;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (1) in relation to 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;
- (2) in relation to paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by 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;
 - (3) in relation to 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 Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom paragraphs (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the 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 or such other form of confidentiality undertaking agreed between the Parent and the relevant Finance Party; and
- (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 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.

41.3 Disclosure to numbering service providers

- (a) Any Finance Party may disclose to any national or international numbering service provider appointed by that 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 of this Agreement;
 - (v) Clause 45 (*Governing law*);
 - (vi) the names of the Agent and the Arranger;

- (vii) date of any amendment and restatement of this Agreement (if applicable);
- (viii) amounts of, and names of, the Facilities (and any tranches);
- (ix) amount of Total Commitments;
- (x) currencies of the Facilities;
- (xi) type of Facilities;
- (xii) ranking of Facilities;
- (xiii) Termination Date for Facilities;
- (xiv) changes to any of the information previously supplied pursuant to paragraphs (i) to (xiii) above; and
- (xv) such other information agreed between such 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 Agent shall notify the Parent and the other 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.

41.4 **Entire agreement**

This Clause 41 (*Confidentiality*) constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

41.5 **Inside information**

Each of the 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 Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

41.6 **Notification of disclosure**

Each of the 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 Clause 41.2(b)(i) (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that Clause 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 41 (*Confidentiality*).

41.7 **Continuing obligations**

The obligations in this Clause 41 (*Confidentiality*) are continuing and, in particular, shall survive and remain binding on each 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 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 Finance Party otherwise ceases to be a Finance Party.

42. **CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS**

42.1 **Confidentiality and disclosure**

- (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 relevant Borrower pursuant to Clause 13.4 (*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 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 Base 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 officers, directors, employees, legal advisers and auditors 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 Base Reference Bank, as the case may be.
- (d) The Agent's obligations in this Clause 42 relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 13.4 (*Notification of rates of interest*) provided that (other than pursuant to paragraph (b)(i) above) the Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.

42.2 **Related obligations**

- (a) The Agent and each Obligor acknowledge that each Funding Rate (and, in the case of the Agent, 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 and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender or Base Reference Bank, as the case may be:
 - (i) of the circumstances of any disclosure made pursuant to Clause 42.1(c)(i) 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 42.

42.3 No Event of Default

No Event of Default will occur under Clause 27.3 (*Other obligations*) by reason only of an Obligor's failure to comply with this Clause 42.

43. DISCLOSURE OF LENDER DETAILS BY AGENT

43.1 Supply of Lender details to Parent

The Agent shall provide to the Parent, within three 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 that Business Day, 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 Finance Documents, the electronic mail address and/or any other information required to enable the transmission of information by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the Finance Documents may be made by that means and the account details of each Lender for any payment to be distributed by the Agent to that Lender under the Finance Documents.

43.2 Supply of Lender details at Parent's direction

- (a) The Agent shall, at the request of the Parent, disclose the identity of the Lenders and the details of the Lenders' Commitments to any:
 - (i) other Party or any other person if that disclosure is made to facilitate, in each case, a refinancing of the Financial Indebtedness arising under the Finance Documents or a material waiver or amendment of any term of any Finance Document; and
 - (ii) member of the Group.
- (b) Subject to paragraph (c) below, the Parent shall use reasonable endeavours to procure that the recipient of information disclosed pursuant to paragraph (a) above shall keep such information confidential and shall not disclose it to anyone and shall ensure that all such information is protected with security measures and a degree of care that would apply to the recipient's own confidential information.
- (c) The recipient may disclose such information:
 - (i) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors and partners as it shall consider appropriate;
 - (ii) to 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; and
 - (iii) to 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,

provided that, any such person is informed in writing of the confidential nature of such information, except that there shall be no such requirement to so inform if that person is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by duties of confidentiality in relation to the information or, in the case of paragraph (iii) above only, if it is not practicable so to do in the circumstances.

43.3 **Supply of Lender details to other Lenders**

- (a) If a Lender (a "**Disclosing Lender**") indicates to the Agent that the Agent may do so, the Agent shall disclose that Lender's name and Commitment to any other Lender that is, or becomes, a Disclosing Lender.
- (b) The Agent shall, if so directed by the Requisite Lenders, request each Lender to indicate to it whether it is a Disclosing Lender.

43.4 **Lender enquiry**

If any Lender believes that any entity is, or may be, a Lender and:

- (a) that entity ceases to have an Investment Grade Rating; or
- (b) an Insolvency Event occurs in relation to that entity,

the Agent shall, at the request of that Lender, indicate to that Lender the extent to which that entity has a Commitment.

43.5 **Lender details definitions**

In this Clause 43:

"Investment Grade Rating" means, in relation to an entity, a rating for its long-term unsecured and non credit-enhanced debt obligations of BBB- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency.

"Requisite Lenders" means a Lender or Lenders whose Commitments aggregate 15 per cent (or more) of the Total Commitments (or if the Total Commitments have been reduced to zero, aggregated 15 per cent (or more) of the Total Commitments immediately prior to that reduction).

44. **COUNTERPARTS**

Each 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 Finance Document.

SECTION 12

GOVERNING LAW AND ENFORCEMENT

45. GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

46. ENFORCEMENT

46.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or the consequences of its nullity) or any non-contractual obligations arising out of or in connection with this Agreement (a "**Dispute**").
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 46.1 is for the benefit of the Finance Parties and Secured Parties only. As a result, no Finance Party or Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties and Secured Parties may take concurrent proceedings in any number of jurisdictions.

46.2 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 Epiris LLP of Forum St Pauls, 33 Gutter Lane, London, United Kingdom, EC2V 8AS as its agent for service of process in relation to any proceedings before the English courts in connection with any 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 five Business Days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.

47. CONTRACTUAL RECOGNITION OF BAIL-IN

Notwithstanding any other term of any 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 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 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 A - The Original Obligors

Name of Original Borrower	Registration number (or equivalent, if any), Jurisdiction of Incorporation
SaintMichelCo Limited	Jersey (128540)

Name of Original Guarantor	Registration number (or equivalent, if any), Jurisdiction of Incorporation
SaintMichelCo Limited	Jersey (128540)
LarvottoCo Limited	Jersey (128569)

Part B - The Original Lenders

Name of Original Lender	Facility B Commitment (£)	Acquisition Facility Commitment (£)	Revolving Facility Commitment (£)	Treaty passport scheme reference number and jurisdiction of tax residence (if applicable)
Ares Capital Europe IV (E) Investments S.à r.l.	25,170,840.00	3,146,355.00	1,048,785.00	48/A/374802/DTTP, Luxembourg
Ares Capital Europe IV (G) Investments S.à r.l.	7,127,640.00	890,955.00	296,985.00	48/A/374800/DTTP, Luxembourg
Ares Capital Europe IV (E) (L) Investments S.à r.l.	80,492,760.00	10,061,595.00	3,353,865.00	48/A/374801/DTTP, Luxembourg
Ares Capital Europe IV (G) (L) Investments S.à r.l.	7,208,760.00	901,095.00	300,365.00	48/A/374798/DTTP, Luxembourg
Total	120,000,000.00	15,000,000.00	5,000,000.00	

Part C - The Original Lenders

Name of Original Lender	Facility B Commitment (£)	Acquisition Facility Commitment (£)	Revolving Facility Commitment (£)	Treaty passport scheme reference number and jurisdiction of tax residence (if applicable)
Ares Capital Europe IV (E) Investments S.à r.l.	13,676,156.40	1,709,519.55	1,048,785.00	48/A/374802/DTTP, Luxembourg
Ares Capital Europe IV (G) Investments S.à r.l.	3,872,684.40	484,085.55	296,985.00	48/A/374800/DTTP, Luxembourg
Ares Capital Europe IV (E) (L) Investments S.à r.l.	Nil	5,466,799.95	3,353,865.00	48/A/374801/DTTP, Luxembourg
Ares Capital Europe IV (G) (L) Investments S.à r.l.	Nil	489,594.95	300,365.00	48/A/374798/DTTP, Luxembourg
Ares Capital Europe IV (E) Holdings S.à r.l.	43,734,399.60	Nil	Nil	48/A/374796/DTTP, Luxembourg
Ares Capital Europe IV (G) Holdings S.à r.l.	3,916,759.60	Nil	Nil	48/A/374797/DTTP, Luxembourg
Ares Credit Strategies Feeder III UK, L.P.	1,600,000.00	200,000.00	Nil	N/A
Ares CSF Holdings S.à r.l.	800,000.00	100,000.00	Nil	48/A/362626/DTTP, Luxembourg
Ares ECSF II South S.à r.l.	1,200,000.00	150,000.00	Nil	48/A/364414/DTTP, Luxembourg
Ares ECSF IV (M) Holdings S.à r.l.	1,200,000.00	150,000.00	Nil	48/A/368010/DTTP, Luxembourg

Ares ECSF VI (B) Holdings S.à r.l.	1,600,000.00	200,000.00	Nil	48/A/371953/DTTP, Luxembourg
Ares ECSF VII (P) Holdings S.à r.l.	4,800,000.00	600,000.00	Nil	48/A/373666/DTTP, Luxembourg
Chubb European Group SE	2,400,000.00	300,000.00	Nil	DTTP number pending, France
CION Ares Diversified Credit Fund	2,400,000.00	300,000.00	Nil	13/C/373546/DTTP, U.S.A.
SA Luxembourg 1 Limited	400,000.00	50,000.00	Nil	48/S/374109/DTTP, Luxembourg
SC ACM EU PD S.à r.l.	11,200,000.00	1,400,000.00	Nil	48/S/374938/DTTP, Luxembourg
Mubadala CA Investment Partnership S.à r.l.	4,800,000.00	600,000.00	Nil	48/M/375619/DTTP, Luxembourg
Ares ECSF VIII (BUMA) Holdings S.à r.l.	2,400,000.00	300,000.00	Nil	48/A/375700/DTTP, Luxembourg
Ares ECSF IX (C) Holdings S.à r.l.	4,800,000.00	600,000.00	Nil	48/A/375894/DTTP, Luxembourg
Prima European Direct Lending 1 Designated Activity Company	8,000,000.00	1,000,000.00	Nil	DTTP number pending, Ireland
Ares ECSF X (T) Holdings S.à r.l.	7,200,000.00	900,000.00	Nil	DTTP number pending, Luxembourg
Total	120,000,000.00	15,000,000.00	5,000,000.00	

SCHEDULE 2

Conditions Precedent

Part A - Conditions Precedent to signing this Agreement

1. OBLIGORS

- 1.1 A copy of the constitutional documents of each Original Obligor.
- 1.2 A copy of a resolution of the board of directors of each Original Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;
 - (b) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request and Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
 - (d) in the case of an Obligor other than the Parent, authorising the Parent to act as its agent in connection with the Finance Documents.
- 1.3 A copy of all consents to issue shares issued to each Original Obligor (excluding the Parent) under the Control of Borrowing (Jersey) Order 1958 and all other Jersey regulatory approvals, consents, licences, permits or registrations issued to it (if any).
- 1.4 A copy of a resolution signed by all the holders of the issued shares in each the Original Obligor (excluding the Parent) approving the terms of, and the transactions contemplated by, the Finance Documents to which such Original Obligor is a party.
- 1.5 A specimen of the signature of each person authorised by the resolution referred to in paragraph 1.2(b) above in relation to the Finance Documents and related documents.
- 1.6 A certificate of an authorised signatory of each Original Obligor:
 - (a) confirming 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; and
 - (b) certifying that each copy document relating to it specified in this Part A 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.
- 1.7 A certified copy of the shareholder register of each company incorporated in the United Kingdom whose shares are the subject of the Transaction Security (for the purposes of this Part A of Schedule 2 a "**Charged Company**").
- 1.8 In respect of each Charged Company, either:
 - (a) a certificate of an authorised signatory of the Parent certifying that:

- (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; and
- (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,

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 a Charged Company that is a member of the Group, is certified by an authorised signatory of the Parent to be correct, complete and not amended or superseded as at a date no earlier than the date of this Agreement; or

- (b) a certificate of an authorised signatory of the Parent certifying that such Charged Company is not required to comply with Part 21A of the Companies Act 2006.

2. TRANSACTION DOCUMENTS

- 2.1 A copy of the latest draft Scheme Press Announcement.
- 2.2 A copy of the Equity Financing Agreement executed by the parties thereto.
- 2.3 A copy of the Constitutional Documents.
- 2.4 A copy of the Holdco Loan Agreement executed by the parties thereto.

3. FINANCE DOCUMENTS

- 3.1 This Agreement executed by all parties thereto.
- 3.2 The Intercreditor Agreement executed by the members of the Group party to that agreement and Holdco as Subordinated Creditor.
- 3.3 At least two originals of the following Transaction Security Documents executed by the Original Obligor specified below opposite the relevant Transaction Security Document:

Name of Original Obligor	Transaction Security Document
The Parent	Jersey law security agreement in relation to all Jersey situated intangible movable property of the Parent
The Company	Jersey law security agreement in relation to all Jersey situated intangible movable property of the Company Irish law security deed of assignment and charge

- 3.4 A copy of all notices required to be sent under the Transaction Security Documents executed by the relevant parties duly acknowledged by the addressee where such addressee is an Obligor.

- 3.5 A copy of all share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Obligor in blank in relation to the assets subject to or expressed to be subject to the Transaction Security Documents and other documents of title to be provided under the Transaction Security Documents.
- 3.6 The Fee Letters executed by the Company.
- 3.7 The Hedging Letter executed by the Company.
- 3.8 In relation to each Transaction Security Document governed by Jersey law, a consent signed by the relevant Original Obligor to the registration on the Jersey Security Register of a financing statement in respect of that document.

4. **LEGAL OPINION**

- 4.1 A legal opinion of Hogan Lovells International LLP, legal advisers to the Agent and the Arranger as to English law substantially in the form distributed to the Original Lenders prior to signing this Agreement, addressed to the Agent, the Security Agent and the Original Lenders.
- 4.2 A legal opinion of A&L Goodbody, legal advisers to the Agent and the Arranger as to Irish law substantially in the form distributed to the Original Lenders prior to signing this Agreement, addressed to the Agent, the Security Agent and the Original Lenders.
- 4.3 A legal opinion of Bedell Cristin Jersey Partnership, legal advisers to the Agent and the Arranger as to Jersey law substantially in the form distributed to the Original Lenders prior to signing this Agreement, addressed to the Agent, the Security Agent and the Original Lenders.

5. **AGREED FORM DOCUMENTS**

Copies of the agreed form of all documents referred to as being in "agreed form" in paragraphs 1(e), 2(d) and 4 of Part B of this Schedule 2, such agreed form to be appended to the CP Satisfaction Notification given in relation to the Part A Conditions.

6. **FINANCIAL INFORMATION AND REPORTS**

- 6.1 The Base Case Model
- 6.2 The Reports (including, where applicable, any engagement letters or reliance letters from the providers of the Reports duly executed by the providers of those Reports confirming that they can be relied upon by the Reliance Parties).
- 6.3 A copy, certified by an authorised signatory of the Parent to be a true copy, of the Original Financial Statements.
- 6.4 The Funds Flow Statement.

7. **OTHER DOCUMENTS AND EVIDENCE**

- 7.1 Satisfaction of all "know your customer" requirements for each Finance Party.
- 7.2 The Group Structure Chart.
- 7.3 The White List.

- 7.4 Evidence that any process agent referred to in Clause 46.2 (*Service of process*), if not an Original Obligor, has accepted its appointment.
- 7.5 A Certificate of the Parent (signed by a director) in the agreed form detailing the estimated Acquisition Costs.

Part B - Conditions Precedent to Initial Utilisation

1. If the Target Acquisition is implemented by way of a Scheme:
 - (a) a copy of the Scheme Press Announcement, certified as a true and correct copy by the Parent;
 - (b) a copy of the Scheme Circular, certified as a true and correct copy by the Parent;
 - (c) a copy of the Court Order, certified as a true and correct copy by the Parent;
 - (d) a copy of the Scheme Resolution and the EGM Resolutions, certified as a true and correct copy by the Parent; and
 - (e) a certificate of the Parent (signed by a director) in the agreed form certifying:
 - (i) the date on which the Scheme Press Announcement was issued;
 - (ii) the date on which the Scheme Circular was issued;
 - (iii) that the Court Order has been delivered to the Registrar of Companies; and
 - (iv) that all the terms and conditions of the Scheme (other than payment of the consideration for the Target Acquisition) have been satisfied and no waiver or amendment of the terms and conditions of the Scheme has occurred, in each case other than is permitted or required (as the case may be) pursuant to paragraphs (d)(iii) to (d)(v) (inclusive) of Clause 26.23 (*Scheme Undertakings*),

provided that the documents set out in paragraphs (b) to (d) above shall be considered to be in form and substance satisfactory to the Agent (acting on the instructions of all of the Lenders (acting reasonably)) if such documents are in their original form or in such form amended as permitted under paragraphs (b) and (d) of Clause 26.23 (*Scheme Undertakings*) and the certificate in paragraph (e) above shall be considered to be in form and substance satisfactory to the Agent (acting on the instructions of all of the Lenders (acting reasonably)) provided that it is in the form delivered under paragraph 5 of Part A of this Schedule 2.

2. If the Target Acquisition is implemented by way of an Offer:
 - (a) a copy of the Offer Press Announcement, certified as a true and correct copy by the Parent;
 - (b) a copy of the Offer Document, certified as a true and correct copy by the Parent;
 - (c) the certificate from the Receiving Agent issued in accordance with Rule 10.6 of the Takeover Rules; and
 - (d) a certificate of the Parent (signed by a director) in the agreed form certifying:
 - (i) the date on which the Offer Press Announcement was issued;
 - (ii) the date on which the Offer Document was issued;

- (iii) that all the terms and conditions of the Offer (other than payment of the consideration for the Target Acquisition) have been satisfied and no waiver or amendment of the terms and conditions of the Offer has occurred, in each case other than is permitted or required (as the case may be) pursuant to paragraphs (c)(i)(4) and (c)(iii) of Clause 26.24 (*Offer Undertakings*); and
- (iv) the Company has (i) received acceptances of the Offer from Target Shareholders whose Target Shares represent, in aggregate, not less than 90 per cent. of the Target Shares to which the Offer relates and (ii) become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice,

provided that the documents set out in paragraphs (a) to (c) above shall be considered to be in form and substance satisfactory to the Agent (acting on the instructions of all of the Lenders (acting reasonably)) if such documents are in their original form or in such form amended as permitted under paragraphs (a) and (c) of Clause 26.24 (*Offer Undertakings*) and the certificate in paragraph (d) above shall be considered to be in form and substance satisfactory to the Agent provided that it is in the form delivered under paragraph 5 of Part A of this Schedule 2.

3. Utilisation Requests relating to any Utilisations to be made on the Closing Date which shall include an instruction to pay the fees due to the Arrangers and the Agent under the terms of the Fee Letters to the extent included in the Funds Flow Statement.
4. A certificate of the Parent (signed by a director) in the agreed form certifying:
 - (a) an amount of not less than 40 per cent. of the total funding requirement for the Target Acquisition plus Acquisition Costs relating to the Target Acquisition (the "**Minimum Equity Contribution**") has been (or, simultaneously with the Utilisation of Facility B on the Closing Date, will be) lent to the Parent in cash or invested in shares in the Parent and the Parent has (or, simultaneously with the Utilisation of Facility B on the Closing Date, will) (directly or indirectly) contribute the full amount of the Minimum Equity Contribution to the Company in accordance with the Structure Memorandum;
 - (b) the sum available to the Company as a result of the above loans/contributions and how that sum is made up; and
 - (c) that such sum has been applied or will, simultaneously with the first utilisation under this Agreement be applied for the same purposes as the proceeds of Facility B,

and the certificate in this paragraph shall be considered to be in form and substance satisfactory to the Agent (acting on the instructions of all of the Lenders (acting reasonably)) provided that it is in the form delivered under paragraph 5 of Part A of this Schedule 2.

Part C - 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 including, where such Additional Obligor is incorporated in Jersey, a copy of any consent(s) issued to or in respect of it under the Control of Borrowing (Jersey) Order 1958.
3. A copy of a resolution of the board of directors of the Additional Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Deed and the other Finance Documents to which it is a party and resolving that it execute, deliver and perform the Accession Deed and any other Finance Document to which it is a party;
 - (b) authorising a specified person or persons to execute the Accession Deed and other Finance Documents to which it is a 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 or Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
 - (d) authorising the Parent to act as its agent in connection with the Finance Documents.
4. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.
5. If required under applicable law, copy of a resolution signed by all the holders of the issued shares of the Additional Obligor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Obligor is a party.
6. A certificate of the Additional Obligor (signed by a director or other authorised person):
 - (a) 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; and
 - (b) certifying that each copy document listed in this Part C of Schedule 2 (*Conditions precedent*) 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.
7. A certified copy of the shareholder register of each company incorporated in the United Kingdom whose shares are the subject of the Transaction Security (for the purposes of this Part C of Schedule 2 a "**Charged Company**").
8. In respect of each Charged Company, either:
 - (a) a certificate of an authorised signatory of the Parent certifying that:
 - (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; and

- (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,

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 a Charged Company that is a member of the Group, is certified by an authorised signatory of the Parent to be correct, complete and not amended or superseded as at a date no earlier than the date of this Agreement; or

- (b) a certificate of an authorised signatory of the Parent certifying that such Charged Company is not required to comply with Part 21A of the Companies Act 2006.
9. A copy of any other authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration or other document, opinion or assurance which the Agent considers to be necessary or desirable in connection with the entry into and performance of the transactions contemplated by the Accession Deed or for the validity and enforceability of any Finance Document.
 10. If available, the latest audited financial statements of the Additional Obligor.
 11. 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; and
 - (b) if the Additional Obligor is incorporated in or has its "centre of main interest" in a jurisdiction other than England and Wales or is executing a 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 its incorporation, "centre of main interest" or, as the case may be, the jurisdiction of the governing law of that 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.
 12. If the proposed Additional Obligor is incorporated in a jurisdiction other than England and Wales, evidence that the process agent specified in Clause 46.2 (*Service of process*), if not an Obligor, has accepted its appointment in relation to the proposed Additional Obligor.
 13. Any security documents which, subject to the Agreed Security Principles, are required by the Agent to be executed by the proposed Additional Obligor, together with any notices or documents required to be given or executed under the terms of those security documents.
 14. Each document reasonably required by the Agent to carry out and be satisfied with the results of all reasonable "know your customer" or other similar checks (if any) to be carried out by any Finance Party under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
 15. In relation to any Transaction Security Document governed by Jersey law, a consent signed by the relevant Obligor to the registration on the Jersey Security Register of a financing statement in respect of that document
 16. In the case of an Additional Obligor that is incorporated in Ireland:

- (a) a copy of the declaration signed by all or a majority of the directors of that Additional Obligor; and
- (b) a copy of a resolution signed by all the holders of the issued shares in such Additional Obligor for the purposes of sections 82, 202 and 203 of the Irish Companies Act.

SCHEDULE 3

Requests and Notices

Part A - Utilisation Request

From: [Borrower] [Parent]*

To: Ares Management Limited as Agent

Dated:

Dear Sirs

[●] – 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] / [Acquisition Facility] / [Incremental Facility with an Establishment Date of [***]] / [Revolving Facility]**
 - (d) Currency of Loan
[●]
 - (e) Amount
[●] or, if less, the Available Facility
 - (f) Interest Period
[●]
3. We confirm that each relevant condition specified in Clause 4.2 (*Further conditions precedent*) [or, to the extent applicable, Clause 4.5 (*Utilisation 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*
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.

Part B - Selection Notice

From: [Borrower] [Parent]*

To: Ares Management Limited as Agent

Dated:

Dear Sirs

[●] – 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 Loan[s]] / [Acquisition Facility Loan[s]] / [Incremental Facility Loan[s]] with an Interest Period ending on [●] **.
3. [We request that the above [Facility B Loan] / [Acquisition Facility Loan] / [Incremental Facility Loan] be divided into [●] [Facility B Loans] / [Acquisition Facility Loans] / [Incremental Facility Loans] with the following Base Currency Amounts and Interest Periods:] ***

or

[We request that the next Interest Period for the above [Facility B Loan[s]] / [Acquisition Facility Loan[s]] / [Incremental Facility Loan[s]] is [●].****
4. This Selection Notice is irrevocable.

Yours faithfully

Authorised signatory for [the Parent]
on behalf] of [*insert name of*
Borrower]*)

Notes:

Amend as appropriate. The Selection Notice can be given by the Borrower or the Parent.

Insert details of all Facility B Loans / Acquisition Facility Loans / Incremental Facility Loans which have an Interest Period ending on the same date.

Use this option if division of Facility B Loans / Acquisition Facility Loans / Incremental Facility Loans is requested.

Use this option if sub-division is not required.

SCHEDULE 4

Form of Transfer Certificate

To: Ares Management Limited as Agent and Ares Management Limited as Security Agent

From: [*The Existing Lender*] (the "**Existing Lender**") and [*The New Lender*] (the "**New Lender**")

Dated:

[●] – 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 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 28.6 (*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 in accordance with Clause 28.6 (*Procedure for transfer*) all of the Existing Lender's rights and obligations under the Facilities Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment(s) and participations in Loans under the Facilities Agreement as specified in the Schedule.
 - (b) The proposed Transfer Date is [●].
 - (c) The Facility Office and address, email address, fax number and attention details for notices of the New Lender for the purposes of Clause 36.2 (*Addresses*) are set out in the Schedule.
3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in Clause 28.5 (*Limitation of responsibility of Existing Lenders*).
4. The New Lender confirms, for the benefit of the Agent and any Obligor, that it is:
 - (a) with respect to the UK:
 - (i) [a UK Qualifying Lender (other than a UK Treaty Lender);]
 - (ii) [a UK Treaty Lender;]
 - (iii) [not a UK Qualifying Lender]; and
 - (b) with respect to Ireland:
 - (i) [an Irish Qualifying Lender (other than an Irish Treaty Lender)];
 - (ii) [an Irish Treaty Lender]; or
 - (iii) [not an Irish Qualifying Lender]*

5. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a 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 20 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 18 of the CTA; or

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 20 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.] ****

[5./6.] The New Lender confirms that it [is]/[is not]***** a Sponsor Affiliate or Investor.

[6./7.] We refer to clause 19.4 (*Change of Senior Lender*) of the Intercreditor Agreement.

In consideration of the New Lender being accepted as a 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 a Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a 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.

[7./8.] 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.

[8./9.] This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

[9./10.] 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, e-mail address 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 Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Transfer Date is confirmed as [●].

Ares Management Limited as Agent

By:

Ares Management Limited as Security Agent

By:

Notes:

Delete as applicable - each New Lender is required to confirm which of these three categories it falls within in respect of both the UK and Ireland.

Include if New Lender comes within paragraph (i)(2) of the definition of UK Qualifying Lender in Clause 17.1 (*Definitions*).

Insert jurisdiction of tax residence.

This confirmation must be included 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.

SCHEDULE 5

Form of Assignment Agreement

To: Ares Management Limited as Agent, Ares Management Limited 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:

[●] – 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 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 28.7 (*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 Finance Documents and in respect of the Transaction Security which correspond to that portion of the Existing Lender's Commitments and participations in Loans 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 Loans 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 2(b) above.
3. The proposed Transfer Date is [●].
4. On the Transfer Date the New Lender becomes:
 - (a) party to the relevant Finance Documents (other than the Intercreditor Agreement) as a Lender; and
 - (b) party to the Intercreditor Agreement as a Lender (as defined in the Intercreditor Agreement).
5. The Facility Office and address, email address, fax number and attention details for notices of the New Lender for the purposes of Clause 36.2 (*Addresses*) are set out in the Schedule.
6. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in Clause 28.5 (*Limitation of responsibility of Existing Lenders*).

7. The New Lender confirms, for the benefit of the Agent and any Obligor, that it is:
- (a) with respect to the UK:
 - (i) [a UK Qualifying Lender (other than a UK Treaty Lender);]
 - (ii) [a UK Treaty Lender;]
 - (iii) [not a UK Qualifying Lender]; and
 - (b) with respect to Ireland:
 - (i) [an Irish Qualifying Lender (other than an Irish Treaty Lender)];
 - (ii) [an Irish Treaty Lender]; or
 - (iii) [not an Irish Qualifying Lender]*
8. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a 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
 - (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 20 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 18 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 20 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 at the Transfer Date; and
 - (b) each Additional Borrower which becomes an Additional Borrower after the Transfer Date,
 - (c) that it wishes that scheme to apply to the Facilities Agreement.]****

[8/9] The New Lender confirms that it [is]/[is not]***** a Sponsor Affiliate or Investor.

[9/10] We refer to clause 19.4 (*Change of Senior Lender*) of the Intercreditor Agreement.

In consideration of the New Lender being accepted as a 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 a Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a 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.

[10/11] This Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 28.8 (*Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Parent*), to the Parent (on behalf of each Obligor) of the assignment referred to in this Agreement.

[11/12] 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.

[12/13] This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

[13/14] 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.

The Schedule

Commitment/Rights and obligations to be transferred by assignment, release and accession

[insert relevant details]

[Facility office address, fax number, e-mail address and attention details for notices and account details for payments]

[Existing Lender]

[New Lender]

By:

By:

This Agreement is accepted as an Assignment Agreement for the purposes of the Facilities Agreement by the Agent, and as a Creditor 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 Finance Party.

Ares Management Limited as Agent

By:

Ares Management Limited as Security Agent

By:

Notes:

Delete as applicable - each New Lender is required to confirm which of these three categories it falls within in respect of both the UK and Ireland.

Include only if New Lender comes within paragraph 17.1(a)(i)(2) of the definition of UK Qualifying Lender in Clause 17.1 (*Definitions*).

Insert jurisdiction of tax residence.

This confirmation must be included 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

SCHEDULE 6

Form of Accession Deed

To: Ares Management Limited as Agent and Ares Management Limited as Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below

From: [Subsidiary] and [Parent]

Dated:

Dear Sirs

[●] – 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. 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 to [3]/[4] 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 Finance Documents (other than the Intercreditor Agreement) as an Additional [Borrower]/[Guarantor] pursuant to Clause 30.2 (*Additional Borrowers*)/Clause 30.4 (*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 [].
3. [Subsidiary's] administrative details for the purposes of the Facilities Agreement and the Intercreditor Agreement are as follows:

Address:

Fax No.:

[Email address:]

Attention:

4. [The Parent confirms that no Default is continuing or would occur as a result of [Subsidiary] becoming an Additional Borrower].
5. [Subsidiary] (for the purposes of this paragraph [4]/[5], the "**Acceding Debtor**") intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:

[Insert details (date, parties and description) of relevant documents]

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]/[5].

Executed as a deed by [*Subsidiary*])
acting by [*name of director*] in the)
presence of [*name of witness*])

Director

Witness' signature

Witness' address

The Parent

Signed by Ares Management)
Limited

Date:

Notes:

- Include this paragraph in this Accession Deed if the Subsidiary is also to accede as an Intra-Group Lender to the Intercreditor Agreement.

SCHEDULE 7

Form of Resignation Letter

To: Ares Management Limited as Agent

From: [resigning Obligor] and [Parent]

Dated:

Dear Sirs

[●] – 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 30.3 (*Resignation of a Borrower*)]/[Clause 30.5 (*Resignation of a Guarantor*)], we request that [resigning Obligor] be released from its obligations as a [Borrower]/[Guarantor] under the Facilities Agreement and the 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 of [resigning Obligor];]
 - (c) [●] **
4. This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[] Limited	[resigning Obligor]
By	By:

Notes:

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: Ares Management Limited as Agent

From: [●] as Parent

Dated:

Dear Sirs

[●] – 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:
 - (a) Cashflow Cover: in respect of the Relevant Period ending on [●], Consolidated Cashflow for the Relevant Period was [●] and Consolidated Debt Service for the Relevant Period was [●]. Therefore Consolidated Cashflow for such Relevant Period was [●] times Consolidated Debt Service for such Relevant Period and the covenant contained in Clause 25.2(a) (Financial condition) [has/has not] been complied with;
 - (b) Leverage: on the last day of the Relevant Period ending on [●], Consolidated Total Gross Debt was [●] and Consolidated Pro Forma EBITDA for such Relevant Period was [●]. Therefore Consolidated Total Gross Debt at such time [did/did not] exceed [●] times Consolidated Pro Forma EBITDA for such Relevant Period and the covenant contained in Clause 25.2(b) (*Financial condition*) [has/has not] been complied with; and
 - (c) Super Senior Minimum EBITDA: on the last day of the Relevant Period ending on [●], Super Senior Minimum EBITDA was [●].
3. We confirm that Leverage is [●] :1 and that, therefore the Margin applicable to the Revolving Facility should be [●] %, the Margin applicable to Facility B should be [●] %, and the Margin applicable to the Acquisition Facility should be [●] %.
4. We attach calculations as to the BoE Base Rate Swap Payments and the Maximum BoE Base Rate Swap Payment Amount.
5. We attach details of the Known Exceptional Items.

6. [Excess Cashflow for the Financial Year of the Group ending [●] was [●]. The amount of voluntary prepayments of the Facilities made during that Financial Year was £[●]. Therefore the Excess Cashflow to be applied in prepayment pursuant to Clause 11.2 (*Disposal, Insurance and Acquisition Proceeds and Excess Cashflow*) will be [●].]*
7. [We confirm that the Guarantor Coverage Test [is/is not] met.] *
8. [We confirm that the following companies constitute Material Companies for the purposes of the Facilities Agreement: [●]]*
9. [We confirm that no Default is continuing.]**
10. [We confirm that the amount of [Unrestricted Cash] [Cash Overfunding] for the Relevant period is [●] and has been applied in the following manner [●] .]

Signed by Director of [name of individual] Limited for and on behalf of [name of Parent's Auditors])

Signed by Director of [name of individual] Limited for and on behalf of [name of Parent's Auditors])

[Insert applicable certification language]

Notes:

Only applicable if the Compliance Certificate accompanies the audited Annual Financial Statements.

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 for the first Compliance Certificate delivered pursuant to Clause 24.2 (*Provision and contents of Compliance Certificate*).

SCHEDULE 9

Timetables

Part A - Loans

	Loans in euro	Loans in sterling	Loans in other currencies
<i>Agent notifies the Parent if a currency is approved as an Optional Currency in accordance with Clause 4.3 (Conditions relating to Optional Currencies)</i>	U-12	-	U-12
<i>Delivery of a duly completed Utilisation Request (Clause 5.1 (Delivery of a Utilisation Request)).</i>	<i>U-12 or U-3 in relation to the Revolving Facility (or U-12 for any Utilisation Request in relation to a Utilisation of the Revolving Facility while [Ares] is a Revolving Facility Lender)</i>	<i>U-12 or U-3 in relation to the Revolving Facility (or U-12 for any Utilisation Request in relation to a Utilisation of the Revolving Facility while [Ares] is a Revolving Facility Lender)</i>	<i>U-12 or U-3 in relation to the Revolving Facility (or U-12 for any Utilisation Request in relation to a Utilisation of the Revolving Facility while [Ares] is a Revolving Facility Lender)</i>
	9.30am	9.30am	9.30am
<i>Delivery of a duly completed Selection Notice (Clause 14.1 (Selection of Interest Periods and Terms))</i>	U-3	U-3	U-3
	9.30am	9.30am	9.30am
<i>Agent determines (in relation to a Loan) the Base Currency Amount of the Loan, if required under Clause 5.4 (Lenders' participation) and notifies the Lenders of the Loan in accordance with Clause 5.4 (Lenders' participation)</i>	U-3 Noon	U-3 Noon	U-3 Noon
<i>Agent receives a notification from a Lender under Clause 6.2 (Unavailability of a currency)</i>	Quotation Day 9.30am	-	Quotation Day 9.30am
<i>Agent gives notice in</i>	Quotation Day	-	Quotation Day

<i>accordance with Clause 6.2 (Unavailability of a currency)</i>	<i>Noon</i>		<i>Noon</i>
<i>LIBOR or EURIBOR is fixed</i>	<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</i>	<i>Quotation Day as of 11:00 a.m.</i>	<i>Quotation Day as of 11:00 a.m.</i>
<i>"U"</i>	<i>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.</i>		
<i>"U – X"</i>	<i>X Business Days prior to date of utilisation.</i>		

SCHEDULE 10

Agreed Security Principles

1. GENERAL

- 1.1 The guarantees and Security to be provided will be given in accordance with the security principles set out in this Schedule.
- 1.2 The principles set out in this Schedule embody recognition by all parties that there may be certain legal and practical difficulties in obtaining guarantees and/or security from all Guarantors in every jurisdiction in which Guarantors are incorporated. In particular:
- (a) Guarantors will not be required to give guarantees or enter into security documents to the extent that would conflict with general mandatory statutory limitations, financial assistance, corporate benefit, fraudulent preference, "thin capitalisation" rules, capital maintenance, retention of title claims, exchange control restrictions and similar principles which limit the ability of a Guarantor 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 endeavours to assist in overcoming any such restriction and demonstrating that adequate corporate benefit accrues to each Guarantor;
 - (b) the Security and extent of its perfection will be agreed taking into account the economic cost to the Group of providing Security and the proportionate benefit accruing to the Lenders having regard to the extent of the obligations which can be secured by that Security and the priority that will be offered by taking or perfecting the Security;
 - (c) any assets subject to third party arrangements which are not prohibited by this Agreement and which prevent those assets from being charged will be excluded from the charge in any relevant Transaction Security Document provided that reasonable endeavours to obtain consent to charging any such assets shall be used by the relevant Guarantor if the relevant asset is material;
 - (d) Guarantors will not be required to give guarantees or enter into security documents to the extent that would conflict with the mandatory fiduciary duties of their or any Affiliates' directors or contravene any legal prohibition or result in a risk of personal or criminal liability on the part of any officer or member of such company, *provided that* the relevant Guarantor shall use reasonable endeavours to overcome any such obstacle to the extent that that can be done at reasonable cost;
 - (e) Guarantors will not be required to give guarantees or enter into Security where the Guarantor can demonstrate to the satisfaction of the Security Agent (acting reasonably) that there would be a significant Tax cost disadvantage in doing so such that the cost of giving such guarantees or entering into such Security would be disproportionate to the benefit of such guarantee and/or Security to the Lenders, *provided that* the relevant Guarantor shall use reasonable endeavours to overcome any such obstacle to the extent that that can be done at reasonable cost;

- (f) perfection of Security, when required, and other legal formalities will be completed as soon as practicable and, in any event, within the time periods specified in the Finance Documents therefore or (if earlier or to the extent no such time periods are specified in the Finance Documents) within the time periods specified by applicable law in order to ensure due perfection;
- (g) the perfection of Security granted will not be required if it could or prior to the occurrence of a Declared Default if it would have a material adverse effect on the commercial reputation of the relevant Guarantor or on its ability to conduct its operations and business in the ordinary course as otherwise not prohibited by the Finance Documents;
- (h) the maximum guaranteed or secured amount may be restricted or limited by guarantee limitation language agreed to reflect these principles and to the extent consistent with them to minimise stamp duty, notarisaton, registration or other applicable fees where the benefit of increasing the guaranteed or secured amount is disproportionate to the level of such fee, Taxes and duties or where registration, notarial or other fees are payable by reference to the amount secured in which case, any asset Security granted by that Guarantor shall be limited to the maximum amount that would be recoverable under the guarantee;
- (i) where a class of assets to be secured includes material and immaterial assets, if the cost of granting Security over the immaterial assets is disproportionate to the benefit of such Security, Security will be granted over the material assets only; and
- (j) to the extent possible, the Security Agent will hold one set of security for the Lenders and the Hedge Counterparties.

1.3 Legal fees up to an amount to be agreed, disbursements, registration costs, taxes, notary fees and other costs and expenses related to the guarantees and security incurred by legal counsel to the Parent and by legal counsel to the Arranger will be paid by the Parent.

2. **GUARANTORS AND SECURITY**

2.1 Each guarantee will be:

- (a) an upstream, cross-stream and downstream guarantee; and
- (b) will be for all liabilities of the Obligors under the Finance Documents,

in accordance with, and subject to, the requirements of this Schedule 10 in each relevant jurisdiction.

2.2 Security will be for all liabilities of the relevant grantor (including its liabilities in respect of any guarantee) under the Finance Documents in accordance with, and subject to, the requirements of this Schedule 10 in each relevant jurisdiction.

2.3 To the extent possible, all Security shall be given in favour of the Security Agent and not the Finance Parties individually. "**Parallel debt**" provisions will be used where necessary; such provisions will be contained in the Intercreditor Agreement and not the individual Transaction Security Documents unless required under local laws. To the extent possible, there should be no action required to be taken in relation to the guarantees or

Security when any Lender transfers any of its participation in the Facilities to a new Lender.

3. **TERMS OF TRANSACTION 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, to the extent possible acknowledging any limitations that may arise as a result of any Permitted Security;
- (b) Security will not be enforceable until the occurrence of a Declared Default;
- (c) representations and undertakings shall only be included in each Transaction Security Document to the extent necessary under local law to confirm any registration or perfection of, or ensure the validity of, the Security and shall not be repeated;
- (d) the provisions of each Transaction Security Document will not be unduly burdensome on the Guarantor or interfere unreasonably with the operation of its business and will be limited to those required to create effective Security and not impose additional commercial obligations;
- (e) information, such as lists of assets, will be provided if and, only to the extent, required by local law to be provided to perfect or register the Security and, unless required to be provided by local law more frequently, will be provided annually if such lists are required to be periodically provided under the Transaction Security Document to maintain perfection of the Security;
- (f) the Finance Parties shall only be able to exercise a power of attorney following the occurrence of a Declared Default or if the relevant Guarantor has failed to comply with a further assurance or perfection obligation within five Business Days of being notified of that failure (with a copy of that notice being sent to the Parent) and being requested to comply;
- (g) subject to the other provisions of this Schedule 10, security will where possible and practical automatically create Security over future assets of the same type as those already secured; and
- (h) in the Transaction Security Documents there will be no repetition or extension of Clauses set out in this Agreement (or the Intercreditor Agreement) such as those relating to notices, cost and expenses, indemnities, tax gross up, distribution of proceeds and release of Security other than if expressly required by local law to perfect the Security or make it enforceable or to facilitate the admissibility of a Transaction Security Document in court.

4. **GUARANTORS**

Subject to paragraph 16 below, the Guarantors shall include the Parent, the Company, the Borrowers and the Material Companies.

5. BANK ACCOUNTS

- (a) If a Guarantor grants Security over its bank accounts it shall be free to deal with those accounts in the course of its business until a Declared Default occurs (other than in relation to a mandatory prepayment account or cash collateral account).
- (b) Subject to the following paragraph, if possible without disrupting operation of the account and if required for perfection under local law, notice of the Security will be served on the account bank within five Business Days of the Security being granted and the Guarantor shall use its reasonable endeavours to obtain an acknowledgement of that notice within 60 days of service. If the Guarantor has used its reasonable endeavours but has not been able to obtain acknowledgement its obligation to obtain acknowledgement shall cease on the expiry of that 60 day period. Irrespective of whether notice of the Security is required for perfection, if the service of notice would prevent the Guarantor from using a bank account (other than a mandatory prepayment or cash collateral account) in the course of its business (prior to a Declared Default) no notice of Security shall be served until the occurrence of a Declared Default.
- (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 Guarantor shall not be required to change its banking arrangements if these Security interests are not waived or only partially waived.
- (d) If required under local law Security over bank accounts will be registered subject to the general principles set out in this Schedule 10.
- (e) There will not be any blocked accounts/mandatory prepayment accounts or holding accounts other than as set out in this Agreement.

6. FIXED ASSETS

- 6.1 Subject to the other provisions of this Schedule 10, Security will be granted over fixed assets.
- 6.2 No notice whether by attaching a notice to the fixed assets shall be prepared or given until a Declared Default, except to the extent required by local law.
- 6.3 If required under local law Security over fixed assets will be registered subject to the general principles set out in this Schedule 10.

7. INSURANCE POLICIES

- 7.1 Subject to the other provisions of this Schedule 10, a Guarantor will grant Security over its material insurance policies.
- 7.2 If required for perfection under local law, notice of the Security will be served on the insurance provider within five Business Days of the security being granted and the Guarantor shall use its reasonable endeavours to obtain an acknowledgement of that notice within 60 days of service. If the Guarantor has used its reasonable endeavours but has not been able to obtain acknowledgement its obligation to obtain acknowledgement shall cease on the expiry of that 60 day period.

7.3 No loss payee or other endorsement shall be made on the insurance policy and no Lender or the Security Agent shall be named as co-insured.

8. **INTELLECTUAL PROPERTY**

8.1 If a Guarantor grants Security over its Material Intellectual Property it shall be free to deal with those assets in the ordinary course of its business until the occurrence of a Declared Default (including, without limitation, allowing its intellectual property to lapse if no longer material to its business) in accordance with the terms of this Agreement.

8.2 Without prejudice to the creation of a qualifying floating charge, no Security shall be granted over any intellectual property which cannot be secured under the terms of the relevant licensing agreement (unless third party consent can be reasonably obtained). No notice shall be prepared or served to any third party from whom intellectual property is licensed until a Declared Default.

8.3 If required under local law Security over intellectual property will be registered under the law of that Transaction Security Document at a relevant supra-national registry (such as the EU) or otherwise at any national registry subject to the general principles set out in this Schedule 10.

8.4 "**Material Intellectual Property**" for this purpose will mean intellectual property rights which are necessary for the Group's business.

9. **RECEIVABLES**

9.1 If a Guarantor grants security over its material trade or intercompany receivables it shall be free to deal with, pay, capitalise, set off, compromise or forgive those receivables in the ordinary course of its business in accordance with the terms of this Agreement and the Intercreditor Agreement until a Declared Default.

9.2 If required by local law to perfect the security, notice of the security will be served on the relevant lender within five Business Days of the security being granted. Irrespective of whether notice of the Security is required for perfection if the service of notice would prevent the Guarantor from dealing with a receivable in the ordinary course of its business no notice of Security shall be served until the occurrence of a Declared Default.

9.3 If required under local law Security over intercompany receivables will be registered subject to the general principles set out in this Schedule 10.

10. **SHARES**

10.1 Unless otherwise set out in this Agreement, a Guarantor shall only be obliged to grant a pledge over the shares in other Guarantors (save in respect of any Guarantor incorporated in England and Wales or Ireland, which shall grant security over the shares of each of its Subsidiaries incorporated in England and Wales or Ireland pursuant to a debenture).

10.2 The relevant Transaction Security Document will be governed by the laws of the Guarantor whose shares are being secured and not by the law of the country of the Guarantor granting the Security, other than where the company whose shares are charged is not a Material Company.

10.3 Until a Declared Default:

- (a) the legal title to such shares shall remain with the relevant pledgor (save where required in jurisdictions outside of England & Wales for the creation of an effective security interest);
- (b) the pledgor will be permitted to retain and to exercise voting rights 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
- (c) the pledgor will be permitted to pay, receive and retain dividends (subject to the terms of this Agreement).

10.4 Where customary share certificates (or other documents evidencing title to the relevant shares) and stock transfer forms executed in blank (or local law equivalent) will be provided to the Security Agent and, where required by law, the share certificates or shareholders' register will be endorsed or written up and the endorsed share certificates and/or a copy of the written up register provided to the Security Agent.

10.5 Unless the restriction is required by law, the constitutional documents of a member of the Group (other than a Joint Venture) whose shares are to be pledged will be amended to the extent that it is within the power of the pledgor to do so (using reasonable endeavours to obtain the consent of third parties where relevant) to remove any restriction on the transfer or the registration of the transfer of the shares on enforcement of the Security granted over them, or a consent by the applicable governing body or such member permitting such transfer or registration of transfer shall be obtained.

11. REAL ESTATE

11.1 No fixed security shall be granted over real estate comprising rack rent leases or leases with a remaining term of less than 25 years.

11.2 Subject to the other provisions of this Schedule 10 and subject to a materiality threshold to be agreed, security will be granted over each Obligor's real estate.

11.3 There will be no obligation to investigate title, provide surveys or other insurance or environmental due diligence.

11.4 A Guarantor will be under an obligation to use reasonable endeavours to obtain any landlord consent required to grant any Security over its material real estate required pursuant to these security principles (provided that such obligation shall only relate to real estate which is subject to fixed security).

12. LICENCES

No Security shall be created over any licences necessary for the operation of the business of the relevant Guarantor (or its Subsidiaries) where the creation of that Security would breach the terms of that licence or where that licence is, as a matter of legal construction in the relevant jurisdiction, of a personal nature (and therefore inalienable, unassignable or in respect of which Security cannot be validly granted) *provided that* the relevant member of the Group has, at the time (following the Closing Date) the relevant licences is being entered into, used commercially reasonable endeavours to overcome any such obstacles or prohibitions and such obstacle or prohibition has not been overcome. The requirement for a Guarantor to use "commercially reasonable endeavours" to overcome a prohibition on charging a licence shall be deemed to have been satisfied where such action would require the consent of a regulatory body, city authority, national authority and/or governmental body which has an absolute discretion to

provide such consent and the relevant Guarantor reasonably considers that to request such a consent could adversely affect the commercial terms upon which such licence would be granted.

13. **JOINT VENTURES**

No Security shall be created over the shares, stock or securities issued by any Joint Venture to any Guarantor where the creation of that Security would breach the terms of that Joint Venture agreed between that Guarantor and the relevant Joint Venture partner or the constitutional documents of that Joint Venture.

14. **RELEASE OF SECURITY**

Unless required by local law the circumstances in which the Security shall be released should not be dealt with in individual Transaction Security Documents but, if so required, shall, except to the extent required by local law, be the same as those set out in the Intercreditor Agreement.

15. **TRADING INVESTMENT**

Notwithstanding any other provision of this Schedule or Agreement or any other Finance Document, in no circumstances shall any Security be required to be granted over any:

- (a) Trading Investment Securities;
- (b) Trading Investment Account; or
- (c) Trading Investment Arrangement.

16. **REGULATORY**

- (a) No Regulated Entity or member of a Regulated Group shall be required to create or perfect or maintain Security or Transaction Security or give or maintain a guarantee where to do so would or could result in a breach of any of the Regulatory Principles.
- (b) It is acknowledged that, as at the Signing Date, the Regulatory Principles mean that no member of the Target Group shall be required to become an Additional Guarantor or grant Transaction Security.
- (c) In this Agreement:

"Financial Services Laws" means all applicable laws, acts, regulations, rules, instruments, codes of business and provisions in force from time to time with which the relevant Regulated Entity is required to comply and which relate to the provision of financial services and/or products, the granting of credit or the arranging or performance of payment services, or to any insurance contract or other financial product or investment (or to the provision, distribution, marketing, entering into, variation or administration thereof or the giving of advice in relation thereto), including but not limited to the Financial Services and Markets Act 2000 and the FCA Rules;

"FCA Rules" means the handbook of rules and guidance published by the FCA as amended and/or replaced from time to time;

"Regulatory Authority" means an authority or a self-regulatory organisation having regulatory or supervisory authority from time to time over the business of any member of the Group (including, but not limited to, the FCA and the Jersey Financial Services Commission);

"Regulatory Capital" means the aggregate amount of financial and non-financial resources which the Parent (or an applicable Regulated Entity) from time to time considers (acting reasonably and by reference to applicable Financial Services Law) a Regulated Entity or Regulated Group is required to maintain in order to comply with any requirements of any Regulatory Authority as to the minimum or appropriate capital resources which such Regulated Entity or Regulated Group is required to maintain, as designated from time to time by the Parent to the Agent in writing;

"Regulatory Capital Amount" means in respect of a Regulated Entity or Regulated Group, such part of the applicable Regulatory Capital as is held in cash by any member(s) of the Group, as determined by the Parent from time to time;

"Regulated Entity" means any member of the Group which from time to time is or becomes regulated or authorised by a Regulatory Authority (including without limitation the FCA or PRA pursuant to Part 4A of FSMA with permission to carry on one or more regulated activities which are regulated for the purposes of FSMA) and any other member of a Regulated Group; and

"Regulated Group" means any consolidation group including one or more Regulated Entity/ies for the purpose of applicable Financial Services Law;

"Regulatory Principles" means, in respect of a Regulated Entity or Regulated Group, the following principles:

- (i) No Regulated Entity shall be required to create or perfect or maintain Security or give or maintain a guarantee where to do so might reasonably be expected to:
 - (1) prejudice consent from any applicable Regulatory Authority to the transactions contemplated by the Transaction Documents;
 - (2) prejudice the grant, continuance or renewal of any Authorisation (including from a Regulatory Authority) of such Regulated Entity or any Regulated Group necessary for the transactions contemplated by the Transaction Documents or for the continued operation of its business or the making by it of a Permitted Acquisition;
 - (3) breach or infringe (or potentially breach or infringe) any applicable law or regulation, including Financial Services Law;
 - (4) actually or potentially adversely impact any ongoing regulatory obligations and considerations applicable to any Regulated Entity or Regulated Group, including any actual or potential:
 - (A) increase in Regulatory Capital or the Regulatory Capital Amount or other regulatory capital requirements; or
 - (B) increase or alteration in regulatory compliance and reporting obligations,

(including related calculation obligations in respect of, but not limited to, Regulatory Capital or the Regulatory Capital Amount) of any Regulated Entity or Regulated Group, in each case imposed or promulgated by any Regulatory Authority or under applicable law or regulation including Financial Services Law; and

- (ii) It is acknowledged that at the Signing Date no Regulated Entity is or shall be required to become a Guarantor or to grant any Transaction Security or any guarantee or indemnity, in each case if and for so long as any of paragraphs (1) to (4) above apply to such Regulated Entity.
- (iii) Notwithstanding any other provision of this Agreement or any other Finance Document, in no circumstances shall any Transaction Security be required to be granted or maintained over any account (of any kind) with any bank or other financial institution or any clearing, trading or settlement system or exchange, in which any Regulatory Capital, Regulatory Capital Amount, any client monies or any other monies held on trust or as nominee for clients or customers from time to time (or, in each case, any part thereof) is/are held.
- (iv) No Regulated Entity shall be required to create or perfect or maintain Security over:
 - (1) any cash or assets constituting part or all of the Regulatory Capital or Regulatory Capital Amount; or
 - (2) any account (of any kind) with any bank or other financial institution or any clearing, trading or settlement system or exchange, in which any Regulatory Capital, Regulatory Capital Amount, any client monies or any other monies held on trust or as nominee for clients or customers from time to time (or, in each case, any part thereof) is/are held

where the creating, perfecting or maintaining of such Security would or could breach or adversely affect its ability to maintain adequate resources (both financial and non-financial) to comply with any Financial Services Law and to enable it to continue to operate and to provide services to its clients and customers. Any such Security which has been granted shall accordingly be released from any Transaction Security to which it is subject.

- (v) Any cash and assets of a Regulated Entity constituting part or all of the Regulatory Capital or Regulatory Capital Amount for that Regulated Entity or its Regulated Group and which are not permitted to be subject to Security under any Financial Services Law shall accordingly be released from any Transaction Security to which they are subject (if any has been granted).

SCHEDULE 11

Form of Increase Confirmation

To: Ares Management Limited as Agent, Ares Management Limited as Security Agent and [●] as Parent, for and on behalf of each Obligor

From: [the Increase Lender] (the "**Increase Lender**")

Dated:

[●] – 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 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 2.3 (*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 Finance Documents (other than the Intercreditor Agreement) as a Lender; and
 - (b) party to the Intercreditor Agreement as a Lender as defined in the Intercreditor Agreement.
6. The Facility Office and address, email address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 36.2 (*Addresses*) are set out in the Schedule.
7. The Increase Lender expressly acknowledges the limitations on the Lenders' obligations referred to in Clause 2.3 (*Increase*).
8. The Increase Lender confirms, for the benefit of the Agent and any Obligor, that it is:
 - (a) with respect to the UK:
 - (i) [a UK Qualifying Lender (other than a UK Treaty Lender);]
 - (ii) [a UK Treaty Lender;]
 - (iii) [not a UK Qualifying Lender]; and

- (b) with respect to Ireland:
 - (i) [an Irish Qualifying Lender (other than an Irish Treaty Lender)];
 - (ii) [an Irish Treaty Lender]; or
 - (vi) [not an Irish Qualifying Lender]*
- 9. [The Increase Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a 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
 - (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 20 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 18 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 20 of the CTA) of that company.]**
- 10. [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 the notifies:
 - (a) each Borrower which is a Party as a Borrower as at the Increase Date; and
 - (b) each Additional Borrower which becomes an Additional Borrower after the Increase Date,that it wishes that scheme to apply to the Facilities Agreement.]****

[8./9.] The Increase Lender confirms that it is not a Sponsor Affiliate or Investor.

[9/10] We refer to clause 19.10 (*Creditor Accession Undertaking*) of the Intercreditor Agreement.

In consideration of the Increase Lender being accepted as a 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 a Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a 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.

[11/12] 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.

[12/13] This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

[13/14] 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.

The Schedule

Relevant Commitment/rights and obligations to be assumed by the Increase Lender

[insert relevant details]

[Facility Office address, email 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 as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Increase Date is confirmed as [●] .

Ares Management Limited as Agent

By:

Ares Management Limited as Security Agent

By:

Notes:

Delete as applicable - each Increase Lender is required to confirm which of these three categories it falls within with respect to each of the UK and Ireland.

Include only if the Increase Lender is a UK Non-Bank Lender i.e. falls within paragraph 17.1(a)(i)(2) of the definition of "**UK Qualifying Lender**" in Clause 17.1 (*Definitions*).

Insert jurisdiction of tax residence.

This confirmation must be included if the Increase Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.

Delete as applicable.

Include only if the increase involves the assumption of a Revolving Facility Commitment.

SCHEDULE 12

Forms of Notifiable Debt Purchase Transaction Notice

Part A - Form of Notice on entering into Notifiable Debt Purchase Transaction

To: Ares Management Limited as Agent

From: [*The Lender*]

Dated:

[●] – Facilities Agreement dated [●] (as amended and/or amended and restated from time to time) (the "Facilities Agreement")

1. We refer to Clause 29.2(b) (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.

<i>Commitment</i>	<i>Amount of our Commitment to which Notifiable Debt Purchase Transaction relates (Base Currency)</i>
-------------------	---

<i>[Facility B Commitment]</i>	<i>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</i>
--------------------------------	---

<i>[Acquisition Facility Commitment]</i>	<i>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</i>
--	---

<i>[Revolving Facility Commitment]*</i>	<i>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</i>
---	---

<i>[Incremental Facility Commitment under the Incremental Facility with an Establishment Date of [***]]</i>	<i>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</i>
---	---

[Lender]

By:

Part B - Form of Notice on Termination of Notifiable Debt Purchase Transaction / Notifiable Debt Purchase Transaction ceasing to be with Sponsor Affiliate

To: Ares Management Limited as Agent

From: [The Lender]

Dated:

[●] – Facilities Agreement dated [●] (as amended and/or amended and restated from time to time) (the "Facilities Agreement")

1. We refer to Clause 29.2(c) (*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)

[Facility B Commitment]

[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]

[Acquisition Facility Commitment]

[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]

*[Revolving Facility Commitment]**

[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]

*[Incremental Facility Commitment under the Incremental Facility with an Establishment Date of [***]]*

[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]

[Lender]

By:

SCHEDULE 13

Form of Incremental Facility Notice

To: [●] as Agent and [●] as Security Agent

From: [●] as the Parent and the entities listed in the Schedule as Incremental Facility Lenders (the "**Incremental Facility Lenders**")

Dated:

[Parent] — [] Senior Facilities Agreement dated [(the "Facilities Agreement")

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This is an Incremental Facility Notice. This Incremental Facility Notice shall take effect as an Incremental Facility Notice for the purposes of the Facilities Agreement and as a Creditor 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 Incremental Facility Notice unless given a different meaning in this Incremental Facility Notice.
2. We refer to Clause 8 (*Establishment of Incremental Facilities*) of the Facilities Agreement.
3. We request the establishment of an Incremental Facility with the following Incremental Facility Terms:
 - (a) Currency:
[]
 - (b) Total Incremental Facility Commitments:
[]
 - (c) Margin:
[]
 - (d) Level of commitment fee payable pursuant to Clause 16.1 (*Commitment fee*) of the Facilities Agreement in respect of the Incremental Facility:
[]
 - (e) Borrower(s) to which the Incremental Facility is to be made available:
[]
 - (f) Termination Date:
[]
4. The proposed Establishment Date is [].
5. The Parent confirms that:
 - (a) each of:

- (i) the Incremental Facility Terms set out above; and
 - (ii) the Aggregate Yield applicable to the Incremental Facility, comply with Clause 8.5 (*Restrictions on Incremental Facility Terms and fees*) of the Facilities Agreement;
 - (b) the Incremental Facility Lenders and the Incremental Facility Commitments set out in this Incremental Facility Notice have been selected and allocated in accordance with Clause 8.1 (*Selection of Incremental Facility Lenders*) of the Facilities Agreement; and
 - (c) each condition specified in paragraph 8.6(a)(i) of Clause 8.6 (*Conditions to establishment*) of the Facilities Agreement is satisfied on the date of this Incremental Facility Notice.
6. Each Incremental Facility Lender agrees to assume and will assume all of the obligations corresponding to the Incremental Facility Commitment set opposite its name in the Schedule as if it had been an Original Lender under the Facilities Agreement in respect of that Incremental Facility Commitment.
7. On the Establishment Date each Incremental Facility Lender becomes:
- (a) party to the relevant Finance Documents (other than the Intercreditor Agreement) as a Lender; and
 - (b) party to the Intercreditor Agreement as a Senior Lender (as defined in the Intercreditor Agreement).
8. Each Incremental Facility Lender expressly acknowledges the limitations on the Lenders' obligations referred to in Clause 8.12 (*Limitation of responsibility*) of the Facilities Agreement.
9. [Each Incremental Facility Lender confirms that it is not a Sponsor Affiliate.]
10. We refer to clause [22.11] (*Creditor Accession Undertaking*) of the Intercreditor Agreement. In consideration of each Incremental Facility Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), each Incremental Facility Lender confirms that, as from the Establishment Date, it intends to be party to the Intercreditor Agreement as a Senior Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a 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.
11. This Incremental Facility Notice is irrevocable.
12. 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.
13. This Incremental Facility Notice and any non-contractual obligations arising out of or in connection with it are governed by English law.
14. This Incremental Facility Notice has been entered into on the date stated at the beginning of this Incremental Facility Notice.

Note: The execution of this Incremental Facility Notice may not be sufficient for each Incremental Facility Lender to obtain the benefit of the Transaction Security in all jurisdictions. It is the responsibility of each Incremental Facility 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 appropriate.

The Schedule

Name of Incremental Facility Lender	Incremental Facility Commitment
-------------------------------------	---------------------------------

Signed by The Parent)

The Incremental Facility Lenders)

This document is accepted as an Incremental Facility Notice for the purposes of the Facilities Agreement by the Agent and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Establishment Date is confirmed as [].

Signed by **The Agent**)

and

by the Security Agent

SCHEDULE 14

Form of Incremental Facility Lender Certificate

To: [] as Agent and [] as Parent

From: [*The Incremental Facility Lender*]

Dated:

[Parent] — [] Senior Facilities Agreement dated [] (the "Facilities Agreement")

1. We refer to the Facilities Agreement and to the Incremental Facility Notice dated []. This is an Incremental Facility Lender Certificate. Terms defined in the Facilities Agreement have the same meaning in this Incremental Facility Lender Certificate unless given a different meaning in this Incremental Facility Lender Certificate.
2. We confirm, for the benefit of the Agent and without liability to any Obligor, that we are:
 - (a) with respect to the UK:
 - (i) [a UK Qualifying Lender (other than a UK Treaty Lender);]
 - (ii) [a UK Treaty Lender;]
 - (iii) [not a UK Qualifying Lender]; and
 - (b) with respect to Ireland:
 - (i) [an Irish Qualifying Lender (other than an Irish Treaty Lender)];
 - (ii) [an Irish Treaty Lender]; or
 - (vii) [not an Irish Qualifying Lender]
3. [We confirm that the person beneficially entitled to interest payable to us in respect of an advance under a 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.]
4. [We confirm that we hold a passport under the HMRC DT Treaty Passport scheme (reference number [**]) and are tax resident in [**], so that interest payable to us by

borrowers is generally subject to full exemption from UK withholding tax and request that the Parent notify:

- (a) each Borrower which is a Party as a Borrower as at the Establishment Date of the Incremental Facility requested in the Incremental Facility Notice referenced above; and
- (b) each Additional Borrower which becomes an Additional Borrower after that Establishment Date,

that we wish that scheme to apply to the Facilities Agreement.]**

5. The Facility Office and address, fax number and attention details for notices of the Incremental Facility Lender for the purposes of Clause 36.2 (*Addresses*) of the Facilities Agreement are:

[].

Incremental Facility Lender

[*Incremental Facility Lender*]

By:]

Insert jurisdiction of tax residence.

Include if the Incremental Facility Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.

SIGNATURE PAGES

THE PARENT

LarvottoCo Limited acting by

)



Director

Name of Director

Address LarvottoCo Limited
c/o Epiris
Forum St Pauls
33 Gutter Lane
London
EC2V 8AS
United Kingdom

Email: Owen.Wilson@epiris.co.uk and Bill.Priestley@epiris.co.uk

Attention: Owen Wilson / Bill Priestley

THE COMPANY

SaintMichelCo Limited acting by

)



Director

Name of Director

Address SaintMichelCo Limited
c/o Epiris
Forum St Pauls
33 Gutter Lane
London
EC2V 8AS
United Kingdom

Email: Owen.Wilson@epiris.co.uk and Bill.Priestley@epiris.co.uk

Attention: Owen Wilson / Bill Priestley

THE BORROWER

SaintMichelCo Limited acting by)



Director

Name of Director

Address SaintMichelCo Limited
 c/o Epiris
 Forum St Pauls
 33 Gutter Lane
 London
 EC2V 8AS
 United Kingdom

Email: Owen.Wilson@epiris.co.uk and Bill.Priestley@epiris.co.uk

Attention: Owen Wilson / Bill Priestley

THE ORIGINAL GUARANTORS

LarvottoCo Limited acting by)



Director

Name of Director

Address LarvottoCo Limited
 c/o Epiris
 Forum St Pauls
 33 Gutter Lane
 London
 EC2V 8AS
 United Kingdom

Email: Owen.Wilson@epiris.co.uk and Bill.Priestley@epiris.co.uk

Attention: Owen Wilson / Bill Priestley

SaintMichelCo Limited acting by

)



Director

Name of Director

Address SaintMichelCo Limited
 c/o Epiris
 Forum St Pauls
 33 Gutter Lane
 London
 EC2V 8AS
 United Kingdom

Email: Owen.Wilson@epiris.co.uk and Bill.Priestley@epiris.co.uk

Attention: Owen Wilson / Bill Priestley

THE AGENT

Ares Management Limited

By: 

Name:

Title: John Atherton
Authorised Signatory

Address 10 New Burlington Street
London
W1S 3BE

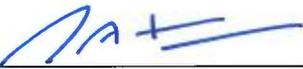
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel and David Ribchester

THE SECURITY AGENT

Ares Management Limited

By: 

Name:

Title: John Atherton
Authorised Signatory

Address 10 New Burlington Street
London
W1S 3BE

Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel and David Ribchester

THE ARRANGER

Ares Management Limited

By:  _____

Name:

Title: John Atherton
Authorised Signatory

Address 10 New Burlington Street
London
W1S 3BE

Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel and David Ribchester

THE ORIGINAL LENDERS

Ares Capital Europe IV (E) Investments S.à r.l.

By: 
Name: Hilary FITZGIBBON
Title: Manager

By: 
Name: **Nicolas Gerard**
Title: Manager

Address 6 rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

Copy to:

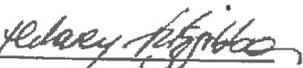
Address Ares Management Limited
6th Floor, 10 New Burlington Street
London
W1S 3BE

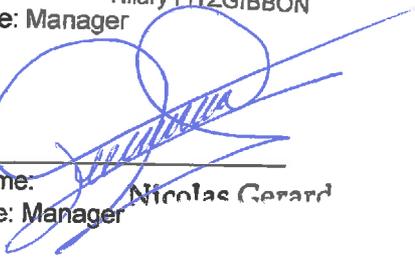
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares Capital Europe IV (G) Investments S.à r.l.

By: 
Name: Hilary FITZGIBBON
Title: Manager

By: 
Name: Nicolas Gerard
Title: Manager

Address 6, rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

Copy to:

Address Ares Management Limited
6th Floor, 10 New Burlington Street
London
W1S 3BE

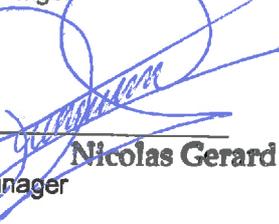
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares Capital Europe IV (G) (L) Investments S.à r.l.

By: 
Name: Hilary FITZGIBBON
Title: Manager

By: 
Name: Nicolas Gerard
Title: Manager

Address 6, rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

Copy to:

Address Ares Management Limited
6th Floor, 10 New Burlington Street
London
W1S 3BE

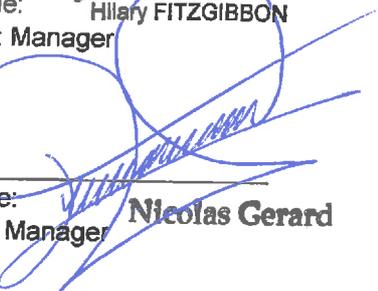
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares Capital Europe IV (E) (L) Investments S.à r.l.

By: 
Name: Hillary FITZGIBBON
Title: Manager

By: 
Name: Nicolas Gerard
Title: Manager

Address 6, rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

Copy to:

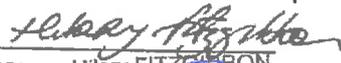
Address Ares Management Limited
6th Floor, 10 New Burlington Street
London
W1S 3BE

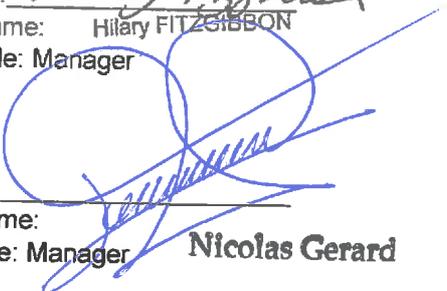
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares Capital Europe IV (E) Holdings S.à r.l.

By: 
Name: Hilary FITZGIBBON
Title: Manager

By: 
Name: **Nicolas Gerard**
Title: Manager

Address 6, rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

Copy to:

Address Ares Management Limited
6th Floor, 10 New Burlington Street
London
W1S 3BE

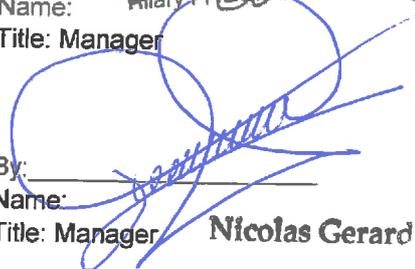
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares Capital Europe IV (G) Holdings S.à r.l.

By: 
Name: Hilary FITZGIBBON
Title: Manager

By: 
Name:
Title: Manager **Nicolas Gerard**

Address 6, rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

Copy to:

Address Ares Management Limited
6th Floor, 10 New Burlington Street
London
W1S 3BE

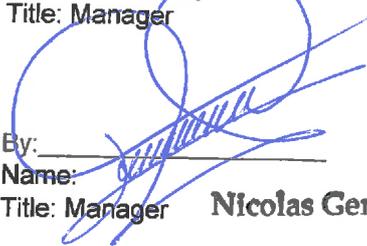
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares CSF Holdings S.à r.l.

By: 
Name: Hilary FITZGIBBON
Title: Manager

By: 
Name:
Title: Manager **Nicolas Gerard**

Address 6, rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

Copy to:

Address Ares Management Limited
6th Floor, 10 New Burlington Street
London
W1S 3BE

Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares Credit Strategies Feeder III UK, L.P.
By Ares Management Limited, its servicer

By: 

Name:

Title:

John Atherton
Authorised Signatory

Address c/o Ares CSF Management III, L.P.
 P.O. Box 309 Uglan House
 Grand Cayman, KY1-1104
 Cayman Islands

Copy to:

Address Ares Management Limited
 6th Floor, 10 New Burlington Street
 London
 W1S 3BE

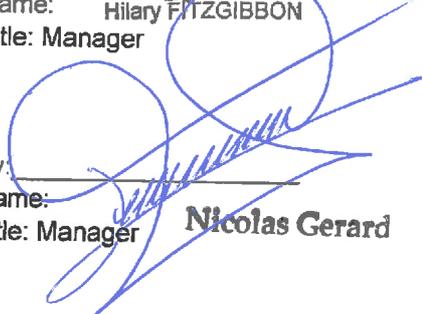
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares ECSF II South S.à r.l.

By: 
Name: Hilary FITZGIBBON
Title: Manager

By: 
Name: **Nicolas Gerard**
Title: Manager

Address 6, rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

Copy to:

Address Ares Management Limited
6th Floor, 10 New Burlington Street
London
W1S 3BE

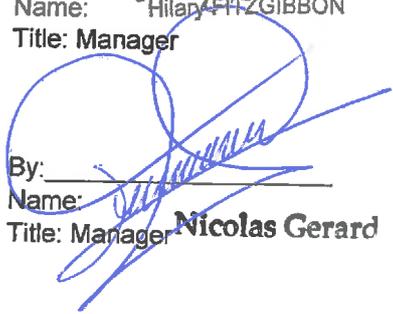
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares ECSF IV (M) Holdings S.à r.l.

By: 
Name: Hilary FITZGIBBON
Title: Manager

By: 
Name: **Nicolas Gerard**
Title: Manager

Address 6, rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

Copy to:

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London
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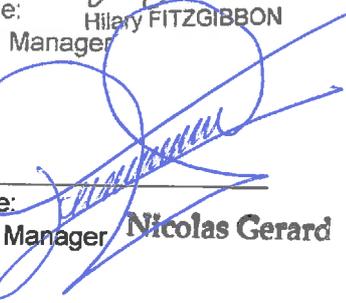
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares ECSF VI (B) Holdings S.à r.l.

By: 
Name: Hilary FITZGIBBON
Title: Manager

By: 
Name: **Nicolas Gerard**
Title: Manager

Address 6, rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

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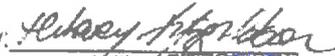
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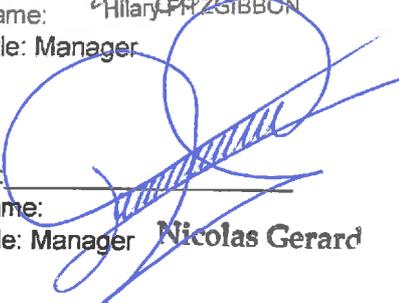
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares ECSF VII (P) Holdings S.à r.l.

By: 
Name: Hilary FITZ GIBBON
Title: Manager

By: 
Name:
Title: Manager **Nicolas Gerard**

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Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Chubb European Group SE
By Ares Management Limited,
its investment manager

By: 
Name: _____
Title: John Atherton
Authorised Signatory

Address La Tour Carpe Diem
31 Place des Corolles, Esplanade Nord
Courbevoie 92400
France

Copy to:

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6th Floor, 10 New Burlington Street
London
W1S 3BE

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Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

CION Ares Diversified Credit Fund

By:  _____

Name:

Title:

John Atherton
Authorised Signatory

Address c/o Ares Capital Management II LLC
 2000 Avenue of the Stars, 12th Floor
 Los Angeles, California 90067
 U.S.A.

Copy to:

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 6th Floor, 10 New Burlington Street
 London
 W1S 3BE

Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

SC ACM EU PD S.à r.l.

By: Ares Management Limited, its portfolio manager

By:  _____

Name:

Title: John Atherton
Authorised Signatory

Address 124, Boulevard de la Pétrusse
L-2330 Luxembourg
Grand Duchy of Luxembourg

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6th Floor, 10 New Burlington Street
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Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

SA Luxembourg 1 Limited

By: Ares Management LLC, its investment manager

By: Ares Management Limited, as subadvisor

By: 

Name:

Title: John Atherton
Authorised Signatory

Address 6, rue Lou Hemmer
L-1748 Senningerberg
Luxembourg

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6th Floor, 10 New Burlington Street
London
W1S 3BE

Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

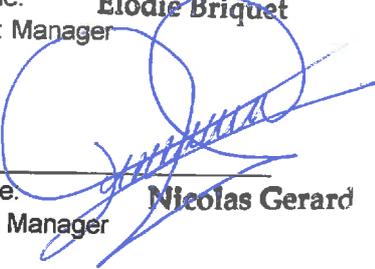
Attention: Nishal Patel / David Ribchester

Mubadala CA Investment Partnership S.à r.l.

By: 

Name: **Elodie Briquet**

Title: Manager

By: 

Name: **Nicolas Gerard**

Title: Manager

Address 6, rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

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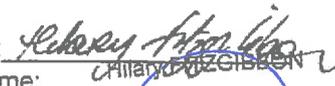
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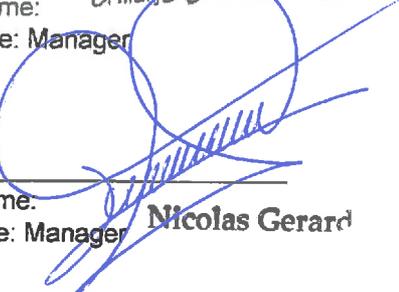
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares ECSF VIII (BUMA) Holdings S.à r.l.

By: 
Name: ~~Allan Gibson~~
Title: Manager

By: 
Name: ~~Nicolas Gerard~~
Title: Manager **Nicolas Gerard**

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L-2453 Luxembourg
Grand Duchy of Luxembourg

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London
W1S 3BE

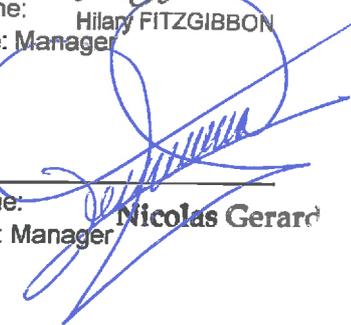
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares ECSF IX (C) Holdings S.à r.l.

By: 
Name: Hilary FITZGIBBON
Title: Manager

By: 
Name: Nicolas Gerard
Title: Manager

Address 6, rue Eugène Ruppert
L-2453 Luxembourg
Grand Duchy of Luxembourg

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Address Ares Management Limited
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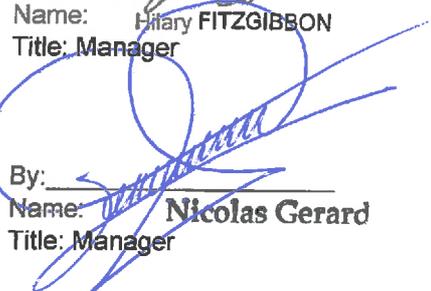
Fax: +44 (0)207434 6401

Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares ECSF X (T) Holdings S.à r.l.

By: 
Name: Hilary FITZGIBBON
Title: Manager

By: 
Name: Nicolas Gerard
Title: Manager

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Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester

Ares Management Limited

Signing for and on behalf of (i) **Prima European Direct Lending 1 Designated Activity Company** (the "DAC") and (ii) Prima Multi-Manager Platform 1 ICAV (an umbrella fund with segregated liability between sub-funds acting in respect of its sub-fund Prima European Direct Lending 1 Fund) (the "ICAV"), in each case as its lawfully appointed attorney and portfolio manager and in the case of the ICAV for the sole purpose of acknowledging the entry into the contract by the DAC so as to comply with Chapter 2, Part I, Section 1, vii, paragraph 1(d) of the Central Bank of Ireland's AIF Rulebook as such may be amended or replaced from time to time

By: 

Name:

Title: John Atherton
Authorised Signatory

Address 10 Earlsfort Terrace
Dublin 2
Ireland

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Address Ares Management Limited
6th Floor, 10 New Burlington Street
London
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Email: OperationsLondon@aresmgmt.com

Attention: Nishal Patel / David Ribchester