

PRIVATE & CONFIDENTIAL

To: AI Robin Limited (the “**Company**” or “**you**”)

Attention: Giles Reaney

23 November 2016

Dear Sirs

Project Basket – Commitment Letter

We are pleased to set out in this letter and in the Term Sheet (as defined below) appended to this letter the terms and conditions on which:

- (a) HSBC Bank plc, ING Bank N.V., London Branch and Lloyds Bank plc (in our capacity as arrangers, the “**Arrangers**” and each an “**Arranger**”) are willing to arrange and provide, in the amounts shown opposite our name in paragraph 2.2 below, the £82.5 million multicurrency revolving credit facility (the “**Facility**”); and
- (b) the Arrangers are willing to provide, in the amounts shown opposite our name in paragraph 2.2 below, the related interim facility in the principal amount of £82.5 million revolving facility (the “**Interim Facility**”).

The Facility and the Interim Facility are to be provided for the working capital and general corporate purposes of the Target Group (as defined below) in connection with, inter alia, the direct or (through wholly owned subsidiaries) indirect acquisition (the “**Acquisition**”) of control (as defined in the City Code on Takeovers and Mergers (the “**Code**”)) of Brammer plc (the “**Target**” and together with its subsidiaries, the “**Target Group**”) and refinancing certain existing indebtedness of the Target Group, paying any fees, costs and expenses payable in connection with such refinancing (the “**Transaction**”).

The Acquisition will be effected pursuant to a scheme of arrangement under Part 26 of the Companies Act 2006 (the “**Scheme**”) or by a takeover offer as defined in section 974 of the Companies Act 2006 (an “**Offer**”), provided that, in the case of an Offer, the acceptance condition (within the meaning of the Code) shall not be capable of being satisfied unless the Company has acquired or contracted to acquire at least 75% of the issued share capital of the Company.

The Company is indirectly owned and controlled by the respective funds and other entities managed by or otherwise advised by Advent International Corporation and its affiliates (together, the “**Sponsor**”) and the other investors within the definition of Equity Investors (as defined in the Interim Facility Agreement) (together with the Sponsor, the “**Investors**”).

Our commitments are provided on the basis of, and are subject to, the terms and conditions set out in:

- (A) this letter;
- (B) the term sheet in respect of the Facility attached to this letter as Appendix A (*Term Sheet*) (the “**Term Sheet**”);

- (C) the form of interim facility agreement attached to this letter as Appendix B (*Agreed Form of Interim Facility Agreement*) (the “**Agreed Form Interim Facility Agreement**”); and
- (D) the fee letter between the Company and the Arrangers (and/or our affiliates) relating to the Facility dated on or around the date of this letter (the “**Fee Letter**”),

paragraphs (A) to (D) above, together, as such documents may be amended, amended and restated, supplemented, modified or replaced from time to time in accordance with the amendment provisions contained within the relevant document, being the “**Commitment Documents**”.

In the Commitment Documents, references to:

“**Closing Date**” shall mean:

- (a) the effective date of the Scheme; or
- (b) the date on which the Offer becomes wholly unconditional (for the avoidance of doubt, subject to the minimum acceptance condition),

as appropriate.

Words and expressions defined in the Term Sheet have the same meanings when used in this letter unless otherwise provided or the context otherwise requires. In addition, in this letter and the other Commitment Documents, unless otherwise provided or if the context requires, a reference to “**we**”, “**us**”, “**our**” or the like shall be construed as a reference to the parties named on the signature pages of this letter as Arrangers acting individually or together as the context requires (each a “**Commitment Party**” and together the “**Commitment Parties**”).

1 FINANCING AND COMMITMENT

- 1.1 We are also pleased to confirm, subject only to the prior written acceptance by the Company of this letter and the Fee Letter in accordance with paragraph 13.3 below, our unconditional and irrevocable undertaking (upon written request from you on at least five (5) Business Days’ notice (with such notice to be provided no later than 10 a.m. (in London)) or such shorter time as we agree to) to enter into and execute an interim facility agreement in respect of the Interim Facility (the “**Interim Facility Agreement**”) in substantially the form of the Agreed Form Interim Facility Agreement and including such other minor amendments of a technical nature which the parties hereto have agreed to.
- 1.2 The obligations under the Interim Facility Agreement shall be separately enforceable in accordance with its terms. The provisions of this letter will also remain in full force and effect notwithstanding the entry into the Interim Facility Agreement and the advance of funds thereunder, unless this letter has been terminated in accordance with its terms.
- 1.3 It is acknowledged and agreed by the parties to this letter, but without affecting the rights and obligations of the parties under the Interim Facility Agreement, that it is the parties’ intention that:
 - (a) funding of the commitments in respect of the Facility takes place pursuant to a revolving facility agreement relating to the Facility (the “**Facility Agreement**”) and not the Interim Facility Agreement; and
 - (b) they will negotiate the Facility Agreement and related intercreditor agreement (the “**Intercreditor Agreement**”) and other Finance Documents (under and as defined in the Facility Agreement) in good faith to reflect the provisions set out in the Commitment Documents and the Arrangers shall use all reasonable endeavours to execute the Facility Agreement, the Intercreditor Agreement and the other Finance Documents relating to the Facility within twenty (20) Business Days (or such longer date as may be mutually

agreed) of the date on which you notify us accordingly (the “**Proposed Signing Date**”) so that funding of the Transaction may take place pursuant to the Facility Agreement and not the Interim Facility Agreement.

1.4 If, despite negotiation in good faith and the use of all reasonable endeavours, the Facility Agreement, the Intercreditor Agreement and the other Finance Documents have not been agreed by the parties prior to the Proposed Signing Date, then on the date falling five (5) Business Days thereafter (or such later date as your counsel has prepared a draft for signature on the following basis) (but without affecting the rights and obligations of the parties under the Interim Facility Agreement) the parties each undertake to sign a Facility Agreement and an Intercreditor Agreement which will contain:

- (a) provisions which reflect the provisions of the Commitment Documents; and
- (b) with respect to:
 - (i) the Facility Agreement, in relation to any matter which is not (or which is only partially) dealt with in the Commitment Documents, but which is dealt with in the senior facilities agreement dated 2 July 2015 (as amended) between, among others, AI Alabama Midco B.V. as parent and Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. (acting as Rabobank) as agent and security agent relating to the acquisition by the Sponsor of Ammeraal Beltech (the “**Sponsor Precedent Facilities Agreement**”), provisions which are consistent with the corresponding provisions of the Sponsor Precedent Facilities Agreement, amended as necessary to reflect the legal, capital structure and jurisdiction of the Acquisition, the Target Group, the provisions of the Commitment Documents and that the Facility Agreement is in respect of a revolving facility only; and
 - (ii) the Intercreditor Agreement, in relation to any matter which is not (or which is only partially) dealt with in the Commitment Documents, but which is dealt with in the intercreditor agreement dated 2 July 2005 (as amended) between, among others, Alabama Midco B.V. as parent and Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. (acting as Rabobank) as security agent relating to the acquisition by the Sponsor of Ammeraal Beltech (the “**Sponsor Precedent Intercreditor Agreement**”), provisions which are consistent with the corresponding provisions of the Sponsor Precedent Intercreditor Agreement (amended as necessary to reflect the legal, capital structure and jurisdiction of the Acquisition, the Target Group and the provisions of the Commitment Documents); and
- (c) in relation to any other matter in respect of the Facility Agreement or the Intercreditor Agreement which is not dealt with (or which is only partially) dealt with as provided in paragraphs 1.4(a) and 1.4(b) above, the relevant language shall be such option or language as is reasonably requested by you, or if you do not specify any option or language within five (5) days of the date of a written request by us, such option or language reasonably requested by us.

1.5 The first draft of the Facility Agreement and the Intercreditor Agreement will, unless otherwise determined by the Company, be prepared by the Sponsor's lawyers on a basis that is consistent with the approach described in paragraph 1.4 above.

2 APPOINTMENT

2.1 On acceptance of the offer set out in this letter and subject to the terms of the Commitment Documents (including 13.3 of this letter below) and except as otherwise provided in the Commitment Documents, you:

- (a) appoint the Arrangers as exclusive arrangers and original lenders of the Facility and the Interim Facility and the Arrangers agree to act as such;
- (b) agree that no additional arrangers or original lenders will be appointed and no other titles will be awarded in connection with the Transaction (other than the titles of Agent and Security Agent (each as defined in the Term Sheet)) without our prior written consent and (except as provided in the Commitment Documents) no compensation shall be paid to any person in connection with the arrangement and provision of the Facility.

2.2 Each Arranger shall provide the Facility and the Interim Facility in the following amounts:

Arranger	Amount of Facility / Interim Facility
HSBC Bank plc	GBP 25,000,000
ING Bank N.V., London Branch	GBP 25,000,000
Lloyds Bank plc	GBP 32,500,000
Total	GBP 82,500,000

2.3 The obligations of each Commitment Party under the Commitment Documents are several and no Commitment Party is responsible for the obligations of any other Commitment Party. No Arranger is responsible for the obligations of any other Arranger. No Original Lender is responsible for the obligations of any other Original Lender.

3 CONDITIONS

3.1 The commitment of the Arrangers to arrange and provide the relevant proportion of the Facility to be arranged and provided by us on the terms and subject to the conditions set out in the Commitment Documents (but not the commitment to provide the Interim Facility or the rights and obligations of the parties under the Interim Facility Agreement), is subject only to satisfaction of the following conditions:

- (a) execution of the Facility Agreement and the Intercreditor Agreement in accordance with paragraph 1.4 above and satisfaction of the conditions for funding thereafter;
- (b) there being no event or circumstance in relation to the provision of the Facility which such Arranger has committed to provide which would result in us acting contrary to any applicable law, regulation, treaty or official directive applicable to us; and
- (c) compliance by you and your affiliates with the terms and conditions of the Commitment Documents with respect to exclusivity and assignment provisions in all material respects.

3.2 We confirm that:

- (a) we have completed and are satisfied with the results of:
 - (i) all client identification procedures that we are required to carry out in connection with signing this letter in compliance with all applicable laws, regulations and internal requirements (including, without limitation, all applicable money laundering rules and know your customer requirements); and

- (ii) all due diligence which has been carried out by us, or on our behalf, in respect of making the Facility or, as the case may be, the Interim Facility available in connection with the Transaction and that we have no further due diligence requirements;
 - (b) we have obtained all necessary approvals (including credit committee approvals and all other relevant internal approvals) to allow us to arrange and provide the Facility and the Interim Facility to be arranged and/or provided by us and do not require any further internal credit sanctions or other approvals in order to arrange the Facility or the Interim Facility (as applicable) in such amounts; and
 - (c) we have received, reviewed and are satisfied with the form of (A) all of the Reports (as defined in paragraph 4 of Schedule 3 of the Agreed Form Interim Facility Agreement), (B) the agreed base case model (as referred to in paragraph 5 of Schedule 3 of the Agreed Form Interim Facility Agreement) and (C) the Approved List, in each case, in such form provided to us prior to the date of this letter and that we will accept in satisfaction of any condition precedent to availability of the Interim Facility or, as the case may be, the Facility requiring delivery of that document a final version of the document which is not different in respects which are materially adverse to our interests under the Interim Facility or Facility (as applicable) compared to the version of the document accepted by us pursuant to this paragraph, provided that, (i) in any event, the Sponsor and the Company may update their due diligence (including any Reports) from time to time and for the avoidance of doubt, no non-satisfaction of any condition to funding in respect of the Facility or the Interim Facility will arise from the failure to provide the Commitment Parties with such updates or from any information contained in such updates and (ii) the Reports provided prior to the date of this letter shall satisfy the relevant conditions precedent to the availability of the Facility and the Interim Facility.
- 3.3** Subject to paragraph 3.4 below, in relation to each Report, you will, to the extent requested to do so by the Arrangers, use your commercially reasonable endeavours to obtain, prior to the Closing Date, a reliance letter in relation to each Report which is addressed to all of the Arrangers under the Interim Facility or the Facility, provided that the terms of such reliance letters are agreed between the relevant report provider and the Arrangers prior to the Closing Date.
- 3.4** You will not be obliged to comply with paragraph 3.3 above:
- (a) if we and the relevant report provider do not agree the terms of the reliance letter for the relevant Report prior to the Closing Date; or
 - (b) if the relevant Report provider has adopted a general policy that they will not provide such reliance letters,

and for the avoidance of doubt, no non-satisfaction of any condition to funding in respect of the Facility or the Interim Facility will arise from the failure to obtain any such reliance or otherwise to comply with paragraph 3.3 above.

4 FEES, COSTS AND EXPENSES

- 4.1** All of our fees, costs and expenses and (to the extent appointed) the fees, costs and expenses of the Agent and the Security Agent shall be paid in accordance with the provisions of the Fee Letter or as set out in the Term Sheet.
- 4.2** Subject to paragraph 4.3 below, no fees (including, for the avoidance of doubt, arrangement and commitment fees), costs or expenses will be payable unless the Closing Date occurs.
- 4.3** Reasonable and properly incurred legal costs, expenses and disbursements in connection with the drafting and the negotiating of the Commitment Documents and/or the Finance Documents and

any other pre-agreed costs or expenses, in each case, up to an amount agreed between us (or on your behalf) will be payable by you even if the Closing Date does not occur.

5 PAYMENTS

5.1 All payments to be made under the Commitment Documents:

- (a) shall be paid in the currency of invoice and in immediately available, freely transferable cleared funds to such account with such bank(s) that we notify to you with at least five (5) Business Days' prior written notice;
- (b) shall be paid without any deduction or withholding for or on account of tax (a "Tax Deduction") unless a Tax Deduction is required by law; and
- (c) are exclusive of any value added tax or similar charge ("VAT").

5.2 If a Tax Deduction is required to be made by law, the amount of the payment due 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.

5.3 If VAT is chargeable, you shall also and at the same time pay to the recipient of the relevant payment an amount equal to the amount of the VAT against delivery of invoices and receipts as you may reasonably require in order to duly account for such VAT in accordance with applicable laws.

6 INFORMATION

6.1 At the times set out in paragraph 6.2 below, you represent and warrant to each Commitment Party that, to your knowledge:

- (a) any material written factual information (taken as a whole) provided to us by, or on behalf of, any member of the Group in connection with the Transaction (the "**Information**") is true and accurate in all material respects on the date the Information is dated (where applicable) and/or as at the date (if any) at which the Information therein is provided and/or stated to be given;
- (b) nothing has occurred or been omitted and no information has been given or withheld that results in the Information being untrue or misleading in any material respect in light of the circumstances under which such statements were or are made; and
- (c) any financial projections contained in the Information have been prepared in good faith on the basis of recent historical information and on the basis of reasonable assumptions (it being understood that such projections may be subject to significant uncertainties and contingencies, many of which are beyond your control, and that no assurance can be given that the projections will be realised).

6.2 The representations and warranties set out in paragraph 6.1 above are deemed to be made by you on the date of this letter and by reference to the facts and circumstances then existing on the date thereof (or otherwise, on which or for the period for which, the relevant Information or projections are expressed to relate to).

6.3 You acknowledge that we will be relying on the Information without carrying out independent verification.

6.4 The representations and warranties in paragraph 6.1 above will be superseded by those in:

- (a) the Facility Agreement; or

(b) to the extent signed, the Interim Facility Agreement.

7 INDEMNITY

7.1 Whether or not the Facility Agreement is signed, you shall within ten (10) Business Days of demand indemnify and hold harmless us and any of our respective affiliates and any of our (or our respective affiliates') directors, officers, agents, advisers and employees (as applicable) in each case in our capacity as an arranger and/or original lender (each an "**Indemnified Person**") against any cost, expense, loss, liability (including, except as specified below without limitation, legal fees and limited, in the case of legal fees and expenses, to one counsel to such Indemnified Persons taken as a whole and in the case of a conflict of interest, one additional counsel to the affected Indemnified Persons similarly situated, taken as a whole (and, if reasonably necessary one local counsel in any relevant jurisdiction) incurred by or awarded against such Indemnified Person in each case arising out of or in connection with any action, claim, investigation or proceeding (including, without limitation, any action, claim, investigation or proceeding to preserve or enforce rights), commenced or threatened, relating to this letter, the Commitment Documents, the Interim Facility or the Facility or the use or proposed use of proceeds of the Interim Facility or Facility or the arranging of the Facility (except to the extent such cost, expense, loss or liability resulted (x) directly from fraud, the gross negligence or wilful misconduct of such Indemnified Person or results from such Indemnified Person breaching a term of, or not complying with any of its obligations under the Commitment Documents, the Facility Agreement or the Interim Facility Agreement and/or any other Finance Document or Interim Finance Document (as defined in the Interim Facility Agreement) or any confidentiality undertaking given by that Indemnified Person or (y) from or relates to any disputes solely among Indemnified Persons and not arising out of any act or omission by you).

7.2 If any event occurs in respect of which indemnification may be sought from you, the relevant Indemnified Person shall only be indemnified if (in each case where legally permissible to do so and without being under any obligation to so notify to the extent that it is not lawfully permitted to do so) it:

- (a) notifies you in writing within a reasonable time after the relevant Indemnified Person becomes aware of such event and this provision;
- (b) consults with you fully and promptly with respect to the conduct of the relevant claim, action or proceeding;
- (c) conducts such claim, action or proceeding properly and diligently; and
- (d) does not settle any such claim, action or proceeding without your prior written consent (such consent not to be unreasonably withheld or delayed),

provided that the Indemnified Person shall also be entitled to appoint their own legal counsel in each applicable jurisdiction in respect of any such claim, action or proceeding and the above indemnity shall be superseded by any corresponding indemnity contained in:

- (i) the Facility Agreement; or
- (ii) to the extent signed, the Interim Facility Agreement.

7.3 The Contracts (Rights of Third Parties) Act 1999 shall apply to this paragraph 7 so that each Indemnified Person may rely on it, subject always to the terms of paragraphs 8 (*Third Party Rights*) and 19 (*Governing Law and Jurisdiction*).

7.4 We shall not have any duty or obligation, whether as fiduciary for any Indemnified Person or otherwise, to recover any payment made or required to be made under paragraph 7.1.

- 7.5 No Indemnified Person shall be responsible or have any liability to you or any of its affiliates or anyone else for consequential losses or damages.

8 THIRD PARTY RIGHTS

- 8.1 Except as otherwise expressly provided in the Commitment Documents, the terms of the Commitment Documents may be enforced only by a party to such Commitment Documents and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.
- 8.2 Notwithstanding any term of the Commitment Documents, no consent of a third party is required for any termination or amendment of the relevant Commitment Documents.

9 CONFIDENTIALITY

- 9.1 Each of the parties to this letter acknowledges that the Commitment Documents and all Confidential Information (as defined below) are confidential and no party to this letter shall (and each party shall ensure that none of its affiliates shall), without the prior written consent of each of the other parties to this letter, disclose the Commitment Documents or their contents or any Confidential Information to any other person except:
- (a) as required by law or regulation (including the City Code on Takeovers and Mergers) or as requested by any applicable governmental or other regulatory authority or by any applicable stock exchange or if required in connection with any legal, administrative or arbitration proceedings provided that the person to whom the Commitment Documents or 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 disclosing party (acting reasonably and in good faith), it is not practicable so to do in the circumstances;
 - (b) to its affiliates and each of their (or their respective affiliates) respective directors, officers, advisers, employees, agents and professional advisers and representatives of each of the foregoing and their respective employees on a confidential and need-to-know basis for the purposes of the Interim Facility and the Facility provided that the person to whom the Confidential Information is to be given has been made aware of, and agreed to be bound by, the obligations under this paragraph or are in any event subject to confidentiality obligations as a matter of law or professional practice;
 - (c) that each of the parties to this letter may disclose any Commitment Document or any Confidential Information to any of its affiliates or to any bank, financial institution or other person and any of their respective affiliates and advisers with whom it is discussing the transfer, assignment or participation of any commitment or obligation under any Commitment Document provided that:
 - (i) it must obtain your prior written consent prior to providing the Confidential Information to such person; and
 - (ii) the person to whom the Confidential Information is to be given has first entered into a confidentiality undertaking (as defined below) 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;
 - (d) that you may make the Commitment Documents (other than the Fee Letter unless the fee amounts are redacted or withheld) available to the management of the Target Group, each vendor or seller (howsoever described) (the “**Vendors**”) and each of their professional advisers in connection with the Acquisition and any person who may join as an arranger or original lender of the Facility or the Interim Facility, provided that they have been made aware of and agree to be bound by the obligations under this paragraph

or are in any event subject to confidentiality obligations as a matter of law or professional practice;

- (e) to rating agencies who have been made aware of, and agree to be bound by, the obligations under this paragraph or are in any event subject to confidentiality obligations as a matter of law or professional practice; and
- (f) as part of any “**due diligence**” defence where the recipients have been made aware of, and agree to be bound by, the obligations under this paragraph or are in any event subject to confidentiality obligations as a matter of law or professional practice.

9.2 In this letter:

- (a) affiliate means a holding company or subsidiary of a person or any other subsidiary of that holding company and the respective directors, officers, employees and agents of each of them and, in the case of any limited partnership, any entity (including any other limited partnership) which owns or controls or is owned or controlled by the first limited partnership or is under common ownership or control with the first limited partnership; and
- (b) Confidential Information means:
 - (i) the Commitment Documents and all of their terms; and
 - (ii) all information relating to you, the Investors, the Target Group, the Acquisition, the Transaction, the Finance Documents, the Facility and/or the Interim Facility which is provided to us (the “**Receiving Party**”) by you, the Investors, the Target Group or any of their affiliates or advisers (the “**Providing Party**”), in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:
 - (A) is or becomes public information other than as a direct or indirect result of any breach by the Receiving Party of a confidentiality agreement to which that Receiving Party is party; or
 - (B) is identified in writing at the time of delivery as non-confidential by the Providing Party; or
 - (C) is known by the Receiving Party before the date the information is disclosed to the Receiving Party by the Providing Party or is lawfully obtained by the Receiving Party after that date, from a source which is, as far as the Receiving Party is aware, unconnected with any of the Providing Parties and which, in either case, as far as the Receiving Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality;
- (c) “**confidentiality undertaking**” means a confidentiality undertaking substantially in a recommended form of the Loan Market Association or in any other form agreed between us; and
- (d) “**holding company**” and “**subsidiary**” means an entity of which a person has direct or indirect control or owns directly or indirectly more than 50% of the voting share capital or similar right of ownership and control for this purpose means the power to direct the management and policies of the entity whether through the ownership of voting share capital, contract or otherwise.

10 PUBLICITY/ANNOUNCEMENTS

- 10.1 All publicity in connection with the Facility and the Interim Facility shall be managed jointly by the Arrangers and you.
- 10.2 No announcements regarding the Facility, the Interim Facility or any of our roles as arranger, lender or agent (as the case may be) shall be made without the prior written consent of each Arranger and you.

11 CONFLICTS

- 11.1 The provisions of this paragraph 11 (*Conflicts*) are without prejudice to and subject to the obligations of the parties under paragraph 9 (*Confidentiality*).
- 11.2 We agree that we will use the information supplied by you (or any other person on your behalf) in connection with the Transaction for the sole purpose of providing advice and/or financing to you and your respective affiliates in our capacity as one of the arrangers of the Facility and the Interim Facility.
- 11.3 We agree that we shall not use any Confidential Information in connection with providing services to other persons or furnish such information to such other persons.
- 11.4 You acknowledge that we have no obligation to use any information obtained from another source for the purposes of the Facility or the Interim Facility or to furnish such information to your or your respective affiliates.
- 11.5 We reserve the right to employ the services of certain of our respective affiliates (the “**Arranger Affiliates**”) in providing services incidental to the provision of the Facility or the Interim Facility and to the extent we employ the services of such an Arranger Affiliate, we will procure that our Arranger Affiliate performs its obligations as if such Arranger Affiliate was a party to this letter in the relevant capacity. You agree that in connection with the provision of such services, we and our Arranger Affiliates may share with each other any Confidential Information or other information relating to you, the Investors and the Target Group, subject to the Arranger Affiliates agreeing to keep confidential any such Confidential Information or other information to the extent it is confidential in accordance with the provisions of paragraph 9 (*Confidentiality*) of this letter.
- 11.6 As you know, the Arrangers (together with their affiliates) are full service securities firms engaged, either directly or through their affiliates, in various activities, including securities trading, commodities trading, investment management, investment banking, financial advisory, financing and brokerage activities and financial planning and benefits counseling for both companies and individuals. In the ordinary course of these activities, the Arrangers and their affiliates may actively engage in commodities trading or trade the debt and equity securities (or related derivative securities) and financial instruments (including bank loans and other obligations) of the Target Group and other companies which may be the subject of the arrangements contemplated by this letter for their own account and for the accounts of their customers and may at any time hold long and short positions in such securities and financial instruments. The Arrangers or their affiliates may also co-invest with, make direct investments in, and invest or co-invest client monies in or with funds or other investment vehicles managed by other parties, and such funds or other investment vehicles may trade or make investments in securities of you, the Target Group or other companies which may be the subject of the arrangements contemplated by this letter or engage in commodities trading with any thereof. Although the Arrangers and their respective affiliates in the course of such other activities and relationships may acquire information about the transaction contemplated by this letter or other entities and persons which may be the subject of the financing contemplated by this letter, the Arrangers and their respective affiliates shall have no obligation to disclose such information, or

the fact that the Arrangers and their respective affiliates are in possession of such information, to you or to use such information on your behalf.

- 11.7** The Arrangers and their affiliates are involved in a broad range of transactions and may have economic interests that conflict with those of the Target Group, the Investors and you. You agree that the Arrangers will act under this letter as independent contractors and that nothing in this letter or the Fee Letter or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between the Arrangers and you or the Target Group, your or its respective stockholders or your or its respective affiliates. You acknowledge and agree that (i) the transactions contemplated by this letter and the Fee Letter are arm's-length commercial transactions between the applicable Arrangers, on the one hand, and you and the Target Group, on the other, (ii) in connection therewith and with the process leading to such transaction each Arranger is acting solely as a principal and not as an agent or fiduciary of you, the Target Group, your and its management, stockholders, creditors or any other person, (iii) the Arrangers have not assumed an advisory or fiduciary responsibility or any other obligation in favor of you with respect to the transactions contemplated hereby or the process leading thereto (irrespective of whether the Arrangers or any of their affiliates have advised or are currently advising you or the Target Group on other matters) except the obligations expressly set forth in this letter and the Fee Letter and (iv) you have consulted your own legal, tax, accounting, regulatory and financial advisors to the extent you deemed appropriate. Furthermore, without limiting any provision set forth herein, you waive, to the fullest extent permitted by law, any claims you may have against us or our affiliates for breach of fiduciary duty or alleged breach of fiduciary duty and agree that we and our affiliates shall have no liability (whether direct or indirect) to you in respect of such a fiduciary duty or to any person asserting a fiduciary duty claim on behalf of or in right of you, including your stockholders, employees or creditors. You further acknowledge and agree that you are responsible for making your own independent judgment with respect to such transactions and the process leading thereto. Please note that we and our affiliates do not provide tax, accounting or legal advice.

12 NO ASSIGNMENTS

- 12.1** Subject to the other provisions of this paragraph 12:

- (a)** No Commitment Party may assign any of our rights or transfer any of our rights or obligations under the Commitment Documents other than to an affiliate with at least equivalent credit worthiness as us without the prior written consent of the other parties (and any attempted assignment or transfer without such consent shall be null and void); and
- (b)** you may not assign any of your rights or transfer any of its rights or obligations under the Commitment Documents.

- 12.2** Each Commitment Party may delegate any or all of its rights and obligations under the Commitment Documents to any of its affiliates (each a **"Delegate"**) and may designate any Delegate as responsible for the performance of its appointed functions under the Commitment Documents, but the Commitment Parties shall remain responsible for the performance by each Delegate of any such functions under the Commitment Documents and for any loss or liability suffered by you or a result of such Delegate's failure to perform such obligations. Each Commitment Party may allocate, in whole or in part, to its Delegates any amount payable to it under the Commitment Documents in such manner as that Commitment Party and its Delegate may agree in their sole discretion.

- 12.3** We agree that you shall be entitled to assign your rights or to transfer your rights and obligations under the Commitment Documents to one or more other companies, partnerships or persons (including newly formed companies, partnerships or persons) owned and controlled by you or the Investors for the purposes of the Transaction and incorporated in the same jurisdiction as the Company or as otherwise set forth in the Tax Structure Memorandum (or, with our prior

consent, any other jurisdiction) (the “**Permitted Transferee**”) by executing and delivering to us an accession deed in the form set out in Appendix C to this letter (the “**Accession Deed**”) and, upon execution of that Accession Deed, the Permitted Transferee will assume all of your rights and obligations under this letter and the other Commitment Documents provided that (x) at the time of such assignment or transfer we have (each acting reasonably) completed all of our applicable anti-money laundering requirements and know your customer requirements on the relevant Permitted Transferee (the date of such assignment and transfer, being the “**Effective Date**”) and (y) that same entity has been assigned all of your rights and has assumed all your obligations under each other Commitment Document. With effect from the Effective Date:

- (a) the Permitted Transferee shall perform all of your obligations under the Commitment Documents and be bound by the terms of the Commitment Documents as if the Permitted Transferee had been an original party to the Commitment Documents as at the date of this letter and all references in this letter to the countersignature of this letter by the Company shall include the execution and delivery of an Accession Deed in accordance with this paragraph 12 and, for the avoidance of doubt, if a Permitted Transferee accedes to this letter prior to the date that this letter is countersigned by you, the Permitted Transferee may accept the offer and terms of this letter and the other Commitment Documents as set out in the Accession Deed without any further countersignature or other form of acceptance from you;
- (b) you will be irrevocably and unconditionally released and discharged from all obligations and liabilities and any further performance, liabilities, claims and demands under the Commitment Documents (other than in respect of paragraph 9 (*Confidentiality*) which you hereby agree will continue to apply to you following the Effective Date) howsoever arising (whether past, present, future or contingent) and we will accept the liability of the Permitted Transferee in place of you under the Commitment Documents; and
- (c) all references to the “**Company**”, “**you**” or “**your**” (as applicable) in the Commitment Documents shall, save for as used in paragraph 12.3, be construed to refer to the Permitted Transferee.

12.4 We further acknowledge and agree to enter into new Commitment Documents and any other appropriate documentation to amend or replace the Commitment Documents, the Facility Agreement, the other Finance Documents and any other Interim Finance Documents to effect the assignment of your rights or transfer of your rights and obligations under the Commitment Documents to a Permitted Transferee.

13 TERMINATION

13.1 Our commitments and other obligations set out in this letter shall become effective only if the offer contained in this letter is accepted in writing by you in the manner set out in paragraph 13.3 below, and such commitment and obligations (but, not the undertaking to execute the Interim Facility Agreement in accordance with paragraph 1.1, the commitment to provide the Interim Facility or the rights and obligations of the parties under the Interim Facility Agreement, which shall terminate only in accordance with its terms) shall otherwise expire and terminate on the earliest of:

- (a) 11.59 p.m. on the date falling 6 months and five (5) Business Days after the date of countersignature of this letter by the Company (as such time and date may be extended from time to time with our consent (acting reasonably)) or, if later, but only if the Interim Facility Agreement has been funded, the Final Repayment Date (as defined in the Interim Facility Agreement);
- (b) the date on which the Facility Agreement and the Intercreditor Agreement are signed by all the relevant parties thereto;

- (c) the date on which you notify us that:
 - (i) in the case of a Scheme, (x) the Scheme has lapsed, (y) the Scheme is rejected by the shareholders of the Target or by the High Court of Justice in England and Wales or (z) the Target has withdrawn or terminated the Scheme in compliance with the City Code on Takeovers and Mergers, the requirements of the Takeover Panel and all applicable laws (and the Company will notify the Agent in writing as soon as reasonably practicable once it becomes aware of any such lapse, rejection, withdrawal or termination) except in each case where the Company instead elects to effect the Acquisition by way of an Offer and does so within seven (7) Business Days after the date on which the commitments and obligations under this letter would otherwise terminate pursuant to this paragraph (i); and
 - (ii) in the case of an Offer, (i) the Offer is withdrawn or terminated or (ii) the bid has lapsed in compliance with the City Code on Takeovers and Mergers, the requirements of the Takeover Panel and all applicable laws (and the Company will notify the Agent in writing as soon as reasonably practicable once it becomes aware of any such withdrawal, termination, rejection or lapse); and
- (d) in respect of a Defaulting Finance Party (as defined below) only, the date on which you terminate your obligations under this letter, which you shall have the right to do upon at least three (3) Business Days' prior written notice if:
 - (i) the Defaulting Finance Party is in breach of any material provision of the Commitment Documents; or
 - (ii) you (acting reasonably and in good faith) have requested amendments to the Commitment Documents, the Finance Documents or, in each case, any other documents delivered thereunder that, in your reasonable opinion are necessary to implement or complete the Transaction and have arisen as a part of the negotiations with the Vendors or senior management of the Target or anti-trust or regulatory authorities and that Defaulting Finance Party has not consented to such amendments,

or such later date as agreed by us (acting reasonably and in good faith).

13.2 Notwithstanding paragraph 13.1, if you exercise your termination rights pursuant to sub-paragraph (c) of paragraph 13.1 above (the “**Defaulting Finance Party**”), your rights against and obligations to the other arrangers (other than the Defaulting Finance Party) under the Commitment Documents shall remain in full force and effect and you shall have the right to appoint additional Arrangers in respect of the respective commitments of the Defaulting Finance Party, on the same terms contained within the Commitment Documents and on the same economics as the Defaulting Finance Party.

13.3 If you do not accept the offer made by us in this letter by signing and scanning counter-signed copies of:

- (a) this letter; and
- (b) the Fee Letter to the applicable Arranger(s) party to such Fee Letter,

to the contacts identified on the signature pages below before 11.59 pm (in London) on the date falling fifteen (15) Business Days from (and excluding) the date of this letter, such offer shall terminate on that date.

14 SURVIVAL

14.1 The rights and obligation of the parties hereto under this paragraph and paragraphs 4 (*Fees, Costs And Expenses*), 5 (*Payments*), 6 (*Information*), 7 (*Indemnity*), 8 (*Third Party Rights*), 9 (*Confidentiality*), 10 (*Publicity/Announcements*), 11 (*Conflicts*), 12 (*No Assignments*), 15 (*Remedies and Waivers*) to 19 (*Governing Law and Jurisdiction*) inclusive and (only to the extent that the expiry or termination of our obligations under this letter occur as a result of the operation of sub-paragraph (b) of paragraph 13.1 (*Termination*) above) paragraph 1.1 (*Financing and Commitment*) shall survive and continue after any expiry or termination of our obligations (including any of our permitted successors and assigns) under the Commitment Documents but shall:

- (a) in the case of paragraphs 6 (*Information*), 7 (*Indemnity*) and 9 (*Confidentiality*), terminate on the execution of the Facility Agreement to the extent that substantially equivalent provisions are contained therein (but without prejudice to the accrued rights and obligations at the time of termination); and
- (b) to the extent the Facility Agreement is not signed, in the case of paragraph 9 (*Confidentiality*), terminate on the second anniversary of the date of this letter.

15 REMEDIES AND WAIVERS

The failure to exercise or delay in exercising a right or remedy under the Commitment Documents will not constitute a waiver of that right or remedy or a waiver of any other right or remedy and no single or partial exercise of any right or remedy will preclude any further exercise of that right or remedy, or the exercise of any other right or remedy. Except as expressly provided in the Commitment Documents, the rights and remedies contained in the Commitment Documents are cumulative and not exclusive of any rights or remedies provided by law.

16 PARTIAL INVALIDITY

If, at any time, any provision of the Commitment Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

17 ENTIRE AGREEMENT

17.1 The Commitment Documents set out the entire agreement between us with regards to the arranging and provision of the Facility and the Interim Facility and supersede any prior oral and/or written understandings or arrangements relating to the Facility and Interim Facility.

17.2 Any provision of the Commitment Documents may only be amended or waived by way of a written amendment or waiver signed by you and us (or, if applicable, the Agent acting at our direction).

18 COUNTERPARTS

The Commitment Documents may be executed in any number of counterparts and all those counterparts taken together shall be deemed to constitute one and the same Commitment Document. Delivery of a counterpart of a Commitment Document by email attachment shall be an effective mode of delivery.

19 GOVERNING LAW AND JURISDICTION

19.1 Each Commitment Document and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law unless otherwise specified in the Commitment Documents.

19.2 For our benefit only, each of the parties to this letter agrees that the courts of England have exclusive jurisdiction to settle any disputes in connection with the Commitment Documents and any non-contractual obligation arising out of or in connection with it and each of the parties to this letter accordingly submits to the jurisdiction of the English courts.

19.3 Each of the parties to this letter further agrees:

- (a)** to waive any objection to the English courts on grounds of inconvenient forum or otherwise as regards proceedings in connection with the Commitment Documents and any non-contractual obligation arising out of or in connection with the Commitment Documents;
- (b)** that a judgment or order of an English court in connection with the Commitment Documents and any non-contractual obligation arising out of or in connection with it is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction; and
- (c)** that nothing in this paragraph limits our right to bring proceedings against you in connection with the Commitment Documents and any non-contractual obligation arising out of or in connection with the Commitment Documents:
 - (i)** in any other court of competent jurisdiction; or
 - (ii)** concurrently in more than one jurisdiction.

We acknowledge that you may seek specific performance by us and any other finance parties (howsoever described) in respect of our commitments and of our agreement to enter into and to make available the Facility under the Finance Documents and/or the Interim Finance Documents for the funding of the Acquisition in addition to any other available remedies and that damages are not an adequate remedy with respect to these matters.

[The rest of this page is intentionally left blank]

.../s/ Sinead Murphy.....

For and on behalf of
HSBC BANK PLC
as an Arranger

Name: Sinead Murphy
Title: Director

Address: 2ND FLOOR, HSBC HOUSE, MITCHELL WAY, SOUTHAMPTON, HAMPSHIRE SO18 2XU

Email: grahamsmith@hsbc.com

FAO: GRAHAM SMITH

Date: 23 November 2016

.../s/ Marko.Popovic....

For and on behalf of
ING BANK N.V., LONDON BRANCH
as an Arranger

Name: *MARKO POPOVIC*

Title: *DIRECTOR*

Address: *8-10 MOORGATE, LONDON, EC2R 6DA*

Email: *MARKO.POPOVIC@UK.ING.COM*

FAO: *MARKO POPOVIC*

Date: 23 November 2016

.../s/ Craig Topp

For and on behalf of
LLOYDS BANK PLC
as an Arranger

Name: *Craig Topp*

Title: *Associate Director*

Address: *10 Gresham St, London, EC2V 7AE*

Email: *CRAIG.TOPP@LLOYDSBANKING.COM*

FAO: *CRAIG.TOPP@LLOYDSBANKING.COM*

Date: 23 November 2016

We acknowledge and agree to the above.

...../s/ Linda Harroch

For and on behalf of
AI ROBIN LIMITED
as the Company

Name: **Linda Harroch**

Title: **DIRECTOR**

Date: 23 November 2016

APPENDIX A
Term Sheet

APPENDIX A
TERM SHEET FOR PROJECT BASKET

This is the “**Term Sheet**” referred to in the commitment letter to which this Term Sheet is appended, as it may be amended, amended and restated, supplemented, modified or replaced from time to time (the “**Commitment Letter**”). Unless otherwise defined in this term sheet, capitalised terms used in this term sheet and not defined herein have the meanings given to them in the Commitment Letter, the Sponsor Precedent Facilities Agreement or the Sponsor Precedent Intercreditor Agreement (as applicable).

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Part I
Parties and Documentation

Arrangers / Original Lenders for the Facility:	Each arranger named on the signature pages of the Commitment Letter to which this term sheet is attached, the “ Arrangers ” or “ Original Lenders ” and each an “ Arranger ” or “ Original Lender ”.
Lenders for the Facility:	The Original Lenders and any other financial institution, bank, trust, fund or other person in accordance with the transferability restrictions set out under the heading “ Transfers / Assignments / Sub-Participations ” in Part VIII (<i>Other Common Terms</i>) of this term sheet (the “ Lenders ” and each a “ Lender ”).
Issuing Bank:	A financial institution, bank, trust, fund or other person which is selected by the Company and which agrees to be the Issuing Bank.
Agent:	An Arranger or its affiliate or such other financial institution, bank, trust, fund or other person which is selected by the Company and which agrees to be the Agent for the Facility.
Security Agent:	An Arranger or its affiliate or such other financial institution, bank, trust, fund or other person which is selected by the Company and which agrees to be the Security Agent for the Facility.
Finance Parties:	The Arrangers, the Lenders, the Issuing Banks, the Agent, the Security Agent and the Hedge CounterParties.
Parent:	The immediate Holding Company of the Company.
Company:	As defined in the Commitment Letter.
Group:	The Parent and each of the Parent’s Subsidiaries, including from the Closing Date, the Target Group as indicated in the Tax Structure Memorandum.
Borrowers:	The Original Borrower and any Additional Borrowers (as described under the heading “ Additional Borrowers ” in Part VI (<i>Obligors and Guarantees</i>) to this term sheet).
Obligors:	The Borrowers and the Guarantors.
Original Borrower:	The Company.
Original Guarantors:	The Parent and the Company.
Original Obligor:	The Original Borrower and the Original Guarantors.
Legal Counsel to the Obligors:	Weil, Gotshal & Manges.
Legal Counsel to Lenders:	Paul Hastings (Europe) LLP.
Documentation:	The Facility Agreement and the Intercreditor Agreement shall be documented on the basis set out in the Commitment Letter. The first draft of the Facility Agreement and the Intercreditor Agreement shall be prepared by counsel for the Sponsor unless otherwise specified by the

Sponsor.

The documents for the Facility shall be set up to permit any steps, actions, events or structures set out in the Tax Structure Memorandum (other than any “**exit**” steps contemplated therein) and any intermediate steps necessary to implement any of those steps, actions, events or structures.

Part II

Revolving Facility

Facility:	<p>Multi-currency revolving facility which may be utilised in whole or in Part by:</p> <ul style="list-style-type: none">(a) the drawing of cash advances;(b) the issue of bank guarantees and documentary credits (including letters of credit) (each a “Letter of Credit”); and(c) way of Ancillary Facilities, <p>in each case, as per the Sponsor Precedent Facilities Agreement.</p>
Amount:	£82.5 million.
Currency:	The Facility will be denominated in sterling (the “ Base Currency ”) and will be available for drawing in the Base Currency, any Optional Currency (as defined below) and any other currency selected by the relevant Borrower (or the Company on its behalf) in accordance with the mechanics in the Sponsor Precedent Facilities Agreement.
Optional Currencies:	Euro, US\$ and other currencies agreed between the Lenders and the Company.
Facility Borrowers:	The Original Borrower and any Additional Borrower.
Ranking:	Guaranteed as set out in Part VI (<i>Obligors and Guarantees</i>).
Final Maturity Date:	5 years from the Closing Date.
Purpose:	Cash drawings under the Facility to be applied directly or indirectly in or towards refinancing the Interim Facility if drawn and otherwise as per the Sponsor Precedent Facilities Agreement, to directly or indirectly finance or refinance the general corporate purposes and/or working capital requirements of the Group (including, without limitation, the financing or refinancing of capital expenditure, any permitted acquisitions, investments and joint ventures, operational restructurings and reorganisation requirements of the Group and any related fees, costs and expenses). Cash drawings under the Facility may not be applied directly or indirectly towards paying any dividends or other distributions to Investors.
Availability Period:	On and from the Closing Date to the date falling one (1) month prior to the Final Maturity Date. Drawings on the Closing Date will be subject to a £30 million cap (excluding the rollover of any existing ancillary facilities).
Repayment:	<p>Each cash drawing under the Facility shall be repaid on the last day of the Interest Period relating thereto, provided however that the applicable Facility Borrower (or the Company on its behalf) may elect to roll over drawings for subsequent interest periods as per the Sponsor Precedent Facilities Agreement (each a “Rollover Drawing”).</p> <p>During the Availability Period for the Facility, amounts repaid may be re-borrowed. All Facility utilisations will be repaid on the Final Maturity</p>

Date save in respect of any Letter of Credit which has been cash collateralised or in respect of which a back-to-back guarantee has been provided by a bank meeting ratings criteria to be agreed.

Cleandown:

None.

Part III

Additional Debt

Additional Facilities:	Ability to increase the Facility (an “ Additional Facility ”) up to an amount of £90 million. Each person which is to be a lender under an Additional Facility must accede to the Facility Agreement and the Intercreditor Agreement in such capacity.
Mechanics for establishing Additional Facilities:	<p>No consent will be required from the existing Lenders (other than a Lender making available the relevant Additional Facility) in order to establish an Additional Facility provided that (unless agreed by the Majority Lenders under the applicable Facility), each of the applicable conditions in this section are met.</p> <p>The Original Lenders must first be given the opportunity to participate in the Additional Facility, pro rata to their original Commitments, before the Company approaches third parties. Should the Original Lenders not be able to agree fees with the Company within 5 Business Days of being invited to participate in the Additional Facility, any person selected by the Company (in its sole discretion) may participate in the Additional Facility. All terms relating to the relevant Additional Facility shall be the same as the original Facility (other than any fees payable in respect thereof, which may vary by up to 1 per cent. above day one fees) and the Additional Facility shall be effected via an increase in the original Facility.</p>
Existing Indebtedness:	With the exception of the Existing Credit Agreement which must be discharged in full on or prior to the Closing Date, all other existing indebtedness of the Target Group (and any related security) shall be permitted to subsist for a period of 5 Business Days from the Closing Date (for the avoidance of doubt, with no grace period for any Event of Default relating to a failure to release such indebtedness and security on such date) with the exception of the existing private notes issued under a note purchase and private shelf agreement between, amongst others, the Target and Prudential Investment Management, Inc. dated 14 June 2013 (the “ Private Notes ”) which shall be permitted to subsist for a period of 60 Business Days (each a “ Grace Period ”). During such Grace Periods, (i) none of the existing facilities of the Target Group or security relating thereto; and (ii) no breach of representation, warranty, undertaking or other term of (or default or event of default under) such existing facilities arising as a direct or indirect result of the entry into or performance of obligations under the Finance Documents shall constitute a breach of (or Default or Event of Default) under any Finance Document. The Company shall provide a certificate to the Agent (on the date on which all the existing indebtedness and security which is not otherwise permitted to subsist has been repaid and released) certifying that such existing indebtedness has been fully repaid and terminated and any related security released and discharged. The Agent (acting reasonably) may (during each Grace Period) request (and the Company shall promptly provide) updates as to the status and process relating to such repayment and release of existing indebtedness and related security.
Intra-group indebtedness:	All intra-group indebtedness (i) of the Target Group subsisting on the Closing Date and (ii) arising as a result of refinancing or otherwise discharging the existing Target Group debt and paying any breakage costs, redemption premium, make-whole costs and other fees, costs and expenses payable in connection with such refinancing or discharge, shall

be permitted provided that if any member of the Group which is not an Obligor has provided loans/credits to an Obligor over the Intercreditor Accession Threshold, they shall be required to accede to the Intercreditor Agreement as an intra-group lender by the deadline for accession of Target Group members that are Material Subsidiaries as Guarantors. For the avoidance of doubt, Debtors under the Intercreditor Agreement shall also be required to accede as intra-group borrowers if they are the borrower of loans/credit over the Intercreditor Accession Threshold.

Part IV Economics

Arrangement/Take Hold Fee: **and** As set out in the Fee Letter.

Margin: Subject to the margin ratchet described under the heading “**Margin Ratchet**” below, 3.75% per annum.

Margin Ratchet: The Margin for the Facility shall vary in accordance with the grid set out below by reference to the Leverage Ratio and the ratchet shall first apply with effect from the date falling twelve (12) months following the Closing Date:

Leverage Ratio	Margin (per cent. per annum)
Greater than 2.0x	3.75
Equal to or less than 2.0x	3.50

Zero per cent. LIBOR floor. No mandatory costs. Margin to revert to the highest ratchet level whilst an Event of Default is continuing. Otherwise as per Sponsor Precedent Facilities Agreement.

Commitment Fee: 35% of the Margin from time to time, payable from the Closing Date, in each case to the end of the Availability Period.

No Deal, No Fees: No fees, commissions, costs or other expenses (other than reasonable legal fees up to an amount to be agreed) will be payable unless the Closing Date occurs.

Part V
Conditions to Utilisation

Initial conditions precedent:

As per the Interim Facility Agreement and including the execution of the Intercreditor Agreement and the Facility Agreement (in place of the execution of the Interim Facility Agreement) and other agreed applicable changes to reflect that funding will occur under the Long-term Financing Agreements as defined under the Interim Facility Agreement.

For the avoidance of doubt and notwithstanding anything to the contrary, there will be no conditions precedent directly or indirectly relating to any member of the Target Group becoming a guarantor or granting security over its assets (including security by or over the Target Group), in each case, on or prior to the Closing Date.

Further conditions precedent:

As per the Sponsor Precedent Facilities Agreement, except that Rollover Drawings, shall be permitted subject only to no Declared Default.

Certain Funds:

The Facility will be made available on a customary “**certain funds basis**”, with certain funds provisions applying to the Parent and the Company only, with a Certain Funds Period as per the Interim Facility Agreement and with certain funds representations, undertakings and defaults as per the Interim Facility Agreement.

Part VI

Obligors and Guarantees

Original Borrowers:	The Original Borrower (as described under the heading “ Original Borrower ” in Part I (<i>Parties and Documentation</i>) to this term sheet) will sign the Facility Agreement in its capacity as an Original Borrower.
Additional Borrowers:	The accession mechanics for Additional Borrowers to follow the Sponsor Precedent Facilities Agreement provided that Additional Borrowers shall include any Borrower incorporated in England & Wales or any jurisdiction contemplated in the Tax Structure Memorandum and other agreed jurisdictions.
Original Guarantors:	Each Original Guarantor (as described under the heading “ Original Guarantor ” in Part I (<i>Parties and Documentation</i>) to this term sheet) will sign the Facility Agreement in its capacity as an Original Guarantor.
Guarantor coverage:	<p>Material Subsidiaries (5% of EBITDA or gross assets) as per and to the extent required by the Sponsor Precedent Facilities Agreement, plus 75% Guarantor Coverage Test (EBITDA and gross assets) otherwise as per the Sponsor Precedent Facilities Agreement.</p> <p>No member of the Target Group shall be required to provide any security in respect of the Facility. Subject to the Agreed Security Principles and any other provisions in the Sponsor Precedent Facilities Agreement, the Parent and the Company will each give a share pledge (and associated pledge of receivables) over their direct subsidiary only.</p> <p>The backstop date for post-closing guarantees to be (i) 90 days following the Closing Date, and (ii) thereafter 90 days following delivery of the relevant Annual Financial Statements.</p> <p>For the purposes of Guarantor Coverage Test, entities incorporated in agreed jurisdictions, and entities that cannot become Guarantors pursuant to the Agreed Security Principles, will, in each case, be excluded from the denominator. Guarantors contributing negative EBITDA shall also be excluded from such test and the relevant EBITDA shall be excluded from the Group’s EBITDA for the purposes of calculating the Guarantor Coverage Test.</p>
Accession of Additional Guarantors and resignation of Obligors:	Accession mechanics for Additional Guarantors and resignation mechanics for Obligors to follow the Sponsor Precedent Facilities Agreement and for the avoidance of doubt shall permit any accessions or resignations set out in the Tax Structure Memorandum.
Security Releases:	As per Sponsor Precedent Facilities Agreement.

Part VII
Prepayment and Cancellation Events

Illegality:	As per Sponsor Precedent Facilities Agreement.
Voluntary Cancellation / Prepayments:	As per Sponsor Precedent Facilities Agreement.
Mandatory Prepayment Events:	Limited to Change of Control, listing and the sale of all or substantially all the assets of the Group, any amendment or waiver in respect of which will be an all Lender decision and will trigger a mandatory prepayment and cancellation of the Facility rather than an individual Lender put option at par. For the avoidance of doubt, no portability shall apply. Repayment and cancellation on Permitted Disposals shall also be included as per the definition thereof.

Part VIII

Other Common Terms

Representations and Warranties:

The Facility Agreement will contain only those representations and warranties set out below, which shall be formulated as per the Sponsor Precedent Facilities Agreement but taking into account any additional qualifications, exceptions, grace periods, baskets and thresholds required for the Targets' businesses as agreed by the relevant Arrangers (acting reasonably), which, prior to the Closing Date, in respect of matters relating to the Target Group, shall be qualified by the actual knowledge and awareness of the Company:

- (a) Status
- (b) Binding obligations
- (c) Governing law and enforcement
- (d) Non conflict with other obligations
- (e) Power and authority
- (f) Validity and admissibility in evidence
- (g) Insolvency, by reference to the insolvency Events of Default
- (h) Filing and stamp taxes
- (i) No Default
- (j) Base Case Model and Buy-side Reports
- (k) Financial statements
- (l) No litigation
- (m) Consents, Filings and Laws Applicable to Operations
- (n) Environmental Laws
- (o) Taxation
- (p) No Security/Guarantees/Financial Indebtedness
- (q) *Pari passu* Ranking
- (r) Legal and Beneficial Ownership
- (s) Documents
- (t) Intellectual Property
- (u) Group structure
- (v) Holding companies

- (w) Pension Schemes
- (x) Anti-corruption / Sanctions
- (y) Scheme/Offer Documents

Information Undertakings: As per Sponsor Precedent Facilities Agreement except that (i) 150 days will be granted for delivery of the first annual audited accounts of the Group to be delivered under the Facility Agreement, (ii) monthly financial statements will include top line EBITDA, cash flow and cash balances only (along with related commentary) and (iii) there will be no obligation to provide updates on the Group structure.

Financial Covenant: A Leverage Ratio (Total Net Debt¹ to Consolidated Pro Forma EBITDA) covenant only tested quarterly set at 4.75:1 with step downs to (i) 4.50:1 from the first test date falling at least 18 months after the Closing Date; (ii) 4.25:1 from the first test date falling at least 30 months after the Closing Date and (iii) 3.5:1 from the first test date falling at least 42 months after the Closing Date.

The first testing date for the financial covenant shall be in respect of the period ending on 31 December 2017.

Other than as specified in the Commitment Documents, all financial definitions to be as per the Sponsor Precedent Facilities Agreement.

FX rates for the purposes of calculating the covenant will be the hedged rate (if hedged) or (at the election of the Company) the average exchange rates over the relevant testing period or the closing exchange rates as at the relevant testing date. The Company may not elect to change the basis for the exchange rate calculation used for the purposes of calculating the covenant more than once in any twelve (12) month period.

Cure provisions to be as per the Sponsor Precedent Facilities Agreement adjusted to provide that:

- (a) there may be up to four (4) cures over the life of the Facility;
- (b) one (1) of these four (4) cures may be applied to increase EBITDA;
- (c) cure rights may not be exercised in consecutive financial quarters;
- (d) there will be no limit on overcures;
- (e) the Company will have 20 Business Days from delivery of a compliance certificate to cure a breach of financial covenants; and
- (f) there will be no requirement to apply the proceeds from any New Shareholder Injection in prepayment of the Facility.

An automatic cure shall apply if the financial covenant is complied with on the next applicable testing date and the Majority Lenders have not

¹ Total Net Debt shall exclude any amounts representing earn outs or deferred consideration.

accelerated the Facility.

Cost savings and Synergies:

Pro forma adjustments to normalise for destocking (“**Destocking**”) to reflect the rebates the Group would have received from suppliers had it purchased normal volumes of stock based on the actual sales for the relevant test period, rather than using historically overbuilt stock (a “**Destocking Adjustment**”). CEO or CFO certification shall be provided in respect of any such Destocking Adjustments and such Destocking Adjustments shall be subject to caps as follows, which shall limit the aggregate amount of all Destocking Adjustments that can be included in respect of any test period:

- (a) 2017: the greater of £7.0m and 20% of Consolidated Pro Forma EBITDA;
- (b) 2018: the greater of £4.0m and 10% of Consolidated Pro Forma EBITDA; and
- (c) 2019 and beyond: 0% of Consolidated Pro Forma EBITDA.

Pro forma on a full “run rate” basis for pricing and revenue increases arising from new or repriced contracts (each a “**Repricing Event**”), subject to caps as follows, which shall limit the aggregate amount of adjustments for all Repricing Events that can be included in respect of any test period:

- (a) 2017: the greater of £3.0m and 5% Consolidated Pro Forma EBITDA;
- (b) 2018: the greater of £2.0m and 5% Consolidated Pro Forma EBITDA; and
- (c) 2019 and beyond: 5% of Consolidated Pro Forma EBITDA.

CEO or CFO certification shall be provided in respect of any such Repricing Event.

Pro forma on a full “run rate” basis for cost savings arising from steps committed to be taken in connection with disposals or group initiatives (each a “**Relevant Cost-Saving Event**” and group initiatives to include any restructuring, reorganisation or cost saving initiatives relating to employee relocation, retraining, severance and termination, business interruption, reorganisation and other restructuring or cost-cutting measures, the rationalisation, re-branding, start-up, reduction or elimination of product lines, assets or businesses, the consolidation, relocation, or closure of retail, administrative or production locations or branches and other similar items) which are reasonably anticipated to be achieved within 18 months, with CEO or CFO certification if such cost savings are in excess of 5% of Consolidated Pro Forma EBITDA for any individual Relevant Cost-Saving Event and independent diligence required if such cost savings are in excess of 10% of Consolidated Pro Forma EBITDA for any individual Relevant Cost-Saving Event, subject to caps as follows, which shall limit the aggregate amount of adjustments for all Relevant Cost-Saving Events that can be included in respect of any test period:

- (a) 2017: the greater of £10.0m and 30% Consolidated Pro Forma

EBITDA;

(b) 2018: the greater of £6.0m and 10% Consolidated Pro Forma EBITDA; and

(c) 2019 and beyond: 5% Consolidated Pro Forma EBITDA.

Pro forma on a full “run rate” basis for cost savings and synergies arising from steps committed to be taken in connection with additional acquisitions (each an “**Additional Acquisition**”) which are reasonably anticipated to be achieved within 18 months, with CEO or CFO certification if such cost savings and synergies are in excess of 5% of Consolidated Pro Forma EBITDA and with an independent diligence requirement if in excess of 10% of Consolidated Pro Forma EBITDA, in each case for any individual Additional Acquisition, subject to caps as follows, which shall limit the aggregate amount of adjustments for all Additional Acquisitions that can be included in respect of any test period:

(a) 2017: the greater of £2.0m and 5% Consolidated Pro Forma EBITDA;

(b) 2018: the greater of £2.0m and 5% Consolidated Pro Forma EBITDA; and

(c) 2019 and beyond: 5% Consolidated Pro Forma EBITDA.

The aggregate amount of all cost savings and synergies that can be included in the calculations for any test period in respect of Destocking, Repricing Events, Relevant Cost-Saving Events and Additional Acquisitions shall be subject to caps as follows:

(a) 2017: greater of £20m and 50% Consolidated Pro Forma EBITDA;

(b) 2018: greater of £10.0m and 25% Consolidated Pro Forma EBITDA; and

(c) 2019 and beyond: 15% Consolidated Pro Forma EBITDA.

The caps on adjustments that are included by reference to specific financial years shall be applied on a proportionate basis (for example for the Q2 2018 covenant test, the Destocking Adjustment GBP cap shall be $(8.0m \times 50\% + 6.5m \times 50\%)$).

For the avoidance of doubt there shall be no cap on one-off or exceptional items, accounting adjustments in line with IFRS or other customary add backs included in the Sponsor Precedent Facilities Agreement.

General Undertakings:

The Facility Agreement will contain only those general undertakings set out below, which shall be formulated as per the Sponsor Precedent Facilities Agreement but taking into account any additional qualifications, exceptions, grace periods, key baskets and thresholds required for the Targets’ businesses as set out in Schedule 2 (*Key Baskets and Thresholds*) or as otherwise agreed by the relevant Arrangers (acting reasonably):

(a) Authorisations and Consents

- (b) Maintenance of status and authorisation
- (c) *Pari passu* Ranking
- (d) Insurances
- (e) Taxes
- (f) Pension Schemes²
- (g) Intellectual Property
- (h) Environmental Undertakings
- (i) Amalgamations and Change of Business
- (j) Disposals
- (k) Arm's Length Transactions
- (l) Negative Pledge
- (m) Sale and Leasebacks / Factoring
- (n) Indebtedness
- (o) Guarantees
- (p) Loans
- (q) Leasing Arrangements
- (r) Joint Ventures
- (s) Acquisitions and Investments
- (t) Centre of Main Interests
- (u) Restriction on Redemption of Capital Contribution
- (v) Restriction on Payment of Dividends
- (w) Permitted Payments
- (x) Holding Company
- (y) Guarantees and Security
- (z) Further Assurance
- (aa) Intercreditor Agreement

² As agreed between counsels.

- (bb) Anti-corruption law/Sanctions
- (cc) Scheme/Offer Documents
- (dd) Delisting of Target

Baskets and thresholds: Selected baskets and thresholds for the Facility Agreement are set out in Schedule 2 (*Key Baskets and Thresholds*).

Except as provided otherwise in Schedule 2 (*Key Baskets and Thresholds*), each basket, test and permission shall be expressed as the greater of a fixed £ number and a % of LTM EBITDA (EBITDA based basket). Any amounts incurred on the basis of such EBITDA based basket shall be treated as having been duly and properly incurred without the incurrence of an Event of Default even in the event that such EBITDA based basket subsequently decreases by virtue of operation of that calculation.

Any financial definition or incurrence based test or basket (including an EBITDA based basket) prior to the first Quarter Date after the Closing Date shall be calculated in accordance with levels as at the Closing Date as set out in the Base Case Model and thereafter as provided for and calculated in accordance with the provisions in this Term Sheet.

Events of Default: The Facility Agreement will contain only those Events of Default set out below, which shall be formulated as per Sponsor Precedent Facilities Agreement but taking into account any additional qualifications, exceptions, grace periods, baskets and thresholds required for the Targets' businesses as set out in Schedule 2 (*Key Baskets and Thresholds*) or as otherwise agreed by the relevant Arrangers (acting reasonably):

- (a) Payment Default
- (b) Financial covenant
- (c) Other obligations
- (d) Misrepresentation
- (e) Invalidity and Unlawfulness
- (f) Cross Default
- (g) Insolvency
- (h) Insolvency Proceedings
- (i) Attachment or process
- (j) Similar events elsewhere
- (k) Cessation of Business
- (l) Compulsory Acquisition
- (m) Litigation

- (n) Auditor's Qualification
- (o) Intercreditor Agreement
- (p) Material Adverse Change

Clean Up Period: 100 days for the initial Acquisition and any other permitted acquisition / investment otherwise as per the Sponsor Precedent Facilities Agreement.

Transfers / Assignments / Sub-Participations: Notwithstanding anything else in this section (*Transfers / Assignments / Sub-Participations*) the Arrangers may transfer and sub-participate to their Affiliates prior to the Closing Date, without the prior written consent of the Company provided that the conditions in the Paragraphs below are met, and that the relevant Arranger remains liable to fund under the relevant Finance Documents, otherwise the Arrangers may not effect any transfer in respect of the Facility prior to the Closing Date without the prior written consent of the Company (in its sole discretion). .

After the Closing Date, the prior written consent of the Parent (not to be unreasonably withheld or delayed) is required for any assignment, transfer or sub-Participation of the Facility unless such assignment, transfer or sub-Participation is:

- (a) to its Affiliate or to another Lender or an Affiliate of a Lender provided that such person is a deposit taking financial institution authorised by a financial services regulator (an “**Approved Facility Lender**”);
- (b) made to an entity which holds a minimum rating equal to or better than BBB- or Baa3 (as applicable) according to at least two of Moody's, S&P and Fitch and which is on an approved list to be agreed with the Sponsor (the “**Approved List**”); or
- (c) made at a time when a payment, financial covenant or insolvency Event of Default has occurred and is continuing.

If the Parent fails to respond to a request for a transfer, assignment, sub-Participation or sub-contract within five (5) Business Days of such request, such consent shall be deemed to be granted.

Absolute prohibition on transfers, assignments or sub-Participations to any of the following persons unless the prior written consent of the Company (in its sole discretion) is obtained:

- (a) (pre or post an Event of Default) an Industry Competitor (to be defined as any person or entity (or any of its Affiliates) which is a competitor of the Group or whose business is similar or related to a member of the Group and any controlling shareholder such persons, provided that this shall not include any person or entity (or any of its Affiliates) which is a bank, financial institution, trust, fund or other entity whose principal business or a material activity of whom is arranging, underwriting or investing in debt);
- (b) (pre or post an Event of Default) any person that is (or would, upon becoming a Lender, be) a Defaulting Lender;
- (c) (unless a non-payment, insolvency or financial covenant related

Event of Default (and, in respect of a financial covenant breach, such Event of Default has been continuing for at least 90 days) is continuing) to a Loan to Own / Distressed Investor (to be defined as any person that engages in (a) the principal business or material activity (other than the disposal of distressed debt that was not distressed when acquired (or loaned) by that person) or acquisition of distressed debt or (b) investment strategies whose primary purpose is the purchase of loans or other debt securities with the intention of owning the equity or gaining control of a business (directly or indirectly)) or any Equity Investor.

There will be no restrictions on non-voting sub-Participations provided that:

- (a) such Lender remains liable under the relevant Finance Documents for any such obligation;
- (b) such Lender retains exclusive control over all rights and obligations in relation to the Participations and Commitments that are the subject of the relevant agreement or arrangement, including all voting rights (for the avoidance of doubt, free of any agreement or understanding pursuant to which it is required to or will consult with any other person in relation to the exercise of any such rights and/or obligations), unless the proposed sub-Participant or sub-contractor is a person to whom the relevant rights and obligations could have been assigned or transferred in accordance with the terms of this section and, prior to entering into the relevant agreement or arrangement, the relevant Lender provides the Company with full details of that proposed sub-Participant or sub-contractor and any voting, consultation or other rights to be granted to the sub-Participant or sub-contractor; and
- (c) the relationship between the Lender and the proposed sub-Participant or sub-contractor is that of a contractual debtor and creditor (including in the bankruptcy or similar event of the Lender or an Obligor).

The Obligors shall not bear any taxes, notarial and security registration or perfection fees, costs, fees, expenses, gross-up or increased costs that result from, or would not have arisen but for an assignment, transfer or sub-Participation.

Otherwise as per Sponsor Precedent Facilities Agreement.

**Amendments and
Waivers:**

As per the Sponsor Precedent Facilities Agreement adjusted as below.

In addition, if any amendment, waiver or consent is a Structural Adjustment (as defined in the Sponsor Precedent Facilities Agreement), that amendment, waiver or consent shall require the consent of the Majority Lenders (including those Lenders Participating in the Structural Adjustment)).

The replacement of lender and snooze provisions shall be as per the Sponsor Precedent Facilities Agreement.

Tax:

Obligors will be required to gross up or to indemnify for or on account of tax on payments to Lenders under the Finance Documents, except that a

Borrower will not be obliged to gross-up any payments of interest as a result of withholding tax imposed by that Borrower's jurisdiction of tax residence unless such withholding is a result of a change in law, tax treaty or published practice of the relevant tax authorities occurring after the date on which the relevant Lender becomes Party to the Facility Agreement. It is intended that this will be reflected through the use of "**Qualifying Lender**" language as set out in the Sponsor Precedent Facilities Agreement (amended as necessary and negotiated in good faith).

It is acknowledged that the Obligors will not be required to indemnify a Lender in respect of any cost or tax relating to FATCA, bank levy or bank profit surcharge.

Defined Terms: The Facility Agreement will contain the defined terms set out in Schedule 1 (*Certain Defined Terms*) to this Term Sheet in addition to (or in replacement of) those in the Sponsor Precedent Facilities Agreement.

Personal liability: No director, officer or employee of the Company or any other member of the Group (or of any affiliate of a member of the Group) shall be personally liable for any representation or statement made by it in any Finance Document, certificate or other document required to be delivered under any Finance Document save in the case of fraud in which case liability (if any) will be determined in accordance with applicable law.

No Investor Recourse: No Finance Party will have any recourse to any Investor in respect of any term of any Finance Document, any statements by Investors, or otherwise.

Consent Requests: The relevant Agent shall provide to the Company, within one (1) Business Day of a request by the Company, details of any responses received from relevant Lenders to any amendment or other consent request and each Lender shall consent under the Facility Agreement to the disclosure of such information by the relevant Agent to the Company.

Testing conditions: Notwithstanding anything to the contrary in the Finance Documents, to the extent that the terms of the Facility Agreement require compliance with any financial ratio or test and/or any cap expressed as a percentage of Consolidated Pro Forma EBITDA, the accuracy of any representations or warranties, the availability of any baskets or the absence of a Default or Event of Default (or any type of Default or Event of Default) as a condition to the consummation of any transaction in connection with any acquisition or similar investment (including the assumption or incurrence of indebtedness), the determination of whether the relevant condition is satisfied may be made, at the election of the Company, at the time of (or on the basis of the financial statements for the most recently ended relevant period at the time of) either (x) the execution of the definitive agreement with respect to such acquisition or investment or (y) the consummation of such acquisition or investment, in each case, after giving effect to the relevant acquisition or investment on a *pro forma* basis.

Management input: The Finance Parties acknowledge that this term sheet, including, without limitation, the representation and warranties, undertakings (including the financial undertakings) and events of default, baskets and thresholds, have been negotiated without full access to the management of the Target Group. The Parties to the Commitment Documents agree to negotiate in good faith any amendments, variations or supplements to this term sheet, the Facility Agreement or any other Finance Document to the extent reasonably requested prior to the Closing Date by the Target Group for the

anticipated operational requirements and flexibility of the Group in respect of such representation and warranties, undertakings (including the financial undertakings) and events of default, baskets and thresholds and the other terms and conditions contained in such documentation following completion of the Acquisition.

Governing Law:

English law.

Jurisdiction:

The exclusive jurisdiction of the English courts for the benefit of the Finance Parties.

General:

Save as set out in this term sheet, no provisions of the documents for the Facility shall be more onerous for or restrictive on the Group than the Sponsor Precedent Facilities Agreement and the related finance documents, provided that the terms of the Commitment Documents shall take precedence over the terms of the Sponsor Precedent Facilities Agreement.

Schedule 1 Certain Defined Terms

“Equity Investors” means any person (including an Affiliate of a Lender) whose principal business or stated portfolio or investment strategy is investing in equity or acquiring control of, or an equity stake in, a business (directly or indirectly) provided that this shall not include any such person whose principal business is investing in debt provided further that such person is (a) acting on the other side of appropriate information barriers implemented or maintained as required by law, regulation or internal policy from the entity which constitutes an Equity Investor and/or (b) has separate personnel responsible for its interests under the Finance Documents, such personnel are independent from its interests as an Equity Investor and no information provided under the Finance Documents is disclosed or otherwise made available to any personnel responsible for its interests as an Equity Investor. Any such person shall confirm the same in its transfer certificate.

“Leverage Ratio” means the ratio of Consolidated Total Net Debt as at the last day of the Relevant Period ending on a Quarter Date or on the last day of the Month (as applicable) to Consolidated Pro Forma EBITDA in respect of that Relevant Period.

“LTM EBITDA” means, on any day, Consolidated Pro Forma EBITDA as stated in the most recently delivered Compliance Certificate provided that in the event any indebtedness, loan, investment, disposal, guarantee, payment or other transaction is committed, incurred or made by any member of the Group based on the amount of LTM EBITDA as at any Particular date, that indebtedness, loan, investment, disposal, guarantee, payment or other transaction shall not constitute, or be deemed to constitute, or result in, a breach of any provision of the Facility Agreement or the other Finance Documents if there is a subsequent change in the amount of LTM EBITDA.

“Permitted Acquisition” shall be adjusted to also include:

- (a) the Acquisition;
- (b) an acquisition (i) of a person (including, for the avoidance of doubt, any Partnership) by a member of the Group such that following that acquisition such member of the Group has a controlling interest in that person (and for this purpose, control means holding more than 50% of the voting shares or equivalent voting interests in the relevant person) or (ii) such acquisition is of a business or undertaking by a member of the Group, in each case carrying on a similar, related or complementary business to the Target Group provided that no Event of Default has occurred and is continuing on the date of the entry into a legally binding commitment to make the acquisition, in each case subject to a cap on the total consideration, in any financial year of £30 million, in each case, provided that:
 - (i) the target is incorporated in country which is not a Sanctioned Country on the date of the Group’s entry into a legally binding commitment to make the acquisition;
 - (ii) the target shall not have LTM earnings before interest, tax, depreciation and amortization (calculated on the same basis as Consolidated EBITDA) which are negative on a *pro forma* basis for each acquisition (including cost savings and synergies reasonably anticipated by the CEO or CFO to be achievable within twelve (12) months of each such acquisition as a result of that acquisition);
 - (iii) the target has no contingent liabilities except to the extent that (i) adequate cash reserves are being maintained in respect of such liabilities, (ii) the relevant vendor, an acceptable bank or another third party acceptable to the Agent (acting reasonably) has indemnified the relevant member of the Group, (iii) such liabilities have been taken into account in determining the purchase price and/or (iv) such liabilities are adequately insured with a reputable insurer;

- (iv) in circumstances in which the amount of the total consideration in respect of the relevant acquisition exceeds £10 million, the Parent shall provide to the Agent (on a non-reliance basis), subject to the Agent executing any hold harmless letters, release letters or equivalent documentation required by the relevant report providers, copies of all due diligence reports from third Parties which have been commissioned by a member of the Group in connection with the acquisition within ten (10) business days after legally committing to complete the acquisition;
- (v) in circumstances in which the amount of the total consideration in respect of the relevant acquisition exceeds £20 million, the Parent shall commission and provide to the Agent (on a non-reliance basis) within ten (10) business days after legally committing to complete the acquisition, subject to the Agent executing any hold harmless letters, release letters or equivalent documentation required by the relevant report providers, legal and accounting due diligence reports from third Parties in connection with the acquisition;
- (c) an acquisition of shares in any member of the Group; and
- (d) any acquisition to which the Agent (acting on the instructions of the Majority Lenders) shall have given prior written consent.

“Permitted Disposal” shall be adjusted to also include:

- (a) disposals among the Company and its Subsidiaries provided that any such Disposal by an Obligor to a non-Obligor shall be for fair market value (as reasonably determined by the Company) and at least 75% of the consideration for such Disposal consists of cash or Cash Equivalent Investments at the time of such Disposal;
- (b) subject to a cap on the total consideration over the life of the Facility of £100 million, any Disposal of assets (including, any shares in or business, undertakings or divisions of any member of the Group) provided that:
 - (i) no Event of Default has occurred and is continuing at the time the relevant member of the Group legally commits to the disposal of such asset;
 - (ii) any such Disposal with a purchase price in excess of £1 million is for fair market value (as reasonably determined by the Company) with at least 75% of the consideration for such Disposal consisting of cash or Cash Equivalent Investments at the time of such Disposal and provided that for the purposes of the 75% cash consideration requirement the following items shall be deemed to be cash:
 - (A) the amount of any indebtedness or other liabilities (other than indebtedness or other liabilities that are subordinated to the Facility) or that are owed to any member of the Group) of the Company or any other member of the Group (as shown on such person’s most recent balance sheet or statement of financial position (or in the notes thereto)) that are assumed by the transferee of any such assets and for which the Company and/or any other member of the Group have been validly released by all relevant creditors in writing;
 - (B) the amount of any trade-in value applied to the purchase price of any replacement assets acquired in connection with such disposal;
 - (C) any shares or securities received by the Company or any other member of the Group from such transferee that are converted by such person into cash or Cash Equivalent Investments (to the extent of the cash or Cash Equivalent Investments received) within 180 days following the closing of the applicable disposal; and

- (D) the fair market value (as determined by the Company in good faith) of non-cash consideration received by the Company or any other member of the Group in connection with any disposal that is designated as such in a certificate from the Company (signed by an authorised signatory), setting out the basis of such valuation (which will be reduced by the amount of cash and Cash Equivalent Investments received in connection with a subsequent sale or conversion of such designated non-cash consideration into cash or Cash Equivalent Investments) (the “**Designated Non-Cash Consideration**”) having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this sub-Paragraph that is at that time outstanding does not exceed £1 million; and
- (iii) if a Disposal is made in respect of assets which generate more than 20% Consolidated Pro Forma EBITDA or more than 20% of Group revenue or comprise more than 20% of the total gross assets of the Group, then either:
 - (A) the Net Cash Proceeds of such disposal are applied and/or reinvested in the business of the Group within 18 months of closing; or
 - (B) a proportionate amount of the Facility must be permanently repaid and cancelled;
- (c) disposals of accounts receivable in the ordinary course of business (including any discount and/or forgiveness thereof) or in connection with the collection or compromise of such accounts receivables; and
- (d) disposals of shares of, or sales of indebtedness or other securities of, Subsidiaries.

“**Permitted Joint Venture**” shall include any investment in a Joint Venture or a Subsidiary that is not wholly owned, in each case in existence on the Closing Date and as required by, or made pursuant to, buy/sell arrangements between the relevant Parties set forth in joint venture agreements and similar binding arrangements in effect on the Closing Date (and not entered into in contemplation of the Closing Date).

“**Permitted Payment**” shall include:

- (a) Investor front end fees as reflected in the Base Case Model and funds flow and an annual monitoring and advisory fee of £1 million (with such amount increasing each year in line with RPI) or, if higher, one per cent. (1.00%) of LTM EBITDA at any time plus, in each case, VAT (in each case provided (i) no Event of Default is continuing, (ii) if an Event of Default is so continuing, such fee accrues and may be paid when that Event of Default is no longer continuing and (iii) no monitoring and advisory fee will be payable in the first twelve (12) months following the Closing Date);
- (b) funding of warrants, options or other securities convertible into or exchangeable for shares if such shares represent all or a portion of the exercise price of such warrants, options or other securities convertible into or exchangeable for shares as Part of a “**cashless**” exercise;
- (c) to the extent that the payment is funded in whole or in Part from the proceeds of New Shareholder Injections made after the Closing Date in an amount equal to such New Shareholder Injections received by the Parent after the Closing Date but prior to such payment and which have not been provided pursuant to the equity cure provisions in order to or used to cure a Financial Covenant Event of Default (excluding any amounts contributed to the Parent in connection with the Transaction); and
- (d) the ability to buy back any management equity without restriction or cap.

Schedule 2
Key Baskets and Thresholds

REFERENCE	BASKET/THRESHOLD
Acquisitions	£30 million.
Employee Loan Basket	£2 million or, if higher, 5% of LTM EBITDA.
Intercreditor Accession Threshold	£1 million
Joint Ventures Basket	£2 million or, if higher, 5% of LTM EBITDA.
Obligor/Non-Obligor Basket	£2 million or, if higher, 5% of LTM EBITDA. All Obligor to Non-Obligor balances existing as at the date of the Commitment Letter shall be grandfathered and specifically (and separately) permitted under the Facility Agreement. Any transfers of stock made in the ordinary course of trading as between Obligors and non-Obligors shall also be permitted.
Permitted Disposal	General basket: £5 million or, if higher, 15% of LTM EBITDA.
Permitted Factoring	Recourse: £7.5 million or, if higher, 20% of LTM EBITDA (plus any available amount under Permitted Financial Indebtedness (General Basket)). Non-Recourse: £50 million.
Permitted Finance Lease	£5 million or, if higher, 20% of LTM EBITDA plus any finance leases existing at Closing.
Permitted Financial Indebtedness	Local Facilities: £5 million or, if higher, 20% of LTM EBITDA. General Basket: £20 million or, if higher, 25% of LTM EBITDA (less any amount of this basket utilised for Permitted Factoring).
Permitted Guarantees	General Basket: £2 million or, if higher, 5% of LTM EBITDA plus any guarantees existing as at the Closing Date.
Permitted Loan	Obligor to Non-Obligor cash pooling: £10 million or, if higher, 10% of LTM EBITDA. General Basket: £2 million or, if higher, 5% of LTM EBITDA
Permitted Sale and Leaseback	£5 million or, if higher, 20% of LTM EBITDA.
Permitted Security	General Basket: £20 million or, if higher, 20% of LTM EBITDA. Security relating to Permitted Finance Leases, Permitted

REFERENCE	BASKET/THRESHOLD
	Factoring and Permitted Sale and Leaseback.
Cross Default threshold	£5 million.
Attachment or process	£5 million.

APPENDIX B
Agreed Form of Interim Facility Agreement

Weil, Gotshal & Manges
110 Fetter Lane
London EC4A 1AY
+44 20 7903 1000 main tel
+44 20 7903 0990 main fax
weil.com

Weil

AGREED FORM

[•] 201[6]

Interim Revolving Facility Agreement

**between
among others**

**AI ROBIN MIDCO 2 LIMITED
as the Parent**

**AI ROBIN LIMITED
as the Company**

**HSBC BANK PLC, ING BANK N.V., LONDON BRANCH and LLOYDS BANK PLC
as Arrangers**

**[•]
as Interim Revolving Facility Agent**

and

**[•]
as Interim Security Agent**

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THIS AGREEMENT is made on [] 201[] between the following parties

- (1) **HSBC BANK PLC, ING BANK N.V., LONDON BRANCH and LLOYDS BANK PLC** (each an “**Arranger**” and together, the “**Arrangers**”);
- (2) **HSBC BANK PLC, ING BANK N.V., LONDON BRANCH and LLOYDS BANK PLC** (each an “**Original Interim Lender**” and together, the “**Original Interim Lenders**”);
- (3) **[●]** (the “**Interim Revolving Facility Agent**”);
- (4) **[●]** (the “**Interim Security Agent**”);
- (5) **[●]** (the “**Original Issuing Bank**”);
- (6) **AI ROBIN LIMITED** (the “**Company**” and the “**Borrower**”);
- (7) **AI ROBIN MIDCO 2 LIMITED** (the “**Parent**”); and
- (8) **AI ROBIN MIDCO LIMITED** (the “**Holdco**”).

IT IS AGREED as follows

1 INTERPRETATION

Terms defined in Schedule 1 (*Definitions and Interpretation*) to this Agreement have the same meanings when used in this Agreement. Each Schedule to this Agreement forms part of the terms of this Agreement.

2 THE INTERIM REVOLVING FACILITY - AVAILABILITY

- (a) Subject to the terms of this Agreement the Interim Lenders make available to the Company an interim multi-currency working capital facility in an aggregate amount equal to £82,500,000 (the “**Interim Revolving Facility**”) available to be utilised in Sterling, euro and US Dollars; and
- (b) The undrawn Interim Commitments of each Interim Lender under the Interim Revolving Facility will be automatically cancelled on close of business in London on the earlier of:
 - (i) the last day of the Interim Revolving Facility Availability Period; and
 - (ii) if the Closing Date has not occurred on or prior to the last day of the Certain Funds Period, the last day of the Certain Funds Period.
- (c) The Company may, by two Business Days’ prior written notice to the Interim Revolving Facility Agent, at any time cancel any undrawn amount of the Interim Revolving Facility.
- (d) On the date that all conditions precedent under the Long-term Financing Agreements are satisfied and/or waived and a facility under such Long-term Financing Agreements is available for drawing, the Interim Revolving Facility shall automatically be cancelled in full.

3 THE MAKING OF THE INTERIM UTILISATIONS

- (a) The obligations of each Interim Lender to participate in each Interim Utilisation are subject only to the conditions precedent that on the date on which that Interim Utilisation is to be made:

- (i) the Interim Revolving Facility Agent has received or waived the requirement to receive all of the documents and evidence referred to in Schedule 3 (*Conditions Precedent*), where required, in form and substance satisfactory to it (acting reasonably or, as applicable, on the instructions of the Majority Interim Lenders (each acting reasonably));
 - (ii) the Major Representations are true and correct in all material respects;
 - (iii) no Major Event of Default is continuing or would result from the making of the Interim Utilisation; and
 - (iv) it is not illegal or contrary to applicable law or regulation for such Interim Lender to make, or to allow to have outstanding, that Interim Utilisation.
- (b) The Interim Revolving Facility Agent shall notify the Company and the Interim Lenders promptly upon being satisfied that the conditions described in sub-paragraph (a)(i) above have been received by it or waived. The Interim Lenders authorise (but do not require) the Interim Revolving Facility Agent to give that notification.
- (c) Notwithstanding any other provision of any Interim Finance Document, during the Certain Funds Period none of the Interim Finance Parties shall:
- (i) refuse to participate in or make available any Interim Utilisation, provided that the condition in sub-paragraph (a)(i) above has been satisfied;
 - (ii) be entitled to take any action to rescind, terminate or cancel this Agreement (or any provision hereof or obligation hereunder) or any Interim Utilisation or Interim Commitment;
 - (iii) exercise any right of set-off or counterclaim in respect of any Interim Utilisation;
 - (iv) accelerate any Interim Utilisation or otherwise demand or require repayment or prepayment of any sum from any Obligor; or
 - (v) enforce (or instruct the Interim Security Agent to enforce) any Security Interest under any Interim Finance Document,

unless at any time any of the conditions in sub-paragraphs (a)(ii) to (a)(iv) above are not satisfied (which, in respect of sub-paragraph (a)(iv) above, shall allow the relevant Interim Lender to take such action in respect of itself only), provided that, immediately upon the expiry of the Certain Funds Period, all such rights, remedies and entitlements shall be available to the Interim Finance Parties, notwithstanding that they may not have been used or been available for use during the Certain Funds Period.

- (d) The proceeds of the Interim Loans are to be applied in or towards (directly or indirectly) funding the working capital and/or general corporate purposes of the Group (including, without limitation, the financing or refinancing of capital expenditure, any permitted acquisitions, investments and joint ventures, operational restructurings and reorganisation requirements of the Group, any fees and any related fees, costs and expenses and any other purpose contemplated in the Funds Flow Statement).
- (e) The Interim Revolving Facility shall also be available for utilisation by way of Bank Guarantees. The provisions of Schedule 9 (*Bank Guarantees*) shall form part of this Agreement and bind each Party.

- (f) Cash drawings under the Interim Revolving Facility may not be applied directly or indirectly towards paying any dividends or other distributions to Investors.
- (g) The aggregate amount of drawings made on the Closing Date, excluding any amounts drawn in connection with the rollover of any existing ancillary facilities, shall not exceed £30,000,000.
- (h) Notwithstanding any other term of this Agreement or any other Interim Finance Document, none of the steps or events set out in, or reorganisations specified in or expressly contemplated by, the Tax Structure Memorandum (other than any exit steps described therein or (x) the Scheme Documents or (y) the Offer Documents (or, in each case, the actions or intermediate steps necessary to implement any of those steps, actions or events, in any case, shall constitute, or result in, a breach of any representation, warranty, a breach of undertaking or other term in the Interim Finance Documents or a Major Event of Default, actual or potential, and each such event shall be expressly permitted under the terms of the Interim Finance Documents, save that (in each case) any breach of or misrepresentation under the Major Representation contained in subparagraph (a) of paragraph 3 (*No conflict*) of Part I (*Major Representations*) of Schedule 5 (*Major Representations, Undertakings and Events of Default*) arising in connection with any of the foregoing shall not be so excluded.

4 OBLIGORS' AGENT

- (a) Each Obligor (other than the Company), by its execution of this Agreement, irrevocably (to the extent permitted by law) appoints the Company to act severally on its behalf as its agent in relation to the Interim Finance Documents and irrevocably (to the extent permitted by law) authorises:
 - (i) the Company on its behalf to supply all information concerning itself contemplated by the Interim Finance Documents to the Interim Finance Parties and to give and receive all notices, instructions and other communications under the Interim Finance Documents (including, where relevant, Drawdown Requests) and 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 (including, by increasing the obligations of such Obligor howsoever fundamentally, whether by increasing the liabilities, guaranteed or otherwise); and
 - (ii) each Interim Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Interim Finance Documents to the Company,

and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions (including, without limitation, any Drawdown Requests) or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication and each Interim Finance Party may rely on any action taken by the Obligors' Agent on behalf of that Obligor.

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

- (c) If (notwithstanding the fact that the guarantees granted under Schedule 4 (*Guarantee and Indemnity*) are and the Interim Security is, intended to guarantee and secure, respectively, all obligations arising under the Interim Finance Documents), any guarantee or Interim Security does not automatically 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 Interim Finance Documents and/or any facility or amount made available under any of the Interim Finance Documents, each Obligor expressly confirms that the Obligors' Agent is authorised to confirm such guarantee and/or Interim Security on behalf of such Obligor.
- (d) For the purpose of this Clause 4, each Obligor other than the Company (to the extent necessary under applicable law) shall grant a specific power of attorney (notarized and apostilled) to the Company and comply with any necessary formalities in connection therewith.

5 NATURE OF AN INTERIM FINANCE PARTY'S RIGHTS AND OBLIGATIONS

- (a) No Interim Finance Party is bound to monitor or verify the utilisation of an Interim Revolving Facility nor be responsible for the consequences of such utilisation.
- (b) The obligations of each Interim Finance Party under the Interim Finance Documents are several.
- (c) Failure by an Interim Finance Party to perform its obligations does not affect the obligations of any other Party under the Interim Finance Documents.
- (d) No Interim Finance Party is responsible for the obligations of any other Interim Finance Party under the Interim Finance Documents.
- (e) The rights of each Interim Finance Party under the Interim Finance Documents are separate and independent rights.
- (f) An Interim Finance Party may, except as otherwise stated in the Interim Finance Documents, separately enforce its rights under the Interim Finance Documents.
- (g) A debt arising under the Interim Finance Documents to an Interim Finance Party is a separate and independent debt.
- (h) Each Interim Lender will promptly notify the Company if it becomes aware of any matter or circumstance which would entitle it not to advance or participate in any Interim Utilisation.

6 UTILISATION

6.1 Giving of Drawdown Requests

- (a) The Company may borrow an Interim Loan by giving to the Interim Revolving Facility Agent a duly completed Drawdown Request. A Drawdown Request is, once given, irrevocable.
- (b) Unless the Interim Revolving Facility Agent otherwise agrees, the latest time for receipt by the Interim Revolving Facility Agent of a duly completed Drawdown Request is 11.00 a.m. (London time) three Business Days before the proposed Drawdown Date for

Interim Loans denominated in Sterling and two Business Days for all other Interim Loans before the proposed Drawdown Date.

- (c) No more than 10 Interim Loans may be outstanding at any time.

6.2 Completion of Drawdown Requests

A Drawdown Request for an Interim Loan will not be regarded as having been duly completed unless:

- (a) the Drawdown Date is on or after the Closing Date and is also a Business Day within the Interim Revolving Facility Availability Period, and the Base Currency Amount of the Interim Loan requested (when aggregated with the Base Currency Amount of any other Interim Utilisations made or due to be made on or before the proposed Drawdown Date but excluding any part of any Interim Utilisation prepaid or due to be prepaid on or before the proposed Drawdown Date) does not exceed the Total Interim Commitments; and
- (b) the currency of the Interim Loan complies with paragraph (d) of Clause 6.3 (*Advance of Interim Loans*) and the proposed Interest Period complies with paragraph (b) of Clause 8.2 (*Payment of interest*).

6.3 Advance of Interim Loans

- (a) The Interim Revolving Facility Agent must promptly notify each Interim Lender of the details of the requested Interim Loan and the amount of its share in that Interim Loan.
- (b) Each Interim Lender making Interim Commitments will participate in an Interim Utilisation in the proportion which its Interim Commitment bears to the Total Interim Commitments immediately before the making of that Interim Utilisation.
- (c) No Interim Lender is obliged to participate in an Interim Utilisation if as a result the Base Currency Amount of its share in the outstanding Interim Utilisations (other than to the extent due to be repaid or prepaid on or before any proposed Drawdown Date) would exceed its corresponding Interim Commitment.
- (d) Each Interim Loan may only be denominated in Sterling, euro or US Dollars unless otherwise agreed in writing by all the Interim Lenders with Interim Commitments in the Interim Revolving Facility.
- (e) If the applicable conditions set out in this Agreement have been met, each applicable Interim Lender shall make its participation in each relevant Interim Loan available to the Interim Revolving Facility Agent for the account of the Company by the Drawdown Date through its Facility Office.

7 REPAYMENT AND PREPAYMENT

7.1 Repayment

- (a) The Company must repay and cancel all outstanding Interim Utilisations (together with all interest and all other amounts accrued or outstanding under or in connection with the Interim Finance Documents) on the date (the “**Final Repayment Date**”) which falls 60 days after the first Drawdown Date or, if earlier:
 - (i) the date of receipt by the Company of a written demand (the “**Acceleration Notice**”) from the Interim Revolving Facility Agent (acting on the instructions of the Majority Interim Lenders) following the occurrence of a Major Event of

Default which is continuing requiring immediate prepayment and cancellation in full of the Interim Revolving Facility; or

- (ii) the date of receipt by a Borrower (as defined therein) of the proceeds from the first utilisation on or following the Completion Date made under any of the Long-term Financing Agreements (if applicable, free of any escrow or similar arrangements) and, for the avoidance of doubt, the Interim Revolving Facility will be repaid and cancelled with the proceeds of utilisations under a Long-Term Financing Agreement.
- (b) For the avoidance of doubt, subject to Clause 3 (*The Making of the Interim Utilisations*), the Interim Revolving Facility Agent acting on the instructions of the Majority Interim Lenders shall be entitled to serve an Acceleration Notice following the occurrence of a Major Event of Default that is continuing or on the Final Repayment Date to the extent that the Company has not repaid all outstanding Interim Utilisations (together with all interest and all other amounts accrued or outstanding under or in connection with the Interim Finance Documents).
- (c) In addition and subject to paragraph (h) below, the Company must repay each outstanding Interim Loan on the last day of its Interest Period.
- (d) If an Interim Utilisation is, or is declared to be, due and payable, all interest and all other amounts accrued or outstanding in respect of that Interim Utilisation shall be immediately due and payable.
- (e) If an Interim Utilisation is, or is declared to be, due and payable on demand, all interest and all other amounts accrued or outstanding in respect of that Interim Utilisation shall be immediately due and payable on demand by the Interim Revolving Facility Agent on the instructions of the Majority Interim Lenders.
- (f) If an Interim Utilisation is, or is declared to be, due and payable, the Interim Revolving Facility Agent may, and shall if so directed by the Majority Interim Lenders, by notice to the Company, exercise or direct the Interim Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Interim Finance Documents.
- (g) Any part of the Interim Revolving Facility which is repaid may be redrawn in accordance with the terms of this Agreement.
- (h) Without prejudice to the Company's obligation under paragraph (a) above, if one or more Interim Loans are to be made available to the Company:
 - (i) on the same day that a maturing Interim Loan is due to be repaid by the Company;
 - (ii) in the same currency as the maturing Interim Loan; and
 - (iii) in whole or in part for the purpose of refinancing the maturing Interim Loan,the aggregate amount of new Interim Loans shall be treated as if applied in or towards repayment of the maturing Interim Loan so that:
 - (A) if the amount of the maturing Interim Loan exceeds the aggregate amount of the new Interim Loans:
 - (1) the Company will only be required to pay an amount in cash in the relevant currency equal to that excess; and

- (2) each Interim Lender's participation (if any) in the new Interim Loans shall be treated as having been made available and applied by the Company in or towards repayment of that Interim Lender's participation (if any) in the maturing Interim Loan and that Interim Lender will not be required to make its participation in the new Interim Loans available in cash; and
- (B) if the amount of the maturing Interim Loan is equal to or less than the aggregate amount of the new Interim Loans:
 - (1) the Company will not be required to make any payment in cash; and
 - (2) each Interim Lender will be required to make its participation in the new Interim Loans available in cash only to the extent that its participation (if any) in the new Interim Loans exceeds that Interim Lender's participation (if any) in the maturing Interim Loan and the remainder of that Interim Lender's participation in the new Interim Loans shall be treated as having been made available and applied by the Company in or towards repayment of that Interim Lender's participation in the maturing Interim Loan.

7.2 Prepayment

- (a) The Company may prepay the whole or any part of any outstanding Interim Utilisation (including, for the avoidance of doubt, the whole or any part of any outstanding Interim Utilisation owed to a particular Interim Lender to the extent provided for by the terms of this Agreement), together with accrued but unpaid interest, at any time, on giving one Business Day's prior notice in writing to the Interim Revolving Facility Agent.
- (b) Any part of the Interim Revolving Facility which is prepaid pursuant to paragraph (a) above may be redrawn in accordance with the terms of this Agreement.

8 INTEREST

8.1 Calculation of interest

The rate of interest on each Interim Loan for its Interest Period is the percentage rate per annum equal to the aggregate of:

- (a) the Margin; and
- (b) the Funding Cost for that Interest Period.

8.2 Payment of interest

- (a) For each Interim Loan there shall only be one interest period (the "**Interest Period**"), which will start on the relevant Drawdown Date.
- (b) The Company shall select an Interest Period of one, two, three or four weeks or any other period ending on the Final Repayment Date (or any other period agreed with the Interim Revolving Facility Agent) in each Drawdown Request. If the Company does not select an Interest Period, the default Interest Period shall (subject to paragraph (d) below) be four weeks (or, if earlier, a period ending on the Final Repayment Date).

- (c) The Company must pay accrued interest on each Interim Loan on the last day of the Interest Period and on any date on which that Interim Loan is repaid or prepaid.
- (d) Notwithstanding paragraphs (a) and (b) above, no Interest Period will extend beyond the Final Repayment Date.
- (e) 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), provided that no Interest Period will extend beyond the Final Repayment Date.
- (f) If there is a repayment, prepayment or recovery of all or any part of an Interim Loan other than on the last day of its Interest Period, the Company will pay the Interim Finance Parties promptly following demand their break costs (if any). The break costs (the Break Costs) will be the amount by which:
 - (i) the interest (excluding the Margin) which would have been payable at the end of the Interest Period on the amount of the Interim Loan repaid, prepaid or recovered; exceeds
 - (ii) the amount of interest the Interim Lenders would have received by placing a deposit equal to the relevant amount with leading banks in the relevant interbank market for a period starting on the Business Day following receipt and ending on the last day of the Interest Period.

8.3 Interest on overdue amounts

If the Company fails to pay when due any amount payable by it under the Interim Finance Documents, it must immediately on demand by the Interim Revolving Facility Agent pay interest on the overdue amount from its due date up to the date of actual payment, both before, on and after judgment. Interest on such overdue amount is payable at a rate determined by the Interim Revolving Facility Agent to be one per cent. per annum above the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted part of that Interim Loan. Interest (if unpaid) on an overdue amount will be compounded with that overdue amount on the last day of the Interest Period (or such duration as selected by the Interim Revolving Facility Agent acting reasonably) to the extent permitted under any applicable law and regulation.

8.4 Interest calculation

Interest shall be paid in the currency of the relevant Interim Loan and shall accrue from day to day and be calculated on the basis of the actual number of days elapsed and a 365 day year (or, where practice in the relevant interbank market differs, in accordance with that market practice). The Interim Revolving Facility Agent shall promptly notify each relevant Party of the determination of a rate of interest under this Agreement.

9 MARKET DISRUPTION

9.1 Absence of quotations

If the Funding Cost is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by 12.00 noon (London time) (or 12.00 noon Brussels time in the case of any Interim Loan denominated in euro) on the Rate Fixing Day the applicable Funding Cost shall be determined on the basis of the quotations of the remaining Reference Banks, subject to Clause 9.2 (*Market Disruption Notice*).

9.2 Market Disruption Notice

If, in relation to any actual or proposed Interim Loan (a “**Disrupted Loan**”):

- (a) the Funding Cost is to be determined by reference to rates supplied by Reference Banks and none or only one of the Reference Banks supplies a rate by 12.00 noon (London time) (or 12.00 noon Brussels time in the case of any Interim Loan denominated in euro) on the Rate Fixing Day; or
- (b) before close of business in London on the Rate Fixing Day for the relevant Interest Period, one or more Interim Lenders whose participations in that Disrupted Loan equal or exceed in aggregate 35 per cent. of the amount of that Disrupted Loan notify the Interim Revolving Facility Agent that by reason of circumstances affecting the relevant interbank market generally the cost to those Interim Lenders of obtaining matching deposits in the relevant interbank market would be in excess of the Funding Cost,
- (c) the Interim Revolving Facility Agent will promptly give notice of that event to the Company and the Interim Lenders (a “**Market Disruption Notice**”).

9.3 Proposed Disrupted Loans

If a Market Disruption Notice is given in respect of a proposed Disrupted Loan, the interest rate applicable on each Interim Lender’s participation in that Disrupted Loan will be the rate certified by that Interim Lender to the Interim Revolving Facility Agent no later than five Business Days after the Rate Fixing Day to be its cost of funds (from any source which it may reasonably select) plus the Margin.

10 TAXES¹

10.1 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 Company 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 Interim Revolving Facility Agent accordingly. Similarly, an Interim Lender shall notify the Interim Revolving Facility Agent on becoming so aware in respect of a payment payable to that Interim Lender. If the Interim Revolving Facility Agent receives such notification from an Interim Lender it shall notify the Company 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 Interim Lender without a Tax Deduction if the Interim Lender had been a Qualifying Interim Lender, but on that date that Interim Lender is not or has ceased to be a Qualifying Interim Lender other than as a result of any change after the date it became an Interim Lender under this Agreement in (or in the interpretation, administration, or

¹ Tax counsel to review.

application of) any law or Treaty or any published practice or published concession of any relevant taxing authority; or

- (ii) the relevant Interim Lender is a Qualifying Interim Lender solely by virtue of paragraph (a)(ii) of the definition of "Qualifying Interim Lender" and:
 - (A) an officer of H.M. Revenue & Customs has given (and not revoked) a direction (a "**Direction**") under section 931 of the ITA which relates to the payment and that Interim Lender has received from the Obligor making the payment or from the Company a certified copy of that Direction; and
 - (B) the payment could have been made to the Interim Lender without any Tax Deduction if that Direction had not been made; or
- (iii) the relevant Interim Lender is a Qualifying Interim Lender solely by virtue of paragraph (a)(ii) of the definition of "Qualifying Interim Lender" and:
 - (A) the relevant Interim Lender has not given a Tax Confirmation to the Company; and
 - (B) the payment could have been made to the Interim Lender without any Tax Deduction if the Interim Lender had given a Tax Confirmation to the Company, on the basis that the Tax Confirmation would have enabled the Company 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 Interim Lender is a Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Interim Lender without the Tax Deduction had that Interim Lender complied with its obligations under paragraph (g) or (h) (as applicable) below.
- (e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (f) 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 Interim Revolving Facility Agent for the Interim Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Interim Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
- (g)
 - (i) Subject to paragraph (ii) below, a Treaty Interim Lender and each Obligor which makes a payment to which that Treaty Interim Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.
 - (ii)
 - (A) a Treaty Interim Lender which becomes a Party on the day on which this Agreement is entered into that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its

jurisdiction of tax residence in writing to the Company on the date of this Agreement; and

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

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

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

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

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

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

- (B) HM Revenue & Customs has not given the Borrower authority to make payments to that Interim 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 Interim Lender in writing, that Interim Lender and the Borrower shall co-operate in completing any additional procedural formalities necessary for that Borrower to obtain authorisation to make that payment without a Tax Deduction.

- (i) If an Interim Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (g)(ii) above, no Obligor shall make a Borrower DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Interim Lender's Commitment(s) or its participation in any Utilisation unless the Interim Lender otherwise agrees.

- (j) A Borrower shall, promptly on making a Borrower DTTP Filing, deliver a copy of that Borrower DTTP Filing to the Interim Revolving Facility Agent for delivery to the relevant Interim Lender.

- (k) A UK Non-Bank Lender which becomes a Party on the day on which this Agreement is entered into shall confirm its status as a UK Non-Bank Lender to the Company in the writing on the date it enters into this Agreement, and, provided it has done so, gives a Tax Confirmation to the Company by entering into this Agreement.

- (l) A UK Non-Bank Lender shall promptly notify the Company and the Interim Revolving Facility Agent if there is any change in the position from that set out in the Tax Confirmation.

10.2 Tax indemnity

- (a) The Company shall (or shall procure that another Group Company will) (within five Business Days of demand by the Interim Revolving Facility Agent) pay to an Interim

Finance Party an amount equal to the loss, liability or cost which that Interim Finance Party determines (acting reasonably and in good faith) will be or has been (directly or indirectly) suffered for or on account of Tax by that Interim Finance Party in respect of an Interim Finance Document.

(b) Paragraph (a) above shall not apply:

(i) to any Tax assessed on an Interim Finance Party:

- (A) under the law of the jurisdiction in which that Interim Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Interim Finance Party is treated as resident for tax purposes; or
- (B) under the law of the jurisdiction in which that Interim Finance Party's Facility Office or other permanent establishment is located in respect of amounts received or receivable under the Interim Finance Documents in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Interim Finance Party; or

(ii) to the extent a loss, liability or cost:

- (A) is compensated for by an increased payment under Clause 10.1 (*Gross-up*);
- (B) would have been compensated for by an increased payment under Clause 10.1 (*Gross-up*) but was not so compensated solely because one of the exclusions in paragraph (d) of Clause 10.1 (*Gross-up*) applied;
- (C) is compensated for by payment of an amount under Clause 10.5 (*Stamp Taxes*) or Clause 10.6 (*Value added taxes*);
- (D) would have been compensated for by payment of an increased amount under Clause 10.5 (*Stamp Taxes*) or 10.6 (*Value added taxes*) but was not so compensated solely because one of the exclusions in Clause 10.5 (*Stamp Taxes*) or 10.6 (*Value added taxes*) applied;
- (E) (for the avoidance of doubt) is suffered or incurred in respect of any Bank Levy (or any payment attributable to, or liability arising as a consequence of, a Bank Levy); or
- (F) relates to any FATCA Deduction required to be made by a Party.

(c) An Interim Finance Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Interim Revolving Facility Agent of the event which will give, or has given, rise to the claim, following which the Interim Revolving Facility Agent shall notify the Company.

10.3 Tax Credit

If an Obligor makes a Tax Payment and the relevant Interim Finance Party determines (acting reasonably and in good faith) that:

- (b) 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
- (c) that Interim Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Interim Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

10.4 Interim Lender Status Confirmation

- (a) Each Interim Lender which becomes a Party to this Agreement after the date of this Agreement shall indicate, in the Transfer Certificate, Assignment Agreement or Increase Confirmation which it executes on becoming a Party, which of the following categories it falls in:
 - (i) not a Qualifying Interim Lender;
 - (ii) a Qualifying Interim Lender (other than a Treaty Interim Lender); or
 - (iii) a Treaty Interim Lender.
- (b) If a New Interim Lender or an Increase Lender fails to indicate its status in accordance with this Clause 10.4 then such New Interim Lender or Increase Lender shall be treated for the purposes of this Agreement (including by each Obligor) as if it is not a Qualifying Interim Lender until such time as it notifies the Interim Revolving Facility Agent which category applies (and the Interim Revolving Facility Agent, upon receipt of such notification, shall inform the Company). For the avoidance of doubt, a Transfer Certificate, Assignment Agreement or Increase Confirmation shall not be invalidated by any failure of an Interim Lender to comply with this Clause 10.4.

10.5 Stamp Taxes

The Company shall pay (or shall procure that another Group Company pays) and, within five Business Days of demand, indemnify each Interim Finance Party against any cost, loss or liability that Interim Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Interim Finance Document except for:

- (a) any such stamp duty, registration or other similar Tax payable in respect of any transfer, assignment, sub-participation or other disposal of an Interim Finance Party's rights or obligations under an Interim Finance Document, unless such transfer or assignment is at the request of the Company under Part III of Schedule 6; or
- (b) any such stamp duty, registration or other similar Tax to the extent it becomes payable upon a voluntary registration made by any Interim Finance Party if such registration is not necessary to evidence, prove, maintain, enforce, compel or otherwise assert the rights of such Interim Finance Party under an Interim Finance Document.

10.6 Value added taxes

- (a) All amounts expressed to be payable under an Interim Finance Document by any Party to an Interim 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 Interim Finance Party to any Party under an Interim Finance Document and such Interim Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Interim

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 (and such Interim Finance Party must promptly provide an appropriate VAT invoice to that Party).

- (b) If VAT is or becomes chargeable on any supply made by any Interim Finance Party (the "**Supplier**") to any other Interim Finance Party (the "**Recipient**") under an Interim Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Interim Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
 - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where an Interim Finance Document requires any Party to reimburse or indemnify an Interim Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Interim Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Interim 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 10.6 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).
- (e) In relation to any supply made by an Interim Finance Party to any Party under an Interim Finance Document, if reasonably requested by such Interim Finance Party, that Party must promptly provide such Interim Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Interim Finance Party's VAT reporting requirements in relation to such supply.

10.7 FATCA information

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
 - (i) confirm to that other Party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party;

- (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
 - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to sub-paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Interim Finance Party to do anything, and sub-paragraph (iii) of paragraph (a) 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 sub-paragraphs (i) or (ii) of paragraph (a) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Interim 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.

10.8 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 Company and the Interim Revolving Facility Agent, and the Interim Revolving Facility Agent shall notify the other Interim Finance Parties.

11 INCREASED COSTS

11.1 Increased Costs

- (a) If (i) the introduction of, or a change in, or a change in the interpretation, administration or application of, any law, regulation or treaty occurring after the date on which it becomes party to this Agreement, (ii) compliance with any law, regulation or treaty made after the date on which it becomes party to this Agreement, or (iii) the implementation or application of or compliance with Basel III or CRD IV or any other law or regulation which implements Basel III or CRD IV results in any Interim Finance Party (a Claiming Party) or any Affiliate of it incurring any Increased Cost (as defined in paragraph (c) below):

- (i) the Claiming Party will notify the Company and the Interim Revolving Facility Agent of the circumstances giving rise to that Increased Cost as soon as reasonably practicable after becoming aware of it and will as soon as reasonably practicable provide a certificate confirming the amount of that Increased Cost with (to the extent available) appropriate supporting evidence; and
 - (ii) within five Business Days of demand by the Claiming Party, the Company will (or shall procure that another Group Company will) pay to the Claiming Party the amount of any Increased Cost incurred by it (or any Affiliate of it).
- (b) The Company will not be obliged to compensate any Claiming Party under paragraph (a) above in relation to any Increased Cost:
 - (i) to the extent already compensated for by a payment under Clause 10.2 (*Tax indemnity*) (or would have been so compensated but for an exclusion in paragraph (b) of Clause 10.2 (*Tax indemnity*);
 - (ii) is compensated for by payment of an amount under Clause 10.5 (*Stamp Taxes*) or Clause 10.6 (*Value added taxes*);
 - (iii) (would have been compensated for by payment of an increased amount under Clause 10.5 (*Stamp Taxes*) or Clause 10.6 (*Value added taxes*) but was not so compensated solely because one of the exclusions in Clause 10.5 (*Stamp Taxes*) or Clause 10.6 (*Value added taxes*) applied;
 - (iv) attributable to the breach by the Claiming Party of any law, regulation or treaty or any Interim Finance Document;
 - (v) attributable to a Tax Deduction required by law to be made by an Obligor;
 - (vi) attributable to any penalty having been imposed by the relevant central bank or monetary or fiscal authority upon the Claiming Party (or any Affiliate of it) by virtue of its having exceeded any country or sector borrowing limits or breached any directives imposed upon it;
 - (vii) 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 (other than Basel III);
 - (viii) attributable to the implementation or application of, or compliance with, Basel III or CRD IV to the extent that a Finance Party knew about or could reasonably be expected to have known about the relevant Increased Cost on or prior to the date on which it became a Finance Party (**provided that**, if the Increased Cost was not fully quantifiable on or prior to the date on which it became a Finance Party, Clause 11.1 (*Increased costs*) shall apply to that amount of the Increased Cost;
 - (i) which was not, or could not reasonably be expected to have been, quantifiable); attributable to any Bank Levy (or any payment attributable to, or liability arising as a consequence of, a Bank Levy);
 - (ii) attributable to FATCA Deduction required to be made by a Party; or
 - (iii) not notified to the Company in accordance with sub-paragraph (a)(i) above.

(c) In this Agreement:

(i) Increased Cost means:

- (A) an additional or increased cost;
- (B) a reduction in any amount due, paid or payable to the Claiming Party under any Interim Finance Document; or
- (C) a reduction in the rate of return from an Interim Revolving Facility or on the Claiming Party's (or its Affiliates') overall capital,

suffered or incurred by a Claiming Party (or any Affiliate of it) as a result of it having entered into or performing its obligations under any Interim Finance Document or making or maintaining its participation in any Interim Loan or Bank Guarantee;

(ii) Basel III means:

- (A) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
- (B) the rules for global systemically important banks contained in "**Global systemically important banks: assessment methodology and the additional loss absorbency requirement Rules text**" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
- (C) any further guidance or standards published by the Basel Committee on Banking Supervision relating to Basel III; and

(iii) CRD IV means:

- (A) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012; and Directive 2013/36/EU of the European Parliament and of the Council of 26 June
- (B) 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

11.2 Mitigation

(a) If

(i) circumstances arise which entitle an Interim Finance Party:

- (A) to receive payment of an additional amount under Clause 10 (*Taxes*);

- (B) to demand payment of any amount under Clause 11.1 (*Increased Costs*); or
- (C) to require cancellation or prepayment to it of any amount under Clause 11.3 (*Illegality*),

then that Interim Finance Party will, in consultation with the Company, take all reasonable steps to mitigate the effect of those circumstances (including by transferring its rights and obligations under the Interim Finance Documents to an Affiliate or changing its Facility Office or transferring its Interim Commitments and participation in each Interim Utilisation for cash at par plus all accrued but unpaid interest thereon to another bank, financial institution or other person nominated for such purpose by the Company).

- (b) No Interim Finance Party will be obliged to take any such steps or action if to do so is likely in its opinion (acting in good faith) to be unlawful or to have an adverse effect on its business, operations or financial condition or breach its banking policies or require it to disclose any confidential information.
- (c) The Company shall (or shall procure that another Group Company will), within five Business Days of demand by the relevant Interim Finance Party, indemnify such Interim Finance Party for any costs or expenses reasonably incurred by it as a result of taking any steps or action under this Clause 11.2.
- (d) This Clause 11.2 does not in any way limit, reduce or qualify the obligations of the Company under the Interim Finance Documents.

11.3 Illegality

If after the date of this Agreement (or if later, the date the relevant Interim Lender became a Party) it becomes unlawful in any applicable jurisdiction for an Interim Finance Party to participate in an Interim Revolving Facility, maintain its Interim Commitment or participation in any Interim Utilisation or perform any of its obligations under any Interim Finance Documents, then:

- (a) that Interim Finance Party shall promptly so notify the Interim Revolving Facility Agent and the Company upon becoming aware of that event; and
- (b) the Company shall prepay that Interim Finance Party's participation in all outstandings under the Interim Revolving Facility (together with any related accrued interest) and pay (or procure payment of) all other amounts due to that Interim Finance Party under the Interim Finance Documents and that Interim Finance Party's Interim Commitment will be cancelled, in each case, to the extent necessary to cure the relevant illegality and, on the date specified by that Interim Finance Party in such notice (being the last Business Day immediately prior to the illegality taking effect or the latest date otherwise allowed by the relevant law (taking into account any applicable grace period)) unless otherwise agreed or required by the Company, provided that on or prior to such date the Company shall have the right to require that Interim Lender to transfer its Interim Commitments and participation in each Interim Utilisation to another bank, financial institution or other person nominated for such purpose by the Company which has agreed to purchase such rights and obligations at par plus accrued interest.

12 PAYMENTS

12.1 Place

- (a) Unless otherwise specified in an Interim Finance Document, on each date on which payment is to be made by any Party (other than the Interim Revolving Facility Agent)

under an Interim Finance Document, such Party shall pay, in the required currency, the amount required to the Interim Revolving Facility Agent, for value on the due date at such time and in such funds as the Interim Revolving Facility Agent may specify to the Party concerned as being customary at that time for settlement of transactions in the relevant currency in the place of payment. All such payments shall be made to the account specified by the Interim Revolving Facility Agent for that purpose in the principal financial centre of the country of the relevant currency (or in relation to euro or US Dollars, London).

- (b) Each payment received by the Interim Revolving Facility Agent under the Interim Finance Documents for another Party shall, subject to paragraphs (c) and (d) below and to Clause 12.3 (*Assumed receipt*), be made available by the Interim Revolving Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of an Interim Lender, for the account of its Facility Office), to such account as that Party may notify to the Interim Revolving Facility Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro or US Dollars, London).
- (c) The Interim Revolving Facility Agent may with the consent of the Company (or in accordance with Clause 20 (*Set-Off*)) apply any amount received by it for the Company in or towards payment (as soon as practicable after receipt) of any amount then due and payable by the Company under the Interim Finance Documents or in or towards purchase of any amount of any currency to be so applied.
- (d) Each Agent may deduct from any amount received by it for another Party any amount due to such Agent from that other Party but unpaid and apply the amount deducted in payment of the unpaid debt owed to it.

12.2 Currency of payment

- (a) Subject to paragraphs (b) to (e) (inclusive) below, Sterling is the currency of account and payment of any sum due from an Obligor under any Interim Finance Documents shall be made in Sterling.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes were incurred.
- (c) Each repayment of an Interim Utilisation or overdue amount or payment of interest thereon shall be made in the currency of the Interim Utilisation or overdue amount.
- (d) Each payment under Clauses 10.1 (*Gross-up*), 10.2 (*Tax indemnity*) or 11.1 (*Increased Costs*) shall be made in the currency specified by the Interim Finance Party making the claim (being the currency in which the Tax or losses were incurred).
- (e) Any amount expressed in the Interim Finance Documents to be payable in a particular currency shall be paid in that currency.

12.3 Assumed receipt

- (a) Where an amount is or is required to be paid to the Interim Revolving Facility Agent under any Interim Finance Document for the account of another person (the Payee), the Interim Revolving Facility Agent is not obliged to pay that amount to the Payee until the Interim Revolving Facility Agent is satisfied that it has actually received that amount.
- (b) If the Interim Revolving Facility Agent nonetheless pays that amount to the Payee (which it may do at its discretion) and the Interim Revolving Facility Agent had not in fact received that amount, then the Payee will on demand refund that amount to the

Interim Revolving Facility Agent (together with interest on that amount at the rate determined by the Interim Revolving Facility Agent to be equal to the cost to the Interim Revolving Facility Agent of funding that amount for the period from payment by the Interim Revolving Facility Agent until refund to the Interim Revolving Facility Agent of that amount), provided that no Obligor will have any obligation to refund any such amount received from the Interim Revolving Facility Agent and paid by it (or on its behalf) to any third party for a

12.4 No set-off or counterclaim

All payments made or to be made by an Obligor under the Interim Finance Documents must be paid in full without (and free and clear of any deduction for) set-off or counterclaim.

12.5 Business Days

- (a) If any payment would otherwise be due under any Interim Finance Document on a day which is not a Business Day, that payment shall be due 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 such extension of the due date for payment of any principal or overdue amount, or any extension of an Interest Period, interest shall accrue and be payable at the rate payable on the original due date.

12.6 Change in 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:
 - (i) any reference in any Interim Finance Document to, and any obligations arising under any Interim Finance Document in, the currency of that country shall be translated into, and paid in, the currency or currency unit designated by the Interim Revolving Facility Agent (after consultation with the Company); 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 of that country for the conversion of that currency or currency unit into the other, rounded up or down by the Interim Revolving Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, the Interim Finance Documents will, to the extent the Interim Revolving Facility Agent specifies is necessary (acting reasonably and after consultation with the Company), be amended to comply with any generally accepted conventions and market practice in any relevant interbank market and otherwise to reflect the change in currency. The Interim Revolving Facility Agent will notify the other Parties to the relevant Interim Finance Documents of any such amendment, which shall be binding on all the Parties.

12.7 Application of moneys

- (a) If the Interim Revolving Facility Agent receives a payment that is insufficient to discharge all amounts then due and payable by an Obligor under any Interim Finance Document, the Interim Revolving Facility Agent shall apply that payment towards the obligations of such Obligor under the Interim Finance Documents in the following order:
 - (i) first, in payment pro rata of any fees, costs and expenses of the Agents and the Arrangers due but unpaid;

- (ii) second, in payment pro rata of any fees, costs and expenses of the Interim Lenders, due but unpaid;
 - (iii) third, in payment pro rata of any accrued interest in respect of the Interim Revolving Facility, due but unpaid;
 - (iv) fourth, in payment pro rata of any principal due but unpaid under the Interim Revolving Facility and any amount due but unpaid under paragraph 11 (*Indemnities*) of Schedule 9 (*Bank Guarantees*); and
 - (v) fifth, in payment pro rata of any other amounts due but unpaid under the Interim Finance Documents to the extent such sum constitutes Interim Liabilities.
- (b) The Interim Revolving Facility Agent shall if directed by all the Interim Lenders, vary the order set out in sub-paragraphs (a)(ii) to (a)(v) inclusive above.
 - (c) Any such application by the Interim Revolving Facility Agent will override any appropriation made by an Obligor.
 - (d) Any amount recovered under the Interim Security Documents will be paid to the Interim Revolving Facility Agent to be applied as set out in paragraph (a) above.

13 FEES AND EXPENSES

13.1 Costs and expenses

The Company shall (or shall procure that another Group Company will) pay to the Interim Revolving Facility Agent, within ten Business Days of demand, for the account of the Interim Finance Parties the amount of all reasonable costs and expenses (including legal fees subject to any agreed limits) properly incurred by them or any of their Affiliates in connection with:

- (a) the negotiation, preparation, printing, execution and perfection of any Interim Finance Document and other documents contemplated by the Interim Finance Documents executed after the date of this Agreement; and
- (b) any amendment, waiver or consent made or granted in connection with the Interim Finance Documents,

provided that if the Interim Revolving Facility is not drawn no such costs and expenses will be payable (other than legal costs up to a cap separately agreed in writing).

13.2 Enforcement costs

The Company shall (or shall procure that another Group Company will) pay to each Interim Finance Party, within five Business Days of demand, the amount of all costs and expenses (including legal fees reasonably incurred) properly incurred by it in connection with the enforcement of, or the preservation of any rights under, any Interim Finance Document and any proceedings instituted by or against the Interim Security Agent as a consequence of taking or holding the Interim Security or enforcing these rights.

13.3 Amendment costs

The Company shall (or shall procure that another Group Company will) pay to the Interim Revolving Facility Agent, within ten Business Days of demand, all reasonable costs and expenses (including reasonable legal fees) properly incurred by the Interim Revolving Facility Agent or Interim Security Agent in connection with responding to, evaluating, negotiating or complying with any amendment, waiver or consent requested or required by the Company,

subject always to any limits as agreed between the Company and the Arrangers from time to time.

13.4 Commitment fee

- (a) The Company shall pay (or procure there is paid) to the Interim Revolving Facility Agent (for the account of each Interim Lender) a fee in Sterling computed at the rate of 35 per cent. of the applicable Margin on that Interim Lender's Available Interim Commitment under the Interim Revolving Facility for the period commencing on (and including) the Closing Date and ending on the last day of the Interim Revolving Facility Availability Period.
- (b) The accrued commitment fee is payable on the last day of the Interim Revolving Facility Availability Period and, if cancelled in full, on the cancelled amount of the relevant Interim Lender's Interim Commitment at the time the cancellation is effective.
- (c) No accrued commitment fee shall be payable if the Closing Date does not occur.
- (d) No commitment fee is payable to the Interim Revolving Facility Agent (for the account of an Interim Lender) on any Available Interim Commitment of that Interim Lender for any day on which that Interim Lender is a Defaulting Lender.

13.5 Other fees

The Company shall (or shall procure that another Group Company will) pay the Interim Finance Parties' fees in accordance with the Fee Letter.

13.6 Limitations

Notwithstanding anything to the contrary in any Interim Finance Document (including, without limitation, Clauses 13.1 (*Costs and expenses*) to 13.5 (*Other fees*) above):

- (a) no fees, costs, expenses or other amount shall be payable by any Group Company to any Interim Finance Party under any Interim Finance Document if the first Drawdown Date does not occur (save, in the case of legal fees, as otherwise agreed prior to the date of this Agreement);
- (b) any demand for reimbursement of costs and expenses incurred by an Interim Finance Party must be accompanied by reasonable details of the amount demanded (including, at the request of the Company, hours worked, rates charged and individuals involved); and
- (c) if an Interim Lender assigns or transfers any of its rights, benefits or obligations under the Interim Finance Documents, no Group Company shall be required to pay any fees, costs, expenses or other amounts relating to or arising in connection with that assignment or transfer (including, without limitation, any Taxes and any amounts relating to the perfection or amendment of the Interim Security Documents).

14 INDEMNITIES

14.1 General indemnity

The Company will (or shall procure that another Group Company will) indemnify each Interim Finance Party within three Business Days of demand (which demand must be accompanied by reasonable details and calculations of the amount demanded) against any loss or liability (not including loss of future Margin and/or profit) which that Interim Finance Party incurs as a result of:

- (a) the occurrence of any Major Event of Default;
- (b) the operation of Clause 19 (*Pro Rata Payments*);
- (c) any failure by any Obligor to pay any amount due under an Interim Finance Document on its due date;
- (d) any Interim Loan not being made for any reason (other than as a result of the fraud, default or negligence of that Interim Finance Party) on the Drawdown Date specified in the Drawdown Request requesting that Interim Loan;
- (e) any Interim Loan or overdue amount under an Interim Finance Document being repaid or prepaid otherwise than in accordance with a notice of prepayment given by an Obligor or otherwise than on the last day of the then current Interest Period relating to that Interim Loan or overdue amount, other than as a result of that Interim Lender failing to advance its participation pursuant to any Long-term Financing Agreement for the purposes of refinancing the Interim Revolving Facility; or
- (f) making arrangements to issue a Bank Guarantee requested by an Obligor in a Bank Guarantee Request but not issued by reason of the operation of any one or more provisions of this Agreement (other than by reason of the fraud, default or negligence of that Interim Finance Party),

including any loss on account of funds borrowed, contracted for or utilised to fund any Interim Loan or amount payable under any Interim Finance Document.

14.2 Currency indemnity

- (a) If:
 - (i) any amount payable by an Obligor under or in connection with any Interim Finance Document is received by any Interim Finance Party (or by an Agent on behalf of any Interim Finance Party) in a currency (the Payment Currency) other than that agreed in the relevant Interim Finance Document (the Agreed Currency), and the amount produced by such Interim Finance Party converting the Payment Currency so received into the Agreed Currency is less than the required amount of the Agreed Currency; or
 - (ii) any amount payable by an Obligor under or in connection with any Interim Finance Document has to be converted from the Agreed Currency into another currency for the purpose of making, filing, obtaining or enforcing any claim, proof, order or judgment,

that Obligor shall, as an independent obligation, within five Business Days of demand indemnify the relevant Interim Finance Party for any loss or liability incurred by it as a result of the conversion, provided that, if the amount produced or payable as a result of the conversion is greater than the relevant amount due, that Interim Finance Party will promptly refund such excess amount to the relevant Obligor.

- (b) Any conversion required will be made at the prevailing rate of exchange on the date and in the market determined by the relevant Interim Finance Party, acting reasonably, as being most appropriate for the conversion. The relevant Obligor will also, within five Business Days of demand, pay the reasonable costs of the conversion.
- (c) Each Obligor waives any right it may have in any jurisdiction to pay any amount under any Interim Finance Document in a currency other than that in which it is expressed to be payable in that Interim Finance Document.

14.3 Indemnity to the Interim Revolving Facility Agent

The Company shall (or shall procure that another Group Company will) within five Business Days of demand (which demand must be accompanied by reasonable details and calculations of the amount demanded), indemnify the Interim Revolving Facility Agent against any cost, loss or liability incurred by the Interim Revolving Facility Agent (acting reasonably) as a result of:

- (a) investigating any event which it reasonably believes is a Major Event of Default (provided that, if after doing so it is established that such event is not a Major Event of Default, the cost, loss or liability of investigation shall be for the account of the Interim Lenders); and
- (b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised,

except where the cost, loss or liability incurred by the Interim Revolving Facility Agent is a result of fraud, wilful misconduct, gross negligence or default of the Interim Revolving Facility Agent.

14.4 Indemnity to the Interim Security Agent

- (a) The Company shall (or shall procure that another Group Company will) within five Business Days of demand (which demand must be accompanied by reasonable details and calculations of the amount demanded), indemnify the Interim Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by the Interim Security Agent, Receiver or Delegate (acting reasonably) incurred as a result of:

- (i) the taking, holding, protection or enforcement of the Interim Security;
- (ii) the exercise of any of the rights, powers, discretions and remedies vested in the Interim Security Agent and each Receiver and Delegate by the Interim Finance Documents or by law; and
- (iii) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Interim Finance Documents,

except where, as the case may be, the cost, loss or liability incurred by the Interim Security Agent, Receiver and/or Delegate is a result of fraud, wilful misconduct, gross negligence or default of the Interim Security Agent, Receiver and/or Delegate.

- (b) The Interim Security Agent and, to the extent relevant, each other Interim Finance Party may, in priority to any payment to the Interim Finance Parties, indemnify itself out of the Charged Property over which it holds Interim Security in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 14.4 and shall have a lien on the Interim Security held by it and the proceeds of the enforcement of the Interim Security held by it for all moneys payable to it.

14.5 Transaction Indemnity for the Interim Security Agent

- (a) The Company shall (or shall procure that another Group Company will) within ten Business Days of demand indemnify and hold harmless the Interim Security Agent and any of their respective Affiliates and any of their directors, officers, agents, advisers and employees (as applicable) (each an Indemnified Person) against any cost, expense, loss, liability (including, except as specified below without limitation, legal fees and limited, in the case of legal fees and expenses, to one counsel to such Indemnified Persons taken as a whole and in the case of a conflict of interest, one additional counsel to the affected Indemnified Persons similarly situated, taken as a whole (and, if reasonably necessary one local counsel in any relevant jurisdiction) incurred by or awarded against such

Indemnified Person in each case arising out of or in connection with any action, claim, investigation or proceeding (including, without limitation, any action, claim, investigation or proceeding to preserve or enforce rights), commenced or threatened, relating to this Agreement, the Interim Revolving Facility or the Transaction or the use or proposed use of proceeds of the Interim Revolving Facility (except to the extent such cost, expense, loss or liability resulted (x) directly from fraud, the gross negligence or wilful misconduct of such Indemnified Person or results from such Indemnified Person breaching a term of or any of its obligations under this Agreement, the Interim Finance Documents, or the Commitment Documents or any confidentiality undertaking given by that Indemnified Person or (b) from or relates to any disputes solely among Indemnified Persons and not arising out of any act or omission of the Obligors or any other entity controlled by the Sponsor Investors).

- (b) If any event occurs in respect of which indemnification may be sought from the Company the relevant Indemnified Person shall only be indemnified if (where legally permissible to do so and without being under any obligation to do so to the extent that it is not lawfully permitted to do so) it:
 - (i) notifies the Company in writing within a reasonable time after the relevant Indemnified Person becomes aware of such event and this provision;
 - (ii) consults with the Company fully and promptly with respect to the conduct of the relevant claim, action or proceeding;
 - (iii) conducts such claim, action or proceeding properly and diligently; and
 - (iv) does not settle any such claim, action or proceeding without the Company's prior written consent (such consent not to be unreasonably withheld).
- (c) The Indemnified Person shall also be entitled to appoint their own legal counsel in each applicable jurisdiction in respect of any such claim, action or proceeding.
- (d) The Contracts (Rights of Third Parties) Act 1999 shall apply to this Clause 14.5 so that each Indemnified Party may rely on it, subject always to the terms of Clause 29.6 (*Third Party Rights*) and 30 (*Governing Law*).
- (e) The Interim Finance Parties shall not have any duty or obligation, whether as fiduciary for any Indemnified Person or otherwise, to recover any payment made or required to be made under Clause 14.5.
- (f) No Indemnified Person shall be responsible or have any liability to the Company or any of its Affiliates or anyone else for consequential losses or damages.

15 SUBORDINATION

- (a) All Subordinated Shareholder Liabilities shall be subordinated and postponed to all Interim Liabilities and any amounts received in respect of the Subordinated Shareholder Liabilities shall be applied in accordance with 12.7 (*Application of moneys*).
- (b) If paragraph (a) above applies, Holdco will:
 - (i) pay all payments under or in respect of the Subordinated Shareholder Documents (as relevant) in cash or in kind received by or on behalf of it from any Obligor (or any liquidator, administrator, receiver or similar official of such debtor or its assets) over to the Interim Revolving Facility Agent for application in the order set out in Clause 12.7 (*Application of moneys*); and

- (ii) direct the trustee in bankruptcy, liquidator, administrator, receiver or other person distributing the assets of any Obligor or their proceeds to make payments in respect of the Subordinated Shareholder Documents direct to the Interim Revolving Facility Agent until all Interim Liabilities have been paid in full.
- (c) To the fullest extent permitted under mandatory provisions of applicable law, and if an Obligor is or becomes the subject of an event referred to in paragraph 5, 6 or 7 of Part III of Schedule 5 (*Major Representations, Undertakings and Events of Default*) following an Acceleration Notice, the Interim Security Agent is hereby irrevocably authorised on behalf of Holdco to, until all Interim Liabilities have been paid in full:
 - (i) claim, enforce and prove for liabilities in respect of the Subordinated Shareholder Liabilities owed by the Company;
 - (ii) exercise all powers of convening meetings, voting and representation in respect of liabilities in respect of the Subordinated Shareholder Liabilities and the Company under the Subordinated Shareholder Documents will provide all forms of proxy and of representation requested by the Interim Security Agent for that purpose;
 - (iii) file claims and proofs, give receipts and take all such proceedings and do all such things as the Interim Security Agent considers reasonably necessary to recover any liabilities in respect of the Subordinated Shareholder Liabilities; and
 - (iv) receive all distributions in respect of the Subordinated Shareholder Documents for application in accordance with this Agreement.

16 SECURITY AND GUARANTEE

16.1 Responsibility

The Interim Security Agent is not liable or responsible to any other Interim Finance Party for:

- (a) any failure in perfecting or protecting the Security Interest created by any Interim Security Document; or
- (b) any other action taken or not taken by it in connection with an Interim Security Document.

16.2 Possession of documents

The Interim Security Agent is not obliged to hold in its own possession any Interim Security Document, title deed or other document in connection with any asset over which a Security Interest is intended to be created by an Interim Security Document. Without prejudice to the above, the Interim Security Agent may allow any bank providing safe custody services or any professional adviser to the Interim Security Agent to retain any of those documents in its possession.

16.3 Investments

Except as otherwise provided in any Interim Security Document, all moneys received by the Interim Security Agent under the Interim Finance Documents may be:

- (a) invested in the name of, or under the control of, the Interim Security Agent in any investment for the time being authorised by English law for the investment by trustees of trust money or in any other investments which may be selected by the Interim Security Agent with the consent of the Majority Interim Lenders; or

- (b) placed on deposit in the name of, or under the control of, the Interim Security Agent at such bank or institution (including any other Interim Finance Party) and upon such terms as the Interim Security Agent may think fit.

16.4 Conflict with Interim Security Documents

If there is any conflict between the provisions of this Agreement and any Interim Security Document with regard to instructions to or other matters affecting the Interim Security Agent, this Agreement will prevail.

16.5 Enforcement of Interim Security Documents

- (a) The Security Interests granted pursuant to the Interim Security Documents may only be enforced if an Acceleration Notice has been given to an Obligor and remains outstanding.
- (b) If the Interim Security is being enforced pursuant to paragraph (a) above, the Interim Security Agent shall enforce the Interim Security in such manner as the Majority Interim Lenders shall instruct, or, in the absence of any such instructions, as the Interim Security Agent sees fit.
- (c) Subject to Clause 18 (*Agents and Arranger*), each Interim Finance Party (other than the Interim Security Agent) agrees not to enforce independently or exercise any rights or powers arising under an Interim Security Document except through the Interim Security Agent and in accordance with the Interim Finance Documents.

16.6 Manner of enforcement

If the Interim Security is being enforced pursuant to Clause 16.5 (*Enforcement of Interim Security Documents*), the Interim Security Agent shall enforce the Interim Security in such manner (including, without limitation, the selection of any administrator (or any analogous officer in any jurisdiction) of any Obligor to be appointed by the Interim Security Agent) as the Majority Interim Lenders shall instruct, or in the absence of any such instructions, as the Interim Security Agent considers in its discretion to be appropriate.

16.7 Guarantee and indemnity

The provisions of Schedule 4 (*Guarantee and Indemnity*) are incorporated into this Clause 16 by reference.

17 APPLICATION OF PROCEEDS

17.1 Order of Application

All moneys from time to time received or recovered by the Interim Security Agent pursuant to any Interim Finance Document or in connection with the realisation or enforcement of all or any part of the Interim Security shall be held by the Interim Security Agent on trust to apply them at such times as the Interim Security Agent (in its discretion) sees fit, to the extent permitted by applicable law, in the following order of priority:

- (a) in discharging any sums owing to the Interim Security Agent (in its capacity as trustee), any Receiver or any Delegate;
- (b) in payment to the Interim Revolving Facility Agent, on behalf of the Interim Finance Parties, for application towards the discharge of all sums due and payable by any Obligor under any of the Interim Finance Documents which constitute Interim Liabilities;

- (c) if none of the Obligor is under any further actual or contingent liability under any Interim Finance Document, in payment to any person to whom the Interim Security Agent is obliged to pay in priority to any Obligor; and
- (d) the balance, if any, in payment to the relevant Obligor.

17.2 Investment of Proceeds

Prior to the application of the proceeds of the Interim Security in accordance with Clause 17.1 (*Order of Application*) the Interim Security Agent may, at its reasonable discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Interim Security Agent or Interim Revolving Facility Agent with any financial institution (including itself) and for so long as the Interim Security Agent thinks fit (the interest being credited to the relevant account) pending the application from time to time of those monies at the Interim Security Agent's discretion in accordance with the provisions of this Clause 17.

17.3 Currency Conversion

- (a) For the purpose of or pending the discharge of any of the obligations secured pursuant to the Interim Security, the Interim Security Agent may convert any moneys received or recovered by the Interim Security Agent from one currency to another, at the spot rate at which the Interim Security Agent is able to purchase the currency in which the obligations secured pursuant to the Interim Security are due with the amount received.
- (b) The obligations of any Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

17.4 Permitted Deductions

The Interim Security Agent shall be entitled (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of Tax or otherwise) which it is or may be required by any applicable law or regulation to make from any distribution or payment made by it under this Agreement, and to pay all Tax which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties, or exercising its rights, powers, authorities and discretions, or by virtue of its capacity as Interim Security Agent under any of the Interim Finance Documents or otherwise (except in connection with its remuneration for performing its duties under this Agreement).

17.5 Discharge of Secured Obligations

- (a) Any payment to be made in respect of the obligations secured pursuant to the Interim Security by the Interim Security Agent may be made to the Interim Revolving Facility Agent on behalf of the Interim Lenders and that payment shall be a good discharge to the extent of that payment, to the Interim Security Agent.
- (b) The Interim Security Agent is under no obligation to make payment to the Interim Revolving Facility Agent in the same currency as that in which any sum due and payable but unpaid by an Obligor under the Interim Documents is denominated.

17.6 Sums received by Obligor

If any of the Obligor receives any sum which, pursuant to any of the Interim Finance Documents, should have been paid to the Interim Security Agent, that sum shall promptly be paid to the Interim Security Agent for application in accordance with this Clause 17.

17.7 Application and consideration

The Interim Security Agent agrees with each Obligor to apply all moneys from time to time paid by such Obligor to the Interim Security Agent in accordance with the provisions of Clause 17.1 (*Order of Application*).

18 AGENTS AND ARRANGER

18.1 Appointment of Agents

- (a)** Each Interim Finance Party (other than the relevant Agent) irrevocably authorises and appoints each Agent:

 - (i)** to act as its agent under and in connection with the Interim Finance Documents (and in the case of the Interim Security Agent to act as its agent and/or trustee for the purposes of the Interim Security Documents) subject to 17.11 (Role of the Interim Security Agent) with respect to the Interim Security Documents;
 - (ii)** to execute and deliver such of the Interim Finance Documents and any other document related to the Interim Finance Documents as are expressed to be executed by such Agent;
 - (iii)** to execute for and on its behalf any and all Interim Security Documents and any other agreements related to the Interim Security Documents, including, without limitation, the release of the Interim Security Documents; and
 - (iv)** to perform the duties and to exercise the rights, powers and discretions which are specifically delegated to such Agent by the terms of the Interim Finance Documents, together with all other incidental rights, powers and discretions.
- (b)** Each Interim Finance Party:

 - (i)** (other than the Interim Revolving Facility Agent, the Interim Security Agent and the Arranger) irrevocably authorises and appoints, severally, each of the Agents and the Arranger to accept on its behalf the terms of any reliance, non-reliance, hold harmless or engagement letter relating to any report, certificate or letter provided by accountants, auditors or other professional advisers in connection with any of the Interim Finance Documents or any related transactions and to bind such Interim Finance Party in respect of the addressing or reliance or limitation of liability of any person under any such report, certificate or letter; and
 - (ii)** accepts the terms and any limitation of liability or qualification in the reports or any reliance, non-reliance, hold harmless or engagement letter entered into by any of the Agents and/or the Arranger (whether before or after such Interim Finance Party became party to this Agreement) in connection with the Interim Finance Documents.
- (c)** The relationship between each Agent and the other Interim Finance Parties is that of principal and agent only. Except as specifically provided in the Interim Finance Documents, no Agent shall:

 - (i)** have, or be deemed to have, any obligations to, or trust or fiduciary relationship with, any other Party or other person, other than those for which specific provision is made by the Interim Finance Documents; or
 - (ii)** be bound to account to any other Interim Finance Party for any sum or the profit element of any sum received by it for its own account.

- (d) Neither Agent is authorised to act on behalf of an Interim Finance Party in any legal or arbitration proceedings relating to any Interim Finance Document without first obtaining that Interim Finance Party's consent except in any proceedings for the protection, preservation or enforcement of any Interim Security Document otherwise permitted by this Agreement..

18.2 Agents' duties

- (a) Each Agent will only have those duties which are expressly specified in the Interim Finance Documents. The duties of the Agents are solely of a mechanical and administrative nature.
- (b) Each Agent shall promptly send to each other Interim Finance Party a copy of each notice or document delivered to that Agent by an Obligor for that Interim Finance Party under any Interim Finance Document.
- (c) Each Agent shall, subject to any terms of this Agreement which require the consent of all the Interim Lenders or of any particular Interim Finance Party:
 - (i) act or refrain from acting in accordance with any instructions from the Majority Interim Lenders and any such instructions shall be binding on all the Interim Finance Parties; and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with the instructions of the Majority Interim Lenders.
- (d) In the absence of any such instructions from the Majority Interim Lenders (or if required all Interim Lenders), each Agent may act or refrain from acting as it considers to be in the best interests of the Interim Lenders and any such action (or omission) shall be binding on all Interim Finance Parties.

18.3 Agents' rights

Each Agent may:

- (a) act under the Interim Finance Documents by or through its personnel, delegates or agents (and any indemnity given to, or received by, an Agent under this Agreement extends also to its personnel, delegates or agents who may rely on this provision);
- (b) except as expressly provided to the contrary in any Interim Finance Document, refrain from exercising any right, power or discretion vested in it under the Interim Finance Documents until it has received instructions from the Majority Interim Lenders or, where relevant, all the Interim Lenders;
- (c) unless it has received notice to the contrary in accordance with this Agreement, treat the Interim Lender which makes available any portion of an Interim Loan as the person entitled to repayment of that portion (and any interest, fees or other amounts in relation thereto);
- (d) notwithstanding any other term of an Interim Finance Document, refrain from doing anything (including disclosing any information to any Interim Finance Party or other person) which would or might in its opinion breach any law, regulation, court judgment or order or any confidentiality obligation, or otherwise render it liable to any person, and it may do anything which is in its opinion necessary to comply with any such law, regulation, judgment, order or obligation;

- (e) assume that no Major Event of Default has occurred, unless it has received notice from another Party stating that a Major Event of Default has occurred and giving details of such Major Event of Default;
- (f) refrain from acting in accordance with the instructions of the Majority Interim Lenders or all the Interim Lenders until it has been indemnified and/or secured to its satisfaction against all costs, losses or liabilities (including legal fees and any associated VAT) which it may sustain or incur as a result of so acting;
- (g) rely on any notice or document believed by it to be genuine and correct and assume that any notice or document has been correctly and appropriately authorised and given;
- (h) rely on any statement made by any person regarding any matter which might reasonably be expected to be within such person's knowledge or power to verify;
- (i) engage, obtain, rely on and pay for any legal, accounting or other expert advice or services which may seem necessary to it;
- (j) at any time, and it shall if instructed by the Majority Interim Lenders, convene a meeting of the Interim Lenders;
- (k) accept without enquiry (and has no obligation to check) any title which any Obligor may have to any asset intended to be the subject of any Security Interest to be created by the Interim Security Documents; and
- (l) deposit any title deeds, transfer documents, share certificates, Interim Security Documents or any other documents in connection with any of the assets charged by the Interim Security Documents with any bank or financial institution or any company whose business includes undertaking the safe custody of deeds or documents or with any lawyer or firm of lawyers or other professional advisers (each, a custodian) and it shall not be responsible or liable for or be required to insure against any loss incurred in connection with any such deposit or the misconduct or default of any such custodian and it may pay all amounts required to be paid on account or in relation to any such deposit.

18.4 Exoneration of the Arranger and the Agents

Neither the Arranger nor the Agents are:

- (a) responsible for, or responsible for checking, the adequacy, accuracy or completeness of:
 - (i) any representation, warranty, statement or information (written or oral) made in or given in connection with any report, any Interim Finance Document or any notice or document delivered in connection with any Interim Finance Document or the transactions contemplated thereby; or
 - (ii) any notice, accounts or other document delivered under any Interim Finance Document (irrespective of whether the relevant Agent forwards that notice, those accounts or other documents to another Party);
- (b) responsible for the validity, legality, adequacy, accuracy, completeness, enforceability, admissibility in evidence or performance of any Interim Finance Document or any agreement or document entered into or delivered in connection therewith;
- (c) under any obligation or duty either initially or on a continuing basis to provide any Interim Finance Party with any credit, financial or other information relating to an Obligor or any other Group Company or any member of the Target or any risks arising

in connection with any Interim Finance Document, except as expressly specified in this Agreement;

- (d) obliged to monitor or enquire as to the occurrence or continuation of a Major Event of Default;
- (e) deemed to have knowledge of the occurrence of a Major Event of Default unless it has received notice from another Party stating that a Major Event of Default has occurred and giving details of such Major Event of Default;
- (f) responsible for any failure of any Party duly and punctually to observe and perform their respective obligations under any Interim Finance Document;
- (g) responsible for the consequences of relying on the advice of any professional advisers selected by it in connection with any Interim Finance Document;
- (h) responsible for any shortfall which arises on the enforcement or realisation of the Interim Security;
- (i) liable for acting (or refraining from acting) in what it believes to be in the best interests of the Interim Finance Parties in circumstances where it has not been given instructions by the Interim Lenders or the Majority Interim Lenders (as the case may be);
- (j) liable to any Interim Finance Party for anything done or not done by it under or in connection with any Interim Finance Document, save to the extent directly caused by its own fraud, negligence or wilful misconduct; or
- (k) under any obligation to enquire into or check the title of any Obligor to, or to insure, any assets or property or any interest therein which is or is purported to be subject to any Security Interest constituted, created or evidenced by any Interim Security Document..

18.5 The Arranger and the Agents individually

- (a) If it is an Interim Lender, the Arranger and each of the Agents has the same rights and powers under the Interim Finance Documents as any other Interim Lender and may exercise those rights and powers as if it were not also acting as the Arranger or an Agent.
- (b) Each of the Agents and the Arranger may:
 - (i) retain for its own benefit and without liability to account to any other person any fee, profit or other amount received by it for its own account under or in connection with the Interim Finance Documents or any of the activities referred to in sub-paragraph (ii) below; and
 - (ii) accept deposits from, lend money to, provide any advisory, trust or other services to or engage in any kind of banking or other business with the Company or any other Group Company (or Affiliate of the Company or any other Group Company) or other Party (and, in each case, may do so without liability to account to any other person).
- (c) Except as otherwise expressly provided in this Agreement, no Arranger in its capacity as such has any obligation or duty of any kind to any other Party under or in connection with any Interim Finance Document.

18.6 Communications and information

- (a) All communications to the Company (or any Affiliate of the Company) under or in connection with the Interim Finance Documents are, unless otherwise specified in the relevant Interim Finance Document, to be made by or through the Interim Revolving Facility Agent. Each Interim Finance Party will notify the Interim Revolving Facility Agent of, and provide the Interim Revolving Facility Agent with a copy of, any communication between that Interim Finance Party and the Company (or Affiliate of the Company) on any matter concerning the Interim Revolving Facility or the Interim Finance Documents.
- (b) No Agent will be obliged to transmit to or notify any other Interim Finance Party of any information relating to any Party which that Agent has or may acquire otherwise than in connection with the Interim Revolving Facility or the Interim Finance Documents.
- (c) In acting as agent for the Interim Lenders, each Agent's agency division will be treated as a separate entity from any of its other divisions or department (the Other Divisions). Any information relating to any Group Company acquired by any of the Other Divisions of an Agent or which in the opinion of that Agent is acquired by it otherwise than in its capacity as Agent under the Interim Finance Documents may be treated by it as confidential and will not be treated as information available to the other Interim Finance Parties.

18.7 Non-reliance

- (a) Each other Interim Finance Party confirms that it has made (and will continue to make) its own independent investigation and appraisal of the assets, business, financial condition and creditworthiness of the Group and the Target and of any risks arising under or in connection with any Interim Finance Document, and has not relied, and will not at any time rely, on the Arranger or any Agent:
 - (i) to assess the adequacy, accuracy or completeness of any information (whether oral or written) provided by or on behalf of the Company or any Group Company or any member of the Target Group under or in connection with any Interim Finance Document (whether or not that information has been or is at any time circulated to it by the Arranger or an Agent), or any document delivered pursuant thereto, including any contained in the Reports or the transactions contemplated thereby;
 - (ii) to assess whether that Interim Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Interim Finance Document;
 - (iii) to assess the assets, business, financial condition or creditworthiness of an Obligor, any Group Company, the Target or any other person; or
 - (iv) to assess the validity, legality, adequacy, accuracy, completeness, enforceability or admissibility in evidence of any Transaction Document or any document delivered pursuant thereto.
- (b) This Clause 18.7 is without prejudice to the responsibility of each Obligor for the information supplied by it or on its behalf under or in connection with the Interim Finance Documents and each Obligor remains responsible for all such information.
- (c) No Party (other than the relevant Agent) may take any proceedings against any officer, delegate, employee or agent of an Agent in respect of any claim it may have against that Agent or in respect of any act or omission by that officer, delegate, employee or agent in connection with any Interim Finance Document. Any officer, delegate, employee or agent

of an Agent may rely on this Clause 18.7 in accordance with the Contracts (Rights of Third Parties) Act 1999.

- (d) No Agent will be liable for any delay (or any related consequences) in crediting an account with an amount required under the Interim Finance Documents to be paid by that Agent if that 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 that Agent for that purpose.

18.8 Know your customer

Nothing in this Agreement shall oblige the Agents or the Arranger to carry out know your customer or other checks in relation to any person on behalf of any Interim Lender and each Interim Lender confirms to the Agents 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 Agents or the Arranger.

18.9 Agents' indemnity

- (a) Each Interim Lender shall on demand indemnify each Agent for its share of any cost, loss or liability incurred by the relevant Agent in acting, or in connection with its role, as Agent under the Interim Finance Documents, except to the extent that the cost, loss or liability is incurred as a result of the relevant Agent's fraud, negligence or wilful misconduct.
- (b) An Interim Lender's share of any such loss or liability shall be the proportion which:
 - (i) that Interim Lender's participation in the outstanding Interim Loan bears to the outstanding Interim Loan at the time of demand; or
 - (ii) if there is no outstanding Interim Loan at that time, that Interim Lender's Interim Commitment bears to the Total Interim Commitments at that time; or
 - (iii) if the Total Interim Commitments have been cancelled, that Interim Lender's Interim Commitment bore to the Total Interim Commitments immediately before being cancelled.
- (c) The provisions of this Clause 18.9 are without prejudice to any obligations of an Obligor to indemnify the Agents under the Interim Finance Documents.

18.10 Role of the Interim Security Agent

- (a) The Interim Security Agent declares that it shall hold the Interim Security on trust for itself and the other Interim Finance Parties on the terms contained in this Agreement and shall administer the Interim Security Documents for itself and the other Interim Finance Parties and will apply all payments and other benefits received by it under the Interim Security Documents in accordance with the Interim Finance Documents.
- (b) Each of the Parties agrees that the Interim Security Agent shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Interim Security Documents to which the Interim Security Agent is expressed to be a party (and no others shall be implied).
- (c) Each Interim Finance Party hereby authorizes the Interim Security Agent (whether or not by or through employees or agents):
 - (i) to exercise such rights, remedies, powers and discretions as are specifically delegated to or conferred upon the Interim Security Agent under the Interim

Security Document together with such powers and discretions as are reasonably incidental thereto; and

- (ii) to take such action on its behalf as may from time to time be authorized under or in accordance with the Interim Security Documents.
- (d) Each of the Interim Finance Parties hereby releases the Interim Security Agent from any restrictions on double representation and self-dealing under any applicable law, to make use of any authorization granted under this Agreement and to perform its duties and obligations as Interim Security Agent hereunder and under the Interim Security Documents. An Interim Finance Party which is barred by its constitutional documents or by-laws from granting such exemption shall notify the Interim Security Agent accordingly.
- (e) Each Interim Finance Party hereby ratifies and approves all acts and declarations previously done by the Interim Security Agent on such Interim Finance Party's behalf (including for the avoidance of doubt the declarations made by the Interim Security Agent as representative without power of attorney or representative for an yet unknown party in relation to the creation of any pledge on behalf and for the benefit of any Interim Finance Party as future pledgee or otherwise).
- (f) The Interim Security Agent shall not be liable for any failure, omission or defect in registering, protecting or perfecting any Security Interest constituted, created or evidenced by any Interim Security Document.
- (g) The Interim Security Agent has no duty or obligation to require the deposit with it of, or to hold, any title deeds, share certificates, transfer documents or other documents in connection with any asset charged or encumbered or purported to be charged or encumbered under any Interim Security Document.
- (h) Each Interim Finance Party confirms its approval of each Interim Security Document and authorises and directs the Interim Security Agent (by itself or by such person(s) as it may nominate) to execute and enforce the same as trustee (or agent) or as otherwise provided.
- (i) It is agreed that, in relation to any jurisdiction the courts of which would not recognise or give effect to the trust expressed to be created by this Agreement, the relationship of the Interim Finance Parties to the Interim Security Agent shall be construed as one of principal and agent but, to the extent permissible under the laws of such jurisdiction, that all the other provisions of this Agreement shall have full force and effect between the parties hereto.

19 PRO RATA PAYMENTS

19.1 Recoveries

Subject to Clause 19.3 (*Exceptions to sharing*), if any amount owing by any Obligor under any Interim Finance Document to an Interim Lender (the Recovering Interim Lender) is discharged by payment, set-off or any other manner other than through the Interim Revolving Facility Agent in accordance with Clause 12 (*Payments*) (the amount so discharged being a “**Recovery**”), then:

- (a) within three Business Days of receipt of the Recovery, the Recovering Interim Lender shall notify details of such Recovery to the Interim Revolving Facility Agent;
- (b) the Interim Revolving Facility Agent shall determine whether the amount of the Recovery is in excess of the amount which such Recovering Interim Lender should have received had such amount been paid to the Interim Revolving Facility Agent under Clause 12 (*Payments*) without taking account of any Tax which would have been

imposed on the Interim Revolving Facility Agent in relation to the Recovery (any such excess amount being the “**Excess Recovery**”);

- (c) within three Business Days of demand, the Recovering Interim Lender shall pay to the Interim Revolving Facility Agent an amount equal to the Excess Recovery;
- (d) the Interim Revolving Facility Agent shall treat that payment as if it was a payment made by the relevant Obligor to the Interim Lenders under Clause 12 (*Payments*) and distribute it to the Interim Lenders (other than the Recovering Interim Lender) accordingly; and
- (e) on a distribution by the Interim Revolving Facility Agent under paragraph (d) above of any payment received by a Recovering Interim Lender from an Obligor as between the relevant Obligor and the Recovering Interim Lender, the amount of the Excess Recovery shall be treated as not having been paid and (without double counting) that Obligor will owe the Recovering Interim Lender a debt (immediately due and payable) in an amount equal to the Excess Recovery.

19.2 Notification of Recovery

If any Recovery has to be wholly or partly refunded by the Recovering Interim Lender after it has paid any amount to the Interim Revolving Facility Agent under paragraph (c) of Clause 19.1 (*Recoveries*), each Interim Lender to which any part of the Excess Recovery (or amount in respect of it) was distributed will, on request from the Recovering Interim Lender, pay to the Recovering Interim Lender that Interim Lender's pro rata share of the amount (including any related interest) which has to be refunded by the Recovering Interim Lender.

19.3 Exceptions to sharing

Notwithstanding Clause 19.1 (*Recoveries*), no Recovering Interim Lender will be obliged to pay any amount to the Interim Revolving Facility Agent or any other Interim Lender in respect of any Recovery:

- (a) if it would not (after that payment) have a valid claim against an Obligor under paragraph (e) of Clause 19.1 (*Recoveries*) in an amount equal to the Excess Recovery; or
- (b) which it receives as a result of legal proceedings taken by it to recover any amounts owing to it under the Interim Finance Documents, which proceedings have been notified to the other Interim Finance Parties and where the Interim Lender concerned had a right and opportunity to, but does not, either join in those proceedings or promptly after receiving notice commence and diligently pursue separate proceedings to enforce its rights in the same or another court.

19.4 No security

The provisions of this Clause 19 shall not constitute a charge by any Interim Lender over all or any part of any amount received or recovered by it under any of the circumstances mentioned in this Clause 19.

20 SET-OFF

If a Major Event of Default has occurred and is continuing, an Interim Finance Party may set off any matured obligation (to the extent beneficially owned by the Interim Finance Party) due and payable by an Obligor to it under an Interim Finance Document against any matured obligation due and payable by it to that Obligor, regardless of currency, place of payment or booking

branch of either obligation. The relevant Interim Finance Party may convert either obligation at a market rate of exchange in its ordinary course of business in order to effect such set-off.

21 NOTICES

21.1 Mode of service

(a) Any notice, demand, consent or other communication (a Notice) made under or in connection with any Interim Finance Document must be in writing and made by letter or by facsimile transmission or any other electronic communication approved by the Interim Revolving Facility Agent or otherwise permitted pursuant to the terms of this Agreement.

(b) An electronic communication will be treated as being in writing for the purposes of this Agreement.

(c) The address and facsimile number of each Party (and person for whose attention the Notice is to be sent) for the purposes of Notices given under or in connection with the Interim Finance Documents are:

(i) in the case of the Company:

Address: [•]

Fax number: [•]

Email: [•]

Attention: [•]

With a copy to:

Weil Gotshal & Manges
110 Fetter Lane
London
EC4A 1AY

Email: tom.richards@weil.com

Attention: Tom Richards

(ii) in the case of the Interim Revolving Facility Agent and the Interim Security Agent:

Address: [•]

Fax number: [•]

Email: [•]

Attention: [•]

(iii) in the case of any other Interim Finance Party, the address and facsimile number notified in writing by that Interim Finance Party for this purpose to the Interim Revolving Facility Agent on or before the date it becomes a Party; or

(iv) any other address and facsimile number notified in writing by that Party for this purpose to the Interim Revolving Facility Agent (or in the case of the Interim

Revolving Facility Agent, notified by the Interim Revolving Facility Agent to the other Parties) by not less than five Business Days' notice.

- (d) Any Notice given to an Agent will be effective only:
 - (i) if it is marked for the attention of the department or officer specified by that Agent for receipt of Notices; and
 - (ii) subject to paragraph (b) of Clause 21.2 (*Deemed service*) below, when actually received by that Agent.

21.2 Deemed service

- (a) Subject to paragraph (b) below, a Notice will be deemed to be given as follows:
 - (i) if by letter or delivered personally, when delivered;
 - (ii) if by facsimile, when received in legible form;
 - (iii) if by email or any other electronic communication, when received in legible form; and
 - (iv) if by posting to an electronic website, at the time of notification to the relevant recipient of such posting or (if later) the time when the recipient was given access to such website.
- (b) A Notice given in accordance with paragraph (a) above but received on a day that is not a Business Day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.

21.3 Electronic communication

- (a) Any communication to be made between the Interim Revolving Facility Agent and an Interim Lender under or in connection with the Interim Finance Documents may be made by unencrypted electronic mail or other electronic means, if the Interim Revolving Facility Agent and the relevant Interim Lender:
 - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
 - (ii) 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
 - (iii) notify each other of any change to their address or any other such information supplied by them.
- (b) Any electronic communication made between the Interim Revolving Facility Agent and an Interim Lender will be effective only when actually received in readable form and in the case of any electronic communication made by an Interim Lender to the Interim Revolving Facility Agent only if it is addressed in such a manner as the Interim Revolving Facility Agent shall specify for this purpose.

21.4 Language

- (a) Any Notice must be in English.

- (b) All other documents provided under or in connection with any Interim Finance Document must be:
 - (i) in English; or
 - (ii) if not in English, accompanied by a certified English translation, in which case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

21.5 Personal liability

No personal liability shall attach to any director, officer, employee or other individual signing a certificate or other document on behalf of a Group Company which proves to be incorrect in any way, unless that individual acted fraudulently in giving that certificate or other document, in which case, any liability will be determined in accordance with applicable law.

22 CONFIDENTIALITY

- (a) Each Interim Finance Party will keep the Interim Finance Documents and any information supplied to it by or on behalf of any Group Company under the Interim Finance Documents confidential, provided that it may disclose any such document or information 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 Interim Finance Documents and to any of that person's Affiliates, related funds, representatives and professional advisers on a confidential basis (provided that such person has first entered into a confidentiality undertaking (in form and substance satisfactory to the Company) on which the Company is able to rely agreeing to keep such Interim Finance Document or other document or information confidential);
 - (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 Interim Finance Documents and/or one or more Obligors and to any of that person's Affiliates, related funds, representatives and professional advisers on a confidential basis (provided that such person has first entered into a confidentiality undertaking (in form and substance satisfactory to the Company) on which the Company is able to rely agreeing to keep such Interim Finance Document or other document or information confidential);
 - (iii) which is publicly available (other than by virtue of a breach of this Clause 22);
 - (iv) if and to the extent required by law or regulation or at the request of an administrative authority (including any tax or bank supervisory authority);
 - (v) to its auditors and professional advisers on a confidential basis;
 - (vi) to any direct or indirect Holding Company of the Company, any Party or any Group Company;
 - (vii) to the extent reasonably necessary in connection with any legal or arbitration proceedings to which it is a party;

- (viii) for the purpose of obtaining any consent, making any filing, registration or notarisation or paying any stamp or registration tax or fee in connection with any of the Interim Finance Documents;
 - (ix) with the agreement of the Company; or
 - (x) to any Affiliate (and any of their officers, directors, employees, professional advisers, auditors, partners and representatives) in connection with the transactions contemplated hereby, on an as needed and confidential basis.
- (b) This Clause 22 replaces any previous confidentiality undertaking given by any Interim Finance Party in connection with this Agreement prior to it becoming a Party.
 - (c) For reasons of technical practicality, electronic communication may be sent in unencrypted form, even if the content may be subject to confidentiality and banking secrecy.

23 KNOW YOUR CUSTOMER REQUIREMENTS

If:

- (a) 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;
- (b) any change in the status of the Obligors or the composition of the shareholders of the Obligors after the date of this Agreement; or
- (c) a proposed assignment or transfer by an Interim Lender of any of its rights and/or obligations under this Agreement to a party that is not an Interim Lender prior to such assignment or transfer,

obliges the Interim Revolving Facility Agent or any Interim Lender (or, in the case of subparagraph (a)(i) Clause 22 (*Confidentiality*) above, any prospective new Interim Lender) to comply with “**know your customer**” or similar identification procedures in circumstances where the necessary information is not already available to it, the Obligors must promptly on the request of any Interim Finance Party supply to that Interim Finance Party any documentation or other evidence which is reasonably requested by that Interim Finance Party (whether for itself, on behalf of any Interim Finance Party or any prospective new Interim Lender) to enable an Interim Finance Party or prospective new Interim Lender to carry out and be satisfied with the results of all applicable know your customer requirements.

24 REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

- (a) Each Obligor makes the representations and warranties stated in Part I (Major Representations) of Schedule 5 (*Major Representations, Undertakings and Events of Default*) in respect of itself only to each Interim Finance Party on, subject to paragraph (b) below, the date of this Agreement, the date of each Drawdown Request and the first day of each Interest Period, in each case by reference to the facts and circumstances existing at the relevant time.
- (b) Each Obligor makes the representation set out in paragraph (e) below on the date of this Agreement and on the Closing Date. For the avoidance of doubt, the representation in paragraph (e) below shall not constitute a Major Representation.
- (c) Each Obligor acknowledges that each Interim Finance Party is relying on the representations and warranties made by it.

- (d) Each Obligor agrees to be bound by the covenants set out in Part II (Major Undertakings) of Schedule 5 (*Major Representations, Undertakings and Events of Default*) relating to it.
- (e) None of the Obligors or any of their affiliates, or their respective directors or officers, or to the Obligors knowledge, their respective employees, representatives or agents:
 - (i) is a Restricted Person;
 - (ii) has engaged in any transaction, activity or conduct that could reasonably be expected to result in its being designated as a Restricted Person; and/or
 - (iii) has received written notice of any claim, action, suit, proceedings or investigation involving it with respect to Sanctions.
- (f) No Obligor shall directly or indirectly use the proceeds of the Interim Revolving Facility for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (g) No Obligor shall:
 - (i) contribute or otherwise make available all or any part of the proceeds of the Interim Revolving Facility, directly or indirectly, to, or for the benefit of, any Person (whether or not related to any member of the Group) for the purpose of financing the activities or business of, other transactions with, or investments in, any Restricted Person or in any Sanctioned Country, unless permitted or authorised under any applicable Sanctions;
 - (ii) fund all or part of any repayment or prepayment of the Interim Revolving Facility out of proceeds derived from any transaction with or action involving a Restricted Person; or
 - (iii) engage in any transaction, activity or conduct that would violate Sanctions, that would cause any Finance Party to be in breach of any Sanctions or that could reasonably be expected to result in it or any other member of the Parent Group or any Finance Party being designated as a Restricted Person.
- (h) The Company shall promptly notify the Interim Revolving Facility Agent of any Major Event of Default (and the steps, if any, being taken to remedy it) upon becoming aware of its occurrence.
- (i) Promptly upon a request by the Interim Revolving Facility Agent, if the Interim Revolving Facility Agent has reasonable grounds for believing there is an outstanding Major Event of Default, the Company shall supply to the Interim Revolving Facility Agent a certificate signed by an authorised signatory of the Company certifying that no Major Event of Default is continuing (or, if a Major Event of Default is continuing, specifying the Major Event of Default and the steps, if any, being taken to remedy it).
- (j) The Company acknowledges that, in entering into the Interim Finance Documents, the Obligors have not relied on any representation or warranty by any Interim Finance Party other than those set out in the Interim Finance Documents.
- (k) This Clause 24 shall not be interpreted or applied in relation to any Holding Company, any Obligor or any Group Company to the extent that the obligations of this Clause 24 would violate or expose such entity or any director, officer or employee thereof to any liability under anti-boycott or blocking law, regulation or statute that is in force from

time to time in the European Union (and/or any of its member states) and that are applicable to such entity including, without limitation, EU Regulation (EC) 2271/96.

- (l) As soon as reasonably practicable after the Completion Date and in any event within five Business Days thereof, the Company shall procure that the Target notifies the London Stock Exchange of the preferred date of cancellation of the listing of shares on the FTSE All-Share and FTSE Small Cap, such date being not later than twenty-one Business Days following such notification.

25 CHANGES TO PARTIES

25.1 No transfers by the Obligors

The Obligors may not assign, novate or transfer all or any part of their rights and obligations under any Interim Finance Documents.

25.2 Transfers by Interim Lenders

- (a) Subject to paragraph (b) below, an Interim Lender (an Existing Interim Lender) may assign any of its rights or benefits, or transfer by novation or sub-participate any of its rights or benefits and obligations under or by reference to any Interim 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 (a “**New Interim Lender**”).
- (b) Subject to paragraph (c) below, any assignment, transfer or sub-participation of any rights, benefits and/or obligations under or by reference to the Interim Finance Documents by an Interim Lender shall:
 - (i) on or prior to the Closing Date, require the prior written consent of the Company (in its sole discretion); and
 - (ii) after the Closing Date, require the prior written consent of the Company (such consent not to be unreasonably withheld or delayed) unless:
 - (A) such assignment, transfer or participation is to another Interim Lender or an Affiliate of an Interim Lender provided that such person is a deposit taking financial institution authorised by a financial services regulator; or
 - (B) a Major Event of Default has occurred and is continuing.

If the Company fails to respond to a request for a transfer, assignment, sub-participation or sub-contract within five Business Days of such request, such consent will be deemed to be granted.

- (c) An Interim Lender may only sub-participate or enter into other back-to-back arrangements with the prior written consent of the Company (in its sole discretion) or if:
 - (i) such sub-participation or other arrangement shall not reduce the Interim Commitments or other obligations of any Interim Finance Party with respect to any of the Interim Revolving Facility and each Interim Finance Party shall remain liable to fund the full amount of its commitments under the Interim Revolving Facility; and
 - (ii) such sub-participation or other arrangement is entered into with a person to whom the Interim Finance Party will be permitted to transfer commitments

under the Long-term Financing Agreements as agreed by the Company and as contemplated in the Commitment Letter;

- (iii) each Interim Finance Party retains exclusive control over all rights and obligations in relation to its Interim Commitments and the Interim Revolving Facility, including all rights in relation to waivers, consents and amendments and confirmations as to satisfaction of conditions precedent (for the avoidance of doubt, free of any agreement or understanding pursuant to which it is required to or will consult with any other person in relation to the exercise of any such rights and/or obligations).
- (d) The Company may require the Interim Finance Parties to provide information in reasonable detail regarding the identities and participations of each of the Interim Lenders and any sub-participants as soon as reasonably practicable after receipt of such request, provided that an Interim Lender shall not be required to disclose the identity of a sub-participant if that Interim Lender retains exclusive control over all rights and obligations in relation to the commitments that are the subject of the relevant sub-participation, including all voting rights (for the avoidance of doubt, free of any agreement or understanding pursuant to which it is required to or will consult with any other person in relation to the exercise of any such rights and/or obligations).
- (e) Each New Interim Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Interim Revolving Facility Agent has authority to execute on its behalf any consent, release, waiver or amendment that has been approved by the applicable Existing Interim Lender 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 agreement or consent to the same extent as the Existing Interim Lender would have been had it remained an Interim Lender.
- (f) Notwithstanding any other provision of this Agreement, no Obligor or other Group Company shall be liable to any other Party (by way of reimbursement, indemnity or otherwise) for any taxes, notarial and security registration or perfection fees, costs or other amounts payable by any Party in connection with any re-taking, re-notarisation, perfection, presentation, novation, re-registration of any Interim Security or otherwise in connection with any assignment, transfer or sub-participation (except where such assignment, transfer or sub-participation is at the request of an Obligor).
- (g) Notwithstanding any other provision in this Clause 25, if prior to the end of the Certain Funds Period, an Existing Interim Lender transfers or assigns any of its rights and obligations under any Interim Finance Document in accordance with this Clause 25, it shall remain on risk and liable to fund any amount which any New Interim Lender (or subsequent New Interim Lender), following such transfer of rights and obligations in accordance with this Clause 25, is obliged to fund on the Closing Date, but has failed to fund on that date, as if such transfer never occurred.
- (h) Any reference in this Agreement to an Interim Lender includes a New Interim Lender but excludes an Interim Lender if no amount is or may become owed to it under this Agreement.
- (i) Unless the Interim Revolving Facility Agent agrees otherwise and excluding an assignment or transfer:

 - (i) to an Affiliate of an Interim Lender; or
 - (ii) to a Related Fund,

the New Interim Lender shall, on or before the date upon which an assignment or transfer to it takes effect pursuant to this Clause 25, pay to the Interim Revolving Facility Agent (for its own account) a fee of £2,000.

25.3 Limitation of responsibility of Existing Interim Lenders

- (a) Unless expressly agreed to the contrary, an Existing Interim Lender makes no representation or warranty and assumes no responsibility to a New Interim Lender for:
 - (i) the legality, validity, effectiveness, adequacy or enforceability of the Transaction Documents, the Interim Security or any other document;
 - (ii) the financial condition of any Obligor;
 - (iii) the performance and observance by any Obligor or other Group Company 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 Interim Lender confirms to the Existing Interim Lender and the other Interim Finance 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 Interim Lender or any other Interim Finance Party in connection with any Transaction Document or the Interim 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 Interim Finance Documents or any Interim Commitment is in force.
- (c) Nothing in any Interim Finance Document obliges an Existing Interim Lender to:
 - (i) accept a re-transfer or re-assignment from a New Interim Lender of any of the rights and obligations assigned or transferred under this Clause 25; or
 - (ii) support any losses directly or indirectly incurred by the New Interim Lender by reason of the non-performance by any Obligor of its obligations under the Transaction Documents or otherwise.

25.4 Procedure for transfer

- (a) Subject to the conditions set out in paragraph (b) of Clause 25.2 (*Transfers by Interim Lenders*), a transfer is effected in accordance with paragraph (c) below when the Interim Revolving Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Interim Lender and the New Interim Lender. The Interim Revolving Facility 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 Interim Revolving Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Interim Lender and the New Interim Lender

once it is satisfied it has complied with all necessary “**know your customer**” or similar checks under all applicable laws and regulations in relation to the transfer to such New Interim Lender.

- (c) On the Transfer Date:
 - (i) to the extent that in the Transfer Certificate the Existing Interim Lender seeks to transfer by novation its rights and obligations under the Interim Finance Documents and in respect of the Interim Security each of the Obligors and the Existing Interim Lender shall be released from further obligations towards one another under the Interim Finance Documents and in respect of the Interim Security and their respective rights against one another under the Interim Finance Documents and in respect of the Interim Security shall be cancelled (being the Discharged Rights and Obligations);
 - (ii) each of the Obligors and the New Interim 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 Group Company and the New Interim Lender have assumed and/or acquired the same in place of that Obligor and the Existing Interim Lender;
 - (iii) the Interim Revolving Facility Agent, the Arranger, the Interim Security Agent, the New Interim Lender and the other Interim Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Interim Security as they would have acquired and assumed had the New Interim Lender been the Original Interim Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Interim Revolving Facility Agent, the Arranger, the Interim Security Agent and the Existing Interim Lender shall each be released from further obligations to each other under the Interim Finance Documents; and
 - (iv) the New Interim Lender shall become a Party as an “**Interim Lender**”.
- (d) If any assignment, transfer or sub-participation of any rights, benefits and/or obligations under or by reference to the Interim Finance Documents in accordance with Clause 25.2 (*Transfers by Interim Lenders*) is executed in breach of the provisions contemplated in this Clause 25, such assignment, transfer or sub-participation shall be void and deemed not to have occurred.

25.5 Procedure for assignment

- (a) Subject to the condition set out in paragraph (b) of Clause 25.2 (*Transfers by Interim Lenders*), an assignment may be effected in accordance with paragraph (c) below when the Interim Revolving Facility Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Interim Lender and the New Interim Lender. The Interim Revolving Facility 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 Interim Revolving Facility Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Interim Lender and the New Interim Lender once it is satisfied it has complied with all necessary “**know your customer**” or similar checks under all applicable laws and regulations in relation to the assignment to such New Interim Lender.
- (c) On the Transfer Date:

- (i) the Existing Interim Lender will assign absolutely to the New Interim Lender its rights under the Interim Finance Documents and in respect of the Interim Security expressed to be the subject of the assignment in the Assignment Agreement;
- (ii) the Existing Interim 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 Interim Security);
- (iii) the New Interim Lender shall become a Party as an “**Interim Lender**” and will be bound by obligations equivalent to the Relevant Obligations; and
- (iv) if the assignment relates only to part of the Existing Interim Lender’s share in the outstanding Interim Loans, the assigned part will be separated from the Existing Interim Lender’s share in the outstanding Interim Loans, made an independent debt and assigned to the New Interim Lender as a whole debt.

25.6 Copy of Transfer Certificate or Assignment Agreement to Company

The Interim Revolving Facility Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Company a copy of that Transfer Certificate or Assignment Agreement.

25.7 Increased costs

If:

- (a) an Interim Lender assigns, transfers, sub-participates or otherwise disposes of any of its rights or obligations under the Interim Finance Documents or changes its Facility Office; and
- (b) as a result of circumstances existing at the date the assignment, transfer, sub-participation or other change occurs, an Obligor would be obliged to make a payment or increased payment to the New Interim Lender or Interim Lender acting through its new Facility Office under Clauses 10.1 (*Gross-up*), 10.2 (*Tax indemnity*) or 11.1 (*Increased Costs*),

then the New Interim Lender or Interim Lender acting through its new Facility Office is only entitled to receive a payment under Clauses 10.1 (*Gross-up*), 10.2 (*Tax indemnity*) or 11.1 (*Increased Costs*) to the same extent the Existing Interim Lender or Interim Lender acting through its previous Facility Office would have been had the assignment, transfer, sub-participation or other change not occurred.

26 IMPAIR AND REPLACEMENT OF INTERIM FINANCE PARTIES

The provisions of Schedule 6 (*Impairment and Replacement of Interim Finance Parties*) are incorporated into this Clause 26 by reference.

27 CONDUCT OF BUSINESS BY THE INTERIM FINANCE PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Interim Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit; or

- (b) oblige any Interim Finance Party to investigate or claim any credit, relief, remission or repayment available to it or to the extent, order and manner of any claim; or
- (c) oblige any Interim Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

28 AMENDMENTS AND WAIVERS

28.1 Required consents

- (a) Subject to Clause 28.2 (*Exceptions*), any term of the Interim Finance Documents may be amended or waived only with the consent of the Majority Interim Lenders and any such amendment or waiver will be binding on all Parties.
- (b) The Interim Revolving Facility Agent may effect, on behalf of any Interim Finance Party, any amendment or waiver permitted by this Clause 28.

28.2 Exceptions

- (a) An amendment or waiver that has the effect of changing or which relates to:
 - (i) the definitions of “Majority Interim Lenders”;
 - (ii) Clause 5 (*Nature of an Interim Finance Party’s Rights and Obligations*), Clause 16.5 (*Enforcement of Interim Security Documents*), Clause 16.6 (*Manner of Enforcement*), Clause 16.7 (*Release of Security*), Clause 19 (*Pro Rata Payments*), Clause 25 (*Changes to Parties*), Clause 30 (*Governing Law*) and Clause 31 (*Jurisdiction*);
 - (iii) any change to the Obligors;
 - (iv) the order of priority or subordination under Clause 15 (*Subordination*);
 - (v) the nature or scope of:
 - (A) the Interim Security; or
 - (B) the manner in which the proceeds of enforcement of the Interim Security are distributed;
 - (vi) the release of any guarantee and indemnity granted under any Interim Security unless permitted under this Agreement or any other Interim Finance Document;
 - (vii) any provision which expressly requires the consent of all of the Interim Lenders;
 - (viii) this Clause 28; or
 - (ix) paragraph 8 (*Change of Control*) of Part III (*Major Events of Default*) of Schedule 5 (*Major Representations, Undertakings and Events of Default*),

shall not be made without the prior consent of all the Interim Lenders.
- (b) An amendment or waiver that has the effect of changing or relates to:
 - (i) an extension to the availability periods referred to herein or the date of payment of any amount under any Interim Finance Document;

- (ii) a reduction in the Margin or the amount of any payment to be made under any Interim Finance Document;
- (iii) an increase in or an extension of any Interim Commitment; or
- (iv) a change in currency of payment of any amount under the Interim Finance Documents,

shall only require the consent of each Interim Lender that is participating in that extension, reduction, increase or change.

- (c) An amendment or waiver which relates to the rights or obligations of the Interim Revolving Facility Agent, the Arranger or the Interim Security Agent may not be effected without the consent of the Interim Revolving Facility Agent, the Arranger or the Interim Security Agent, as applicable.
- (d) An amendment or waiver which relates to the rights or obligations of the Interim Revolving Facility Agent, the Arranger or the Interim Security Agent may not be effected without the consent of the Interim Revolving Facility Agent, the Arranger or the Interim Security Agent, as applicable.
- (e) Without prejudice to the Interim Revolving Facility Agent's right to seek instruction from the Interim Lenders from time to time, this Agreement and any other Interim Finance Document may be amended solely with the consent of the Interim Revolving Facility Agent and the Company without the need to obtain the consent of any other Interim Lender if such amendment is effected in order:
 - (i) to correct or cure ambiguities, errors, omissions, defects;
 - (ii) to effect administrative changes of a technical or immaterial nature; or
 - (iii) to fix incorrect cross references or similar inaccuracies in this Agreement or the applicable Interim Finance Document.

28.3 Excluded Commitment

If an Interim Lender does not either accept or reject a request from a Group Company (or the Interim Revolving Facility Agent on behalf of that Group Company) for any consent or agreement in relation to a release, waiver or amendment of any provisions of the Interim Finance Documents or other vote of Interim Lenders under the terms of the Interim Finance Documents within ten Business Days (or any other period of time specified by that Group Company but, if shorter than ten Business Days, as agreed by the Interim Revolving Facility Agent) of the date of such request being made (the last day of such period being the Exclusion Date), then that Interim Lender shall be automatically excluded from participating in that vote and its participations, Interim Commitments and vote (as the case may be) shall not be included (or, as applicable, required) with the Total Interim Commitments or otherwise when ascertaining whether the approval of Majority Interim Lenders, all Interim Lenders, or any other class of Interim Lenders (as applicable) has been obtained with respect to that request for a consent or agreement and its status as an Interim Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Interim Lenders has been obtained to approve the request.

29 MISCELLANEOUS

29.1 Partial invalidity

If any provision of the Interim Finance Documents is or becomes illegal, invalid or unenforceable in any jurisdiction that shall not affect the legality, validity or enforceability in

that jurisdiction of any other term of the Interim Finance Documents or the legality, validity or enforceability in other jurisdictions of that or any other term of the Interim Finance Documents.

29.2 Counterparts

This Agreement may be executed in any number of counterparts and all of those counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of a signed counterpart of this Agreement by email attachment or telecopy shall be an effective mode of delivery.

29.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of any Interim Finance Party, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

29.4 Complete agreement

The Interim Finance Documents contain the complete agreement between the Parties on the matters to which they relate and may not be amended except in writing signed by each party to the relevant Interim Finance Document.

29.5 No representations by Interim Finance Parties

No Interim Finance Party is liable to the Company for any representation or warranty that is not set out in the Interim Finance Documents, except for one made fraudulently by such Interim Finance Party.

29.6 Third party rights

- (a) Unless expressly provided to the contrary in an Interim Finance Document, a person who is not a party to an Interim Finance Document may not rely on or enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- (b) Notwithstanding any term of any Interim Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

30 GOVERNING LAW

This Agreement (and any non-contractual obligations arising out of or in relation to this Agreement), and any dispute or proceeding (whether contractual or non-contractual) arising out of or relating to this Agreement, shall be governed by English law.

31 JURISDICTION

31.1 Submission to jurisdiction

- (a) For the benefit of each Interim Finance Party, the Obligors each agree that the courts of England have exclusive jurisdiction to hear, decide and settle any dispute or proceedings arising out of or relating to this Agreement (including as to existence, validity or termination) and for the purpose of enforcement or any judgment against its assets, each Obligor irrevocably submits to the jurisdiction of the English courts.
- (b) Nothing in paragraph (a) above limits or prevents any Interim Finance Party from taking proceedings against the Obligors in any other court nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other

jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.

- (c) Paragraph (b) above does not confer any rights on an Interim Finance Party against any Obligor incorporated in France.

31.2 Forum

The Obligors each:

- (a) agree that the courts of England are the most appropriate and convenient courts to settle any Dispute and waive any objection to the courts of England on grounds of inconvenient forum or otherwise; and
- (b) agree that a judgment or order of an English court in connection with a Dispute is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

31.3 Specific performance

Each Interim Finance Party acknowledges and agrees that:

- (a) each Obligor may be irreparably harmed by a breach of any term of the Interim Finance Documents and damages may not be an adequate remedy; and
- (b) each Obligor may be granted an injunction or specific performance for any threatened or actual breach of any term of the Interim Finance Documents.

This Agreement has been entered into on the date stated at the beginning of this Agreement and executed as a deed by the Obligors and Holdco and is intended to be and is delivered by them as a deed on the date specified above.

SCHEDULE 1

DEFINITIONS AND INTERPRETATION

1 Definitions

“Acceleration Notice” has the meaning given to such term in sub-paragraph (a)(i) of Clause 7.1 (*Repayment*).

“Acceptance Condition” means the condition with respect to the number of acceptances to the Offer which must be secured to declare the Offer unconditional as to acceptances which shall not be capable of being satisfied unless the Minimum Acceptance Condition is satisfied.

“Acquisition” means the acquisition of the Target from the Vendors pursuant to the Scheme or, where applicable, the Offer.

“Affiliate” means:

- (a) in relation to any person other than an Interim Finance Party, a Subsidiary or a Holding Company of that person or any other Subsidiary of that Holding Company;
- (b) in relation to any Interim Finance Party other than a fund, any other person directly or indirectly controlling, controlled by, or under direct or indirect common control with, that Interim Finance Party; or
- (c) in relation to any Interim Finance Party which is a fund, any other fund which is advised or managed by the same investment adviser or an Affiliate of that investment adviser.

“Agent” means the Interim Revolving Facility Agent or the Interim Security Agent, as the context requires and Agents means both of them taken together.

“Agent’s Spot Rate of Exchange” means the Interim Revolving Facility Agent’s spot rate of exchange for the purchase of the relevant currency with euro in the London foreign exchange market at or about 11.00 a.m. (in London) on a particular day.

“Anti-Corruption Laws” means all laws of any jurisdiction applicable to an Obligor from time to time concerning or relating to anti-bribery, anti-money laundering or anti-corruption, including, but not limited to, the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.

“Assignment Agreement” means an agreement substantially in the form set out in Schedule 8 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee.

“Authorisation” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration, in each case required by any applicable law or regulation.

“Available Interim Commitment” means, in relation to the Interim Revolving Facility, an Interim Lender’s Interim Commitment minus (subject to the provisions below):

- (a) the Base Currency Amount of its participation in any outstanding Interim Utilisations under that Interim Revolving Facility; and
- (b) in relation to any proposed Interim Utilisation under that Interim Revolving Facility, the Base Currency Amount of its participation in any other Interim Utilisations that are due

to be made under that Interim Revolving Facility on or before the proposed Drawdown Date.

For the purposes of calculating an Interim Lender's Available Interim Commitment in relation to any proposed Interim Utilisation under an Interim Revolving Facility only, the following amounts shall not be deducted from an Interim Lender's Interim Commitment under that Interim Revolving Facility that Interim Lender's participation in any Interim Utilisations that are due to be repaid or prepaid on or before the proposed Drawdown Date.

"Bank Guarantee" means:

- (a) a letter of credit, substantially in the form set out in Schedule 10 (*Form of Bank Guarantee*) or in any other form requested by an Obligor and consented to by the Issuing Bank in respect of that Bank Guarantee (such consent not to be unreasonably withheld or delayed); or
- (b) any other guarantee, bond, indemnity, letter of credit, documentary or like credit or any other instrument of suretyship or payment, issued, undertaken or made by the relevant Issuing Bank in a form requested by an Obligor and consented to by the Issuing Bank in respect of such Bank Guarantee (such consent not to be unreasonably withheld or delayed).

"Bank Guarantee Request" means a signed notice requesting a Bank Guarantee substantially in the form set out in Part II (Bank Guarantee Request) of Schedule 2 (*Form of Drawdown Request*).

"Bank Levy" means: (a) the UK bank levy as set out in Schedule 19 to the Finance Act 2011; and (b) any other levy or tax of a similar nature in force (or formally announced) as at the date of this Agreement or (if applicable) in respect of any party that accedes as an Interim Lender after the date of this Agreement, as at the date of such accession, imposed in any jurisdiction in which the relevant Interim Finance Party is incorporated, resident for Tax purposes or carries on business through a permanent establishment by reference to the balance sheet or capital base (or any part of it) or liabilities or minimum regulatory capital or any combination thereof (and not by reference to income, profits or gains) of a bank or financial institution.

"Base Currency Amount" means, in relation to any Interim Utilisation, the amount specified in the Drawdown Request or, as applicable, Bank Guarantee Request for that Interim Utilisation (or, if the amount requested is an Interim Utilisation that is not denominated in Sterling, that amount converted into Sterling at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Drawdown Date or, if later, on the date the Interim Revolving Facility Agent receives the Drawdown Request or, as applicable, Bank Guarantee Request), as adjusted to reflect any repayment or prepayment under this Agreement.

"Break Costs" has the meaning given to that term in paragraph (f) of Clause 8.2 (*Payment of interest*).

"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.

"Certain Funds Period" means the period beginning on the date of this Agreement and ending on (and including) the earliest of:

- (a) the Closing Date;
- (b) 11.59 p.m. on the date falling 6 Months and five Business Days after the date the Company countersigns the Commitment Letter (as such time and date may be extended from time to time with the consent of the Arrangers (acting reasonably)), or if earlier, the longest date under the Scheme or, where applicable, the Offer;
- (c) the date on which the Company notifies the Interim Revolving Facility Agent in writing that:
 - (i) in the case of a Scheme, (x) the Scheme has lapsed, (y) the Scheme is rejected by the shareholders of the Target or by the High Court of Justice in England and Wales or (z) the Target has withdrawn or terminated the Scheme in compliance with the City Code on Takeovers and Mergers, the requirements of the Takeover Panel and all applicable laws (and the Company will notify the Interim Revolving Facility Agent in writing as soon as reasonably practicable once it becomes aware of any such lapse, rejection, withdrawal or termination) except in each case where the Company instead elects to effect the Acquisition by way of an Offer and does so within seven Business Days after the date on which the commitments and obligations under this letter would otherwise terminate pursuant to this paragraph (i); and
 - (ii) in the case of an Offer, (i) the Offer is withdrawn or terminated or (ii) the bid has lapsed in compliance with the City Code on Takeovers and Mergers, the requirements of the Takeover Panel and all applicable laws (and the Company will notify the Interim Revolving Facility Agent in writing as soon as reasonably practicable once it becomes aware of any such withdrawal, termination, rejection or lapse);

“Change of Control” means the occurrence of any of the events or circumstances described in paragraph 8 (Change of Control) of Part III (Major Events of Default) of Schedule 5 (Major Representations, Undertakings and Events of Default).

“Charged Property” means all the assets of the Group which, from time to time, are expressed to be the subject of the Interim Security.

“Closing Date” means the first date on which the Interim Revolving Facility is drawn.

“Code” means the US Internal Revenue Code of 1986 (and any successor legislation thereto), as amended from time to time.

“Commitment Letter” means a letter dated [●] between the Arrangers and the Company setting out the terms and conditions pursuant to which the Arrangers agree to make available certain facilities in connection with the Transaction and appending the exhibits thereto (including the agreed form Term Sheet).

“Completion Date” means the date on which the Acquisition is completed in accordance with the terms of the Scheme or, where applicable, the Offer.

“CTA” means the Corporation Tax Act 2009.

“Defaulting Lender” has the meaning given to that term in Part V (*Definitions*) of Schedule 6 (*Impairment and Replacement of Interim Finance Parties*).

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

“Drawdown Date” means the date of or proposed date for the making of an Interim Utilisation.

“Drawdown Request” means a signed notice requesting an Interim Utilisation in the form set out in Part I (*Loan Request*) of Schedule 2 (*Form of Drawdown Request*).

“Equity Investors” has the meaning given at paragraph 8 (*Change of Control*) of Part III (*Major Events of Default*) of Schedule 5 (*Major Representations, Undertakings and Events of Default*).

“EURIBOR” means, for an Interest Period of an Interim Loan or an overdue amount denominated in euro:

- (a) the applicable Screen Rate; or
- (b) (if no Screen Rate is available for euro or the relevant Interest Period of that Interim Loan or overdue amount) the Interpolated Screen Rate for that Interim Loan or overdue amount; or
- (c) if:
 - (i) no Screen Rate is available for the Interest Period of that Interim Loan or overdue amount; and
 - (ii) it is not possible to calculate an Interpolated Screen Rate for that Interim Loan or overdue amount,

the arithmetic mean (rounded upward to four decimal places) of the rates, as supplied to the Interim Revolving Facility Agent at its request quoted by the Reference Banks to leading banks in the European interbank market,

as of 11.00 a.m. (Brussels time) on the Rate Fixing Day for the offering of deposits in euro for a period comparable to that Interest Period for that Interim Loan or overdue amount.

“Existing Interim Lender” has the meaning given to that term in paragraph (a) of Clause 25.2 (*Transfers by Interim Lenders*).

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

“Facility” has the meaning given to such term in the Commitment Letter.

“Facility Office” means the office or offices through which an Interim Lender or the Issuing Bank will perform its obligations under the Interim Revolving Facility as notified to the Interim Revolving Facility Agent in writing on or before the date it becomes an Interim Lender or the Issuing Bank (or, following that date, by not less than five Business Days’ notice).

“FATCA” means:

- (a) Sections 1471 through 1474 of the Code or any associated regulations or other official guidance;
- (b) any treaty, law, regulation or other official guidance enacted in any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of anything mentioned in paragraph (a) above; or

any agreement pursuant to the implementation of anything mentioned 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 an Interim Finance Document required by FATCA.

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

“Fee Letter” has the meaning given to that term in the Commitment Letter.

“Final Repayment Date” has the meaning given to such term in paragraph (a) of Clause 7.1 (*Repayment*).

“Funding Cost” means LIBOR or, for Interim Loans denominated in euro, EURIBOR provided that for the purposes of any Interim Loan, if EURIBOR or LIBOR (as applicable) is less than 0 per cent. per annum at any time when EURIBOR or LIBOR (as applicable) is fixed, EURIBOR or LIBOR (as applicable) shall be deemed to be 0 per cent. per annum.;

“Funds Flow Statement” means the funds flow statement (including a statement of sources and uses) prepared by the Company showing the proposed movement of funds on the Completion Date delivered pursuant to paragraph 6(a) of Schedule 3 (*Conditions Precedent*).

“Group” means the Company and its Subsidiaries from time to time, including on and from the Completion Date, the Target and their Subsidiaries.

“Group Company” means a member of the Group.

“Guarantor” means the Parent and the Borrower.

“Holding Company” means in relation to any person, any other body corporate or other entity of which it is a Subsidiary.

“Interest Period” has the meaning given to such term in paragraph (a) of Clause 8.2 (*Payment of interest*).

“Interim Agency Fee Letter” means a fee letter dated [●] between the Company, the Interim Revolving Facility Agent and the Interim Security Agent.

“Interim Commitment” means:

- (a) in relation to each Original Interim Lender, the amount of the Interim Revolving Facility to be made available by that Original Interim Lender (such amount to be a proportion of the Interim Revolving Facility equal to the proportion of the underwriting commitments of such Original Interim Lender in respect of the Facility as set out in the Commitment Letter) and the amount of any other Interim Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 26 (*Impairment and Replacement of Interim Finance Parties*) and paragraph 2 of Part III (*Replacement of an Interim Lender/Increase*) of Schedule 6 (*Impairment and Replacement of Interim Finance Parties*); and
- (b) in respect of any other Interim Lender, the amount transferred to it in respect of the Interim Revolving Facility pursuant to Clause 25 (*Changes to Parties*) or assumed by it in accordance with Clause 26 (*Impairment and Replacement of Interim Finance Parties*) and paragraph 2 of Part III (*Replacement of an Interim Lender/Increase*) of Schedule 6 (*Impairment and Replacement of Interim Finance Parties*),

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

“Interim Fee Letters” means the Fee Letter and the Interim Agency Fee Letter.

“Interim Finance Documents” means each of this Agreement, the Interim Agency Fee Letter, the Fee Letter, each Bank Guarantee, and any other document designated as such in writing by the Interim Revolving Facility Agent and the Company.

“Interim Finance Parties” means the Interim Lenders, the Arrangers, the Interim Revolving Facility Agent, the Interim Security Agent and the Original Issuing Bank.

“Interim Lender” means:

- (a) an Original Interim Lender; and
- (b) any other bank or financial institution, 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 or other person which has become a Party as an Interim Lender pursuant to Clause 25 (*Changes to Parties*),

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

“Interim Liabilities” means all liabilities owed by the Obligors to the Interim Finance Parties under the Interim Finance Documents.

“Interim Loan” means the principal amount of each borrowing under the Interim Revolving Facility or the principal amount outstanding of that borrowing at any time.

“Interim Revolving Facility” has the meaning given to such term in paragraph (a) of Clause 2 (*The Interim Revolving Facility - Availability*).

“Interim Revolving Facility Availability Period” means the period from and including the Closing Date to and including the date which is one week prior to the Final Repayment Date.

“Interim Security” means the Security Interests created or expressed to be created in favour of the Interim Security Agent pursuant to the Interim Security Documents.

“Interim Security Documents” means any document required to be delivered to the Interim Revolving Facility Agent under paragraph 2(c) of Schedule 3 (*Conditions Precedent*).

“Interim Utilisation” means an Interim Loan and/or a Bank Guarantee, in each case, as the context requires.

“Interpolated Screen Rate” means, in relation to LIBOR or EURIBOR for any Interim Loan or an overdue amount, the rate which results from interpolating on a linear basis between:

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

each as of 11.00 a.m. (London time) (or in the case of Interim Loans or any overdue amounts in euro, 11.00 a.m. Brussels time) on the Rate Fixing Day for the offering of deposits in the currency of that Interim Loan or an applicable amount.

“Issuing Bank” means the Original Issuing Bank and any person which agrees to act as an issuing bank in respect of the issue of a Bank Guarantee in accordance with Schedule 9 (*Bank Guarantees*).

“ITA” means the Income Tax Act 2007.

“LIBOR” means, in relation to any Interim Loan or any overdue amount denominated in any currency other than euro:

- (a) the applicable Screen Rate; or
- (b) (if no Screen Rate is available for the currency or Interest Period of that Interim Loan or overdue amount) the Interpolated Screen Rate for that Interim Loan or overdue amount; or
- (c) if:
 - (i) no Screen Rate is available for the currency of that Interim Loan or an overdue amount; or
 - (ii) no Screen Rate is available for the Interest Period of that Interim Loan or overdue amount and it is not possible to calculate an Interpolated Screen Rate for that Interim Loan or overdue amount,

the arithmetic mean (rounded upward to four decimal places) of the rates, as supplied to the Interim Revolving Facility Agent at its request, quoted by the Reference Banks to leading banks in the London interbank market,

as of 11.00 a.m. (London time) on the Rate Fixing Day for the offering of deposits in the currency of that Interim Loan or overdue amount and a period comparable to that Interest Period for that Interim Loan or overdue amount.

“Long-term Financing Agreements” means, collectively, the facilities agreements, indentures, trust deeds or other agreements and/or instruments to be entered into for the purpose of refinancing the Interim Revolving Facility.

“Major Event of Default” means an event or circumstance set out in Part III (Major Events of Default) of Schedule 5 (*Major Representations, Undertakings and Events of Default*).

“Major Representation” means a representation set out in Part I (Major Representations) of Schedule 5 (*Major Representations, Undertakings and Events of Default*).

“Major Undertaking” means an undertaking set out in Part II (Major Undertakings) of Schedule 5 (*Major Representations, Undertakings and Events of Default*).

“Majority Interim Lenders” means, at any time, Interim Lenders:

- (a) whose Interim Commitments then aggregate 66⅔ per cent. or more of the Total Interim Commitments; or
- (b) if the Total Interim Commitments have then been reduced to zero, whose Interim Commitments aggregated 66⅔ per cent. or more of the Total Interim Commitments immediately before that reduction.

“Margin” has the meaning given to it in the Term Sheet.

“Material Adverse Effect” means any event or circumstance which in each case after taking into account all mitigating factors or circumstances including, any warranty, indemnity or other resources available to the Group or right or recourse against any third party with respect to the relevant event or circumstance and any obligation of any person in force to provide any additional equity investment:

- (a) has a material adverse effect on:
 - (i) the consolidated business, assets or financial condition of the Group (taken as a whole); or
 - (ii) the ability of the Obligors (taken as a whole) to perform any of their payment obligations under the Interim Finance Documents (taking into account the financial resources available from other Group companies); or
- (b) subject to the Reservations and any Perfection Requirements, affects the validity or the enforceability of any of the Interim Finance Documents to an extent which is materially adverse to the interests of the Interim Lenders under the Interim Finance Documents taken as a whole and, if capable of remedy, is not remedied within twenty Business Days of the earlier of:
 - (i) the Company becoming aware of the issue; and
 - (ii) the giving of written notice of the issue by the Interim Revolving Facility Agent.

“Member State” means a member state of the European Union.

“Minimum Acceptance Condition” means the Company (together with its wholly-owned subsidiaries and their respective nominees) shall have acquired or agreed (unconditionally or subject only to conditions which will be fulfilled upon the Offer becoming or being declared wholly unconditional) to acquire (whether pursuant to the Offer or otherwise) shares in the Target carrying, in aggregate, not less than 75 per cent. of the voting rights then normally exercisable at a general meeting of the Target.

“New Interim Lender” has the meaning given to that term in paragraph (a) of Clause 25.2 (*Transfers by Interim Lenders*).

“Obligors” means the Parent, the Company and each other Guarantor.

“Obligors’ Agent” means the Company or such other person appointed to act on behalf of each Obligor in relation to the Interim Finance Documents pursuant to Clause 4 (*Obligors’ Agent*).

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury (or any successor thereto).

“Offer” has the meaning given to that term in the Commitment Letter.

“Offer Documents” means any documents published in accordance with the City Code on Takeovers and Mergers in order to make an Offer to the shareholders of the Target (including, without limitation, any revision to an Offer, any alternative Offer and any document published to reflect or effect a change of structure from a Scheme to an Offer) and any associated documents submitted pursuant to the Offer.

“Offer Press Release” means the press release announcing a firm intention to make the Offer or, as the case may be, a switch to an Offer in accordance with Section 8 of Appendix 7 to the City Code on Takeovers and Mergers and which shall be consistent in all material respects with the form agreed with the Interim Revolving Facility Agent prior to its issue.

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

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

“Party” means a party to this Agreement.

“Perfection Requirements” means the making or the procuring of any appropriate registration, filing, recordings, enrolments, registrations, notations in stock registries, notarisations, notifications, endorsements and/or stampings of the Interim Security Documents and/or the Security Interests created thereunder.

“Permitted Payment” means any payment:

- (a) to enable a Holding Company of the Company to:
 - (i) pay Taxes, duties or similar amounts for which it is liable;
 - (ii) pay fees, expenses and other costs incurred in acting as, or maintaining its existence as, a holding company or arising by operation of law or in the ordinary course of administration of its business; and
 - (iii) meet substance requirements for Tax purposes;
- (b) of upfront fees to the Sponsor Investors (in each case, provided that such payment is in accordance with the Funds Flow Statement);
- (c) constituting the repayment or prepayment of liabilities under the Interim Finance Documents;
- (d) for the purpose of funding transaction costs incurred in connection with the Acquisition, the Interim Revolving Facility and/or the Long-term Financing Agreements (including any such costs incurred by the Sponsor Investors or a Holding Company and recharged to a Group Company); and/or

- (e) set out in or contemplated by a Permitted Transaction.

“Permitted Transaction” means:

- (a) any step, circumstance or transaction contemplated by or relating to the Transaction Documents, the Funds Flow Statement, the Tax Structure Memorandum (other than any exit steps described therein) or the Long-term Financing Agreements (or other refinancing of the Interim Revolving Facility) (and related documentation);
- (b) any step, circumstance or transaction which is mandatorily required by law (including arising under an order of attachment or injunction or similar legal process);
- (c) any step, circumstance or transaction permitted or contemplated by paragraph 6 (*Holding company status*) of Part I (*Major Representations*) of Schedule 5 (*Major Representations, Undertakings and Events of Default*) or by any Major Undertaking (which, for the avoidance of doubt, in each case will thereby be a Permitted Transaction for all Major Undertakings and for the purposes of paragraph 6 (*Holding company status*) of Part I (*Major Representations*) of Schedule 5 (*Major Representations, Undertakings and Events of Default*));
- (d) any transfer of the shares in, or issue of shares by, the Company or any step, action or transaction including share issue or acquisition or consumption of debt, for the purpose of creating the group structure for Transaction as set out in the Tax Structure Memorandum, including inserting another holding company directly above the Company, and including in connection therewith, provided that, after completion of such steps, no Change of Control shall have occurred; and
- (e) any transaction to which the Interim Revolving Facility Agent (acting on the instructions of the Majority Interim Lenders) shall have given prior written consent.

“Press Release” means (in relation to the Scheme) the Scheme Press Release or (in relation to the Offer) the Offer Press Release, as the case may be.

“Qualifying Interim Lender” means:

- (a) an Interim Lender which is beneficially entitled to interest payable to that Interim Lender in respect of an advance under an Interim Finance Document and is:
 - (i) an Interim Lender:
 - (A) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under an Interim Finance Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payment apart from section 18A of the CTA; or
 - (B) in respect of an advance made under an Interim 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) an Interim Lender which is:
 - (A) a company resident in the United Kingdom for United Kingdom tax purposes;

- (B) a partnership each member of which is:
 - (1) a company so resident in the United Kingdom; or
 - (2) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA;
- (C) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company; or
- (iii) a Treaty Interim Lender; or
- (b) an Interim Lender which is a building society (as defined for the purposes of section 880 of the ITA) making an advance under an Interim Finance Document.

“Rate Fixing 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 interbank market, in which case, the Rate Fixing Day will be determined by the Interim Revolving Facility Agent in accordance with market practice in that interbank market (and, if quotations would normally be given by leading banks in that interbank market on more than one day, the Rate Fixing Day will be the last of those days).

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

“Reference Banks” means, in relation to the Funding Cost, the principal London offices of such banks or financial institutions as may be appointed by the Interim Revolving Facility Agent after consultation with the Company.

“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 Jurisdiction” means, in relation to an Obligor:

- (a) its jurisdiction of incorporation; and
- (b) the jurisdiction whose laws govern any of the Interim Security Documents entered into by it.

“Reports” has the meaning given to that term in paragraph 5 of Schedule 3 (*Conditions Precedent*).

“Reservations” means the principle that equitable remedies may be granted or refused at the discretion of the court, the limitation on enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting the rights of creditors and secured creditors, the time barring of claims under any applicable limitation statutes, the possibility that a court may strike out a provision of a contract for recession or oppression, undue influence or similar reason, the possibility that an undertaking to assume liability for or to indemnify a person against non-payment of stamp duty may be void, defences of acquiescence, set-off or counterclaim and similar principles, the principles that in certain circumstances a Security Interest granted by way of fixed charge may be recharacterised as a floating charge or that a Security Interest purported to be constituted as an assignment may be recharacterised as a charge, the principle that additional or default interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void, the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant, the principle that the creation or purported creation of a Security Interest over any asset not beneficially owned by the relevant charging company at the date of the relevant security document or over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which a Security Interest has purportedly been created, the principle that a court may not give effect to any parallel debt provisions, covenant to pay the Interim Security Agent or other similar provisions, similar principles, rights and defences under the laws of any jurisdiction in which the relevant obligation may have to be performed and any other matters which are set out in the reservations or qualifications (however described) as to matters of law which are referred to in any legal opinion referred to in paragraph 3 of Schedule 3 (*Conditions Precedent*) or under any other provision of or otherwise in connection with any Interim Finance Document.

“Restricted Finance Party” means an Interim Finance Party that notifies the Interim Revolving Facility Agent that a Sanctions Provision would result in a violation by or exposure of such Interim Finance Party or any directors, officer or employee thereof to any liability under any anti-boycott or blocking law, regulation or statute that is in force from time to time in the European Union (and/or any of its member states) that are applicable to such entity (including without limitation EU Regulation (EC) 2271/96).

“Restricted Member of the Group” means a member of the Group in respect of which the Company notifies the Interim Revolving Facility Agent that a Sanctions Provision would result in any violation by or exposure of such member of the Group or any directors, officer or employee thereof to any liability under any anti-boycott or blocking law, regulation or statute that is in force from time to time in the European Union (and/or any of its member states) that are applicable to such entity (including without limitation EU Regulation (EC) 2271/96).

“Restricted Person” means any person that is (or persons that are):

- (a) listed on, or owned or controlled (as such terms are defined and interpreted by the relevant Sanctions) by a person listed on any Sanctions List;
- (b) a government of a Sanctioned Country;
- (c) an agency or instrumentality of, or an entity directly or indirectly owned or controlled by, a government of a Sanctioned Country; or
- (d) resident or located in, or incorporated under the laws of any Sanctioned Country, or to the best of the Company’s knowledge otherwise a target of Sanctions.

“Sanctioned Country” means, at any time, a country or territory subject to a general export, import, financial or investment embargo under any Sanctions (as of the date of this Agreement, being the Crimea region of Ukraine, Cuba, Iran, North Korea, (North) Sudan and Syria).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by any Sanctions Authority.

“Sanctions Authority” means (a) the United States, (b) the United Nations Security Council, (c) the European Union and any EU member state, (d) the United Kingdom and (e) the respective governmental institutions of any of the foregoing which administer Sanctions, including OFAC, the US State Department, the US Department of Commerce and the US Department of the Treasury.

“Sanctions List” means any of the lists of specifically designated nationals or designated or sanctioned individuals or entities (or equivalent) issued by any Sanctions Authority, each as amended, supplemented or substituted from time to time.

“Sanctions Provision” means Clauses 24(e), (f) and (g) (*Representations, Undertakings and Events of Default*).

“Scheme” has the meaning given to that term in the Commitment Letter.

“Scheme Circular” means the scheme document to be issued by or on behalf of the Target to (amongst others) shareholders of the Target in respect of the Scheme.

“Scheme Documents” means the Scheme Circular, the Scheme Press Release and any other documents distributed by or on behalf of the Company to (amongst others) shareholders of Target in connection with the Scheme and any additional documents required to be submitted pursuant to the Scheme.

“Scheme Effective Date” means the date on which the Scheme becomes effective in accordance with its terms.

“Scheme Press Release” means the press announcement to be released by or on behalf of the Target and to announce the terms of the Scheme.

“Screen Rate” means:

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

or, in each case, on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page is replaced or service ceases to be available, the Interim Revolving Facility Agent may specify another page or service displaying the appropriate rate after consultation with the Company and the Interim Lenders.

“Security Interest” means any mortgage, charge (fixed or floating), pledge, lien, hypothecation, right of set-off, security trust, assignment, reservation of title or other security interest and any

other agreement (including a sale and repurchase arrangement) having the commercial effect of conferring security.

“Sponsor” means individually or collectively, any investment fund, co-investment vehicles and/or other similar vehicles or accounts, in each case managed or advised by Advent International Corporation or any of their respective successors and any of its Affiliates (other than any portfolio operating companies).

“Sponsor Investors” means:

- (a) the Sponsor;
- (b) funds managed and/or advised by the Sponsor; and
- (c) investors designated or appointed by the Sponsor as co-investors to the extent that any direct or indirect voting rights of such co-investor in respect of the Company are, directly or indirectly, exercisable by such Sponsor (or funds managed and/or advised by the Sponsor).

“Subordinated Shareholder Document” means any document creating Subordinated Shareholder Liabilities.

“Subordinated Shareholder Liabilities” means any loan or other indebtedness owed by the Parent or any Group Company to Holdco or any other (direct or indirect) shareholder of the Company provided that such loan or indebtedness is subordinated pursuant to the provisions of paragraph (a) of Clause 15 (*Subordination*) or on substantially the same terms as the provisions of paragraph (a) of Clause 15 (*Subordination*) or otherwise on terms satisfactory to the Interim Revolving Facility Agent (acting on the instructions of the Majority Interim Lenders (acting reasonably)).

“Subsidiary” means, in relation to any person:

- (a) an entity (including a partnership) of which that person has direct or indirect control; 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 of ownership,

and, for this purpose, control means the direct or indirect ownership of a majority of the voting share capital or similar ownership rights of that entity, or the right or ability to determine the composition of a majority of the board of directors (or equivalent body) of such entity or otherwise to direct the management of such entity whether by virtue of ownership of share capital, contract or otherwise.

“Target Group” means the Target together with their Subsidiaries.

“Target” means Brammer plc.

“TARGET Day” means any day on which the Trans-European Automated Real-time Gross Settlement Express Transfer payment system is open for the settlement of payments in euro.

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

“Tax Confirmation” means a confirmation by an Interim Lender that the person beneficially entitled to interest payable to that Interim Lender in respect of an advance under an Interim 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 or a relief or remission for, or repayment of, any Tax.

“Tax Deduction” means a deduction or withholding for or on account of Tax from any payment under an Interim Finance Document, other than a FATCA Deduction.

“Tax Payment” means either the increase in a payment made by an Obligor to an Interim Finance Party under Clause 10.1 (*Tax gross-up*) or a payment under Clause 10.2 (*Tax indemnity*).

“Tax Structure Memorandum” means the tax structure memorandum provided to the Interim Revolving Facility Agent referred to in paragraph 4(c) of Schedule 3 (*Conditions Precedent*).

“Term” means each period determined under this Agreement for which the Issuing Bank is under a liability under a Bank Guarantee.

“Term Sheet” means the agreed form term sheets in respect of the Facility attached to the Commitment Letter.

“Total Interim Commitments” means at any time the aggregate of the Interim Commitments, being an amount not exceeding £82,500,000.

“Transaction” means the Acquisition.

“Transaction Documents” means the Interim Finance Documents, the Scheme Documents or, where applicable, the Offer Documents and (in each case) all documents and agreements relating to them.

“Transfer Certificate” means a certificate substantially in the form set out in Schedule 7 (*Form of Transfer Certificate*) or in any other form agreed between the Interim Revolving Facility Agent and the Obligors’ Agent.

“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 Interim Revolving Facility Agent executes the relevant Assignment Agreement or Transfer Certificate.

“Treaty Interim Lender” means an Interim Lender which:

- (a) is treated as a resident of a Treaty State for the purposes of the Treaty;
- (b) does not carry on a business in the United Kingdom through a permanent establishment (as such term is defined for the purposes of the relevant Treaty) with which that Interim Lender’s participation in the Interim Loan is effectively connected; and
- (c) meets and has satisfied all other conditions (including the completion of any necessary procedural formalities and clearances) which need to be met to enable it to benefit from a full exemption from Tax such that any payment of interest may be made by the relevant Obligor to that Interim Lender without a Tax Deduction.

“Treaty State” means a jurisdiction having a double taxation agreement (a **“Treaty”**) with the United Kingdom which makes provision for full exemption from Tax imposed by that jurisdiction on interest.

“UK Non-Bank Lender” means:

- (a) where an Interim Lender becomes a Party on the day on which this Agreement is entered into, an Interim Lender which has confirmed to the Company in writing that it is a UK Non-Bank Lender as at the date of this Agreement; and
- (b) where an Interim Lender becomes a Party after the day on which this Agreement is entered into, an Interim Lender which gives a Tax Confirmation in the Assignment Agreement or Transfer Certificate which it executes on becoming a Party.

“VAT” means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

“Vendors” means the Sellers under and as defined in the Scheme or, where applicable, the Offer.

2 Other References

- (a) In this Agreement, unless a contrary intention appears, a reference to:
 - (i) **“an agreement”** includes any legally binding arrangement, contract, deed or instrument (in each case, whether oral or written);
 - (ii) **“an amendment”** includes any amendment, supplement, variation, novation, modification, replacement or restatement (however fundamental), and amend and amended shall be construed accordingly;
 - (iii) **“assets”** includes properties, assets, businesses, undertakings, revenues and rights of every kind (including uncalled share capital), present or future, actual or contingent, and any interest in any of the above;

- (iv) **“a consent”** includes an authorisation, permit, approval, consent, exemption, licence, order, filing, registration, recording, notarisation, permission or waiver;
- (v) **“a disposal”** includes any sale, transfer, grant, lease, licence or other disposal, whether voluntary or involuntary, and dispose will be construed accordingly;
- (vi) **“financial indebtedness”** means any indebtedness for or in respect of:
 - (A) moneys borrowed and debit balances at banks or other financial institutions;
 - (B) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
 - (C) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument other than performance bonds or documentary letters of credit issued in respect of obligations of the Group arising under the ordinary course of trading;
 - (D) the amount of any liability in respect of finance leases;
 - (E) receivables sold or discounted;
 - (F) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of such transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of such transaction, that amount) shall be taken into account);
 - (G) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of payment obligations;
 - (H) any amount raised by the issue of redeemable shares which are redeemable (other than at the option of the issuer) before the date which is six months after the anticipated final maturity date of the Facility under the Term Sheet;
 - (I) any amount of any liability under an advance or deferred purchase agreement if the primary reason behind entering into the agreement is to raise finance;
 - (J) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing and classified as borrowings under IFRS; and
 - (K) the amount of any liability in respect of any guarantee for any of the items referred to in (A) to (J) above;
- (vii) **“a guarantee”** includes (other than in Schedule 4 (*Guarantee and Indemnity*)):
 - (A) an indemnity, counter-indemnity, guarantee or similar assurance against loss in respect of any indebtedness of any other person; and
 - (B) any other obligation of any other person, whether actual or contingent, to pay, purchase, provide funds (whether by the advance of money to, the purchase of or subscription for shares or other investments in, any

other person, the purchase of assets or services, the making of payments under an agreement or otherwise) for the payment of, to indemnify against the consequences of default in the payment of, or otherwise be responsible for, any indebtedness of any other person;

and guaranteed and guarantor shall be construed accordingly;

- (viii) **“including”** means including without limitation, and includes and included shall be construed accordingly;
- (ix) **“indebtedness”** includes any obligation (whether incurred as principal, guarantor or surety and whether present or future, actual or contingent) for the payment or repayment of money;
- (x) **“losses”** includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including legal and other fees) and liabilities of any kind, and loss shall be construed accordingly;
- (xi) **“a 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 sub-paragraph (C) below) if any such period would otherwise end on a day which is not a Business Day, it shall end on the next Business Day in the same calendar month or, if there is none, on the preceding Business Day;
 - (B) if there is no numerically corresponding day in the month in which that period is to end, that period shall end on the last Business Day in that later 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 references to months shall be construed accordingly;

- (xii) **“a Major Event of Default”** being outstanding or continuing means that such Major Event of Default has occurred or arisen and has not been remedied or waived;
- (xiii) **“a person”** includes any individual, trust, firm, fund, company, corporation, partnership, joint venture, government, state or agency of a state or any undertaking or other association (whether or not having separate legal personality);
- (xiv) **“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 compliance with which is customary) of any governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (xv) **“a sub-participation”** means any sub-participation or sub-contract (whether written or oral) or any other agreement or arrangement having an economically substantially similar effect, including any credit default or total return swap or derivative (whether disclosed, undisclosed, risk or funded) by an Interim Lender of or in relation to any of its rights or obligations under, or its legal, beneficial or economic interest in relation to, the Interim Revolving Facility and/or Interim

Finance Documents to a counterparty and sub-participate shall be construed accordingly; and

- (xvi) “\$” and “US Dollars” denote the lawful currency of the United States of America, “£” and “Sterling” denote the lawful currency of the United Kingdom, and “€”, “EUR” and “euro” means the single currency unit of the Participating Member States.

(b) In this Agreement, unless a contrary intention appears:

- (i) a reference to a Party includes a reference to that Party’s successors and permitted assignees or permitted transferees but does not include that Party if it has ceased to be a Party under this Agreement;
- (ii) references to paragraphs, sub-paragraphs, Clauses and appendices are references to, respectively, paragraphs, sub-paragraphs and Clauses of and appendices to this Agreement and references to this Agreement include its appendices;
- (iii) a reference to (or to any specified provision of) any agreement (including any of the Interim Finance Documents) is to that agreement (or that provision) as amended or novated (however fundamentally) and includes any increase in, extension of or change to any facility made available under any such agreement (unless such amendment or novation is contrary to the terms of any Interim Finance Document);
- (iv) a reference to a statute, statutory instrument or provision of law is to that statute, statutory instrument or provision of law, as it may be applied, amended or re-enacted from time to time;
- (v) a reference to a time of day is, unless otherwise specified, to London time; and
- (vi) the index to and the headings in this Agreement are for convenience only and are to be ignored in construing this Agreement.

(c) A Bank Guarantee is repaid or prepaid (or any derivative form thereof) to the extent that:

- (i) an Obligor provides cash cover for that Bank Guarantee or complies with its obligations under paragraph 5 (Immediately payable) and/or sub-paragraph (b) of paragraph 10 (Claims under a Bank Guarantee) of Schedule 9 (*Bank Guarantees*);
- (ii) the maximum amount payable under the Bank Guarantee is reduced or cancelled in accordance with its terms or otherwise reduced or cancelled in a manner satisfactory to the Issuing Bank in respect of such Bank Guarantee (acting reasonably);
- (iii) the Bank Guarantee is returned by the beneficiary with its written confirmation that it is released and cancelled;
- (iv) a bank or financial institution with a long-term corporate credit rating from Moody’s Investor Services, Standard & Poor’s or Fitch at least equal to A-/A3 has issued a guarantee, indemnity, counter-indemnity or similar assurance against financial loss in respect of amounts due under that Bank Guarantee; or

- (v) the Issuing Bank in respect of such Bank Guarantee (acting reasonably) has confirmed to the Interim Revolving Facility Agent that it has no further liability under or in respect of that Bank Guarantee,

and the amount by which a Bank Guarantee is repaid or prepaid under sub-paragraphs (i) to (iv) above is the amount of the relevant cash cover, payment, release, cancellation, guarantee, indemnity, counter-indemnity, assurance or reduction.

- (d) The outstanding amount of a Bank Guarantee at any time is the maximum amount that is or may be payable by the relevant Issuing Bank in respect of that Bank Guarantee at that time less any amount of cash cover provided in respect of that Bank Guarantee or otherwise repaid or prepaid.
- (e) An Obligor provides cash cover for a Bank Guarantee if it pays an amount in the currency of the Bank Guarantee to an interest-bearing account with the relevant Issuing Bank in the name of the Obligor on the basis that the only withdrawals which may be made from such account (other than in respect of accrued interest) are withdrawals to pay the Issuing Bank amounts due and payable to it under this Agreement following any payment made by it under such Bank Guarantee (unless the relevant Bank Guarantee is repaid or prepaid as contemplated by Schedule 9 (*Bank Guarantees*) or any such withdrawal is made by the Issuing Bank at the direction, and on behalf of, the Obligor for the purpose of satisfying any and all of the liabilities which are the subject of such Bank Guarantees) and, for the purposes of this Agreement, a Bank Guarantee shall be deemed to be cash covered to the extent of any such provision of cash cover. If required by the relevant Issuing Bank, the relevant Obligor shall (subject to any applicable legal or regulatory restrictions) execute and deliver an additional Interim Security Document creating first ranking security over any such account held with it.
- (f) Notwithstanding any other term of the Interim Finance Documents, in this Agreement:
 - (i) a reference to the assets of an Obligor shall exclude the assets of any member of the Target Groups and other Group Company; and
 - (ii) no matter or circumstance in respect of, or breach by, any member of the Target Groups or any member of the Group which is not an Obligor shall relate to an Obligor or otherwise be deemed to constitute, or result in, a breach of any representation, warranty, undertaking or other term in the Interim Finance Documents, to have a Material Adverse Effect or to have a Major Event of Default.

3 Sanctions and Restricted Finance Parties

- (a) A Sanctions Provision shall only:
 - (i) be given by a Restricted Member of the Group; or
 - (ii) apply for the benefit of a Restricted Finance Party,to the extent that that Sanctions Provision would not result in any violation by or expose of such entity or any directors, officer or employee thereof to any liability under any anti-boycott or blocking law, regulation or statute that is in force from time to time in the European Union (and/or any of its member states) that are applicable to such entity (including without limitation EU Regulation (EC) 2271/96).
- (b) In connection with any amendment, waiver, determination or direction relating to any part of a Sanctions Provision in relation to which:

- (i) an Interim Finance Party is a Restricted Finance Party; and
- (ii) in accordance with paragraph (a) above, that Restricted Finance Party does not have the benefit of it:
 - (A) the Interim Commitments of an Interim Lender that is a Restricted Finance Party; and
 - (B) the vote of any other Restricted Finance Party which would be required to vote in accordance with the provisions of this Agreement,

shall be excluded for the purpose of calculating the Total Interim Commitments under the Interim Revolving Facility when ascertaining whether any relevant percentage of Total Interim Commitments has been obtained to approve such amendment, waiver, determination or direction request and its status as an Interim Finance Party shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Interim Finance Parties has been obtained to approve such amendment, waiver, determination or direction.

SCHEDULE 2
FORM OF DRAWDOWN REQUEST

Part I
Loan Request

To: [●] as Interim Revolving Facility Agent

From: [●]

Date: [●]

[The Company] - £[●] Interim Revolving Facility Agreement dated [●] 2016 (as amended from time to time) (the Interim Revolving Facility Agreement)

- 1** We refer to the Interim Revolving Facility Agreement. This is a Drawdown Request. Terms defined in the Interim Revolving Facility Agreement shall have the same meanings when used in this Drawdown Request.
- 2** We wish to borrow an Interim Loan on the following terms:
 - (a) Facility: [●]
 - (b) Drawdown Date: [●]
 - (c) Amount: [●]
 - (d) Currency: [●]
 - (e) Interest Period: [●]
- 3** Our [payment/delivery] instructions are: [●].
- 4** We confirm that each condition specified in sub-paragraphs (a)(i) to (a)(iii) of Clause 3 (*The Making of the Interim Utilisations*) is satisfied at the date of this Drawdown Request or will be satisfied on or before the proposed Drawdown Date.
- 5** The proceeds of this Interim Loan should be credited to [●].
- 6** This Drawdown Request is irrevocable.

For and on behalf of
[●]
(as the Company)

Part II
Bank Guarantee Request

To: [●] as Interim Revolving Facility Agent

From: [●]

Date: [●]

[The Company] - £[●] Interim Revolving Facility Agreement dated [●] 2016 (as amended from time to time) (the Interim Revolving Facility Agreement)

- 1 We refer to the Interim Revolving Facility Agreement. This is a Bank Guarantee Request. Terms defined in the Interim Revolving Facility Agreement shall have the same meanings when used in this Bank Guarantee Request.
- 2 We wish to borrow a Bank Guarantee on the following terms:
 - (a) Facility: Interim Revolving Facility
 - (b) Drawdown Date: [●]
 - (c) Amount: [●]
 - (d) Currency: [●]
 - (e) Expiry Date: [●]
- 3 Our instructions are: [●].
- 4 A copy of the Bank Guarantee is attached.
- 5 We confirm that each condition specified in sub-paragraphs (a)(i) to (a)(iii) of Clause 3 (*The Making of the Interim Utilisations*) is satisfied at the date of this Bank Guarantee Request or will be satisfied on or before the proposed Drawdown Date.
- 6 This Bank Guarantee Request is irrevocable.

For and on behalf of
[●]
(as the Company)

SCHEDULE 3

CONDITIONS PRECEDENT

1 Obligors

- (a) Constitutional documents: a copy of the constitutional documents of each Obligor.
- (b) Corporate approvals: if required by law, a copy of a resolution of the board of directors or equivalent body of each Obligor (or, as applicable, any equivalent corporate body) approving the transaction and the Interim Finance Documents to which it is a party.
- (c) Specimen signatures: specimen signatures for the person(s) authorised in the resolutions and, if applicable, powers of attorney referred to above.
- (d) Shareholder resolution: if required under applicable law or constitutional documents, a copy of a resolution signed by all the holders of all the issued shares of each Obligor (as applicable) approving the transaction and the Interim Finance Documents to which it is a party and resolving that it execute the Interim Finance Documents to which it is a party.
- (e) Director's certificates: A certificate from each Obligor (signed by an authorised signatory): (i) certifying that each copy document relating to it specified in (a) to (c) above is correct, complete and (to the extent executed) in full force and effect and has not been amended or superseded as a date no earlier than the date of this Agreement and (ii) confirming that, subject to the guarantee limitations set out in this Agreement, borrowing or guaranteeing or securing (as appropriate) the Total Interim Commitments would not cause any borrowing, guarantee, security or other similar limit binding on it to be exceeded.

2 Interim Finance Documents

A copy of the counterparts of each of the following documents duly executed by the Obligors which are a party to such document:

- (a) this Agreement;
- (b) the Interim Fee Letters; and
- (c) the Interim Security Documents listed in the table below:

Name of Grantor of Interim Security Document	Interim Security Document	Governing law of Interim Security Document
Parent	Share charge and charge over intercompany receivables due from the Company	English
Company	Share charge and charge over intercompany receivables due from the Target	English

3 Legal Opinions

A legal opinion from Paul Hastings (Europe) LLP as English law counsel to the Interim Revolving Facility Agent in respect of this Agreement.

4 Reports

The following reports (the “**Reports**”):

- (a) buy-side legal due diligence report prepared by Weil Gotshal & Manges;
- (b) buy-side tax, financial and pensions due diligence report prepared by KPMG; and
- (c) tax structure memorandum prepared by KPMG.

provided that (i) reliance on any Report shall not be a condition precedent to Utilisation but shall be managed in accordance with the relevant provisions of the Commitment Letter; and (ii) the form and substance of all such Reports will be satisfactory to the Interim Revolving Facility Agent if the final Reports are, in form and substance, substantially the same as the final versions or drafts (as applicable) received by the Arranger(s) prior to the date of the Commitment Letter, save for any changes which are not materially adverse to the interests of the Original Interim Lenders (taken as a whole) under the Interim Finance Documents or any other changes approved by the Arranger(s) (acting reasonably).

5 Financial Information

Model: the agreed base case model received by the Arranger(s) prior to the date of the Commitment Letter.

6 Other

- (a) Funds Flow Statement: a Funds Flow Statement which is provided for information purposes only and if provided in the same format as the sources and uses contained in the Tax Structure Memorandum (if any) it will be satisfactory to the Interim Revolving Facility Agent.
- (b) Structure Diagram: (only if such group structure is not included in the Tax Structure Memorandum) group structure chart (on the basis that the Completion Date has occurred) and provided that such structure chart shall not be required to be in a form and substance satisfactory to the Interim Revolving Facility Agent.
- (c) Fees: reasonable evidence that all fees then due and payable to the Interim Finance Parties for their own account under the Interim Fee Letters on or before the Closing Date in connection with the Interim Revolving Facility will be paid concurrently with, or out of, the first advances under the Interim Revolving Facility (or as otherwise agreed between the Company and the Interim Revolving Facility Agent), provided that a reference to payment of such fees in a Drawdown Request (or Funds Flow Statement) shall be deemed to be reasonable evidence such that this condition precedent is satisfactory to the Interim Revolving Facility Agent.
- (d) A copy, in draft form, of the Scheme Press Release or, following conversion to an Offer, the Offer Press Release. For the avoidance of doubt, there will be no requirement for any Press Release to be in form and substance satisfactory to the Interim Revolving Facility Agent.
- (e) A copy of each Scheme Document or, following conversion to an Offer, each Offer Document not previously delivered to the Interim Revolving Facility Agent. For the avoidance of doubt, there will be no requirement for any Scheme Document or Offer

Document to be in form and substance satisfactory to the Interim Revolving Facility Agent.

- (f) In the case of an Acquisition by way of Offer, the Company has met the Acceptance Condition.
- (g) A certificate signed by an authorised signatory of the Parent certifying that in the case of an Acquisition by way of Offer, that the Offer Unconditional Date has occurred or will occur on or before the first Utilisation of the Interim Revolving Facility (including for the avoidance of doubt, that the Acceptance Condition has been satisfied), or in the case of an Acquisition by way of Scheme, the Scheme Effective Date has occurred or will occur on or before the first Utilisation of the Interim Revolving Facility.
- (h) KYC: completion of the Arranger(s)' reasonable "**know your customer**" checks on the Sponsor and the Company which are required and which (in each case) have been notified to the Company not later than five Business Days prior to any Utilisation under this Agreement or if later, the date falling five Business Days after the Arrangers receive notification of the incorporation of each such company.

SCHEDULE 4

GUARANTEE AND INDEMNITY

1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally, jointly and severally:

- (a) guarantees to each Interim Finance Party punctual performance by each other Obligor of all its obligations under the Interim Finance Documents;
- (b) undertakes with each Interim Finance Party that whenever an Obligor does not pay any amount when due (allowing for any applicable grace period) under or in connection with any Interim Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Interim 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 Interim 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 Interim 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 paragraph 1 if the amount claimed had been recoverable on the basis of a guarantee,

(the **Guarantee**).

2 Continuing Guarantee

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

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 an Interim Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Schedule 4 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

4 Waiver of defences

The obligations of each Guarantor under this Schedule 4 will not be affected by an act, omission, matter or thing which, but for this Schedule 4, would reduce, release or prejudice any of its obligations under this Schedule 4 (without limitation and whether or not known to it or any Interim Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any Group Company;

- (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 an Interim 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 Interim Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Interim Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

5 Guarantor Intent

Without prejudice to the generality of paragraph 4 (*Waiver of defences*) above, 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 Interim Finance Documents and/or any facility or amount made available under any of the Interim 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.

6 Immediate recourse

- (a) Each Guarantor waives any right it may have of first requiring any Interim 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 Schedule 4.
- (b) This waiver applies irrespective of any law or any provision of an Interim Finance Document to the contrary.

7 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Interim Finance Documents have been irrevocably paid in full, each Interim 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 Interim 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) in respect of any amounts received or recovered by any Interim Finance Party after a claim pursuant to this guarantee in respect of any sum due and payable by any Obligor

under this Agreement place such amounts in a suspense account (bearing interest at a market rate usual for accounts of that type) unless and until such moneys are sufficient in aggregate to discharge in full all amounts then due and payable under the Interim Finance Documents.

8 Deferral of Guarantors' rights

Until all amounts which may be or become payable by the Obligors under or in connection with the Interim Finance Documents have been irrevocably paid in full and unless the Interim Revolving Facility Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Interim Finance Documents:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Interim Finance Documents; and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Interim Finance Parties under the Interim Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Interim Finance Documents by any Interim 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 paragraph 1 above;
- (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 Interim Finance Party.

9 Release of Guarantors' right of contribution

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

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 Interim Finance Party.

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.

SCHEDULE 5

MAJOR REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

Part I Major Representations

1 Status

It is a limited liability company duly incorporated and validly existing under the laws of its place of incorporation.

2 Power and authority

- (a) Subject to the Reservations, it has (or will have on the relevant date(s)) the power to enter into and deliver, and to exercise its rights and perform its obligations under, each Interim Finance Document to which it is or will be a party. No limit on its powers will be exceeded as a result of any borrowing or the giving of any guarantee or security by it under the Interim Finance Documents.
- (b) It has taken all necessary corporate action to authorise the entry into and delivery of and the performance by it of its obligations under each Interim Finance Document to which it is or will be party.
- (c) It has the power to own its assets and carry on its business as it is being conducted.

3 No conflict

The entry into and delivery of, and the exercise of its rights and the performance of its obligations under, each Interim Finance Document to which it is a party does not and will not, subject to the Reservations:

- (a) contravene any law, regulation or order to which it is subject in a manner which would have or be reasonably likely to have a Material Adverse Effect; or
- (b) conflict with its constitutional documents in any material respect; or
- (c) breach any agreement or document binding upon it or any of its assets, or result in a default or right of any person to terminate any such agreement or document, or require it to make any payment to a third party, in each case, in a manner which would have or be reasonably likely to have a Material Adverse Effect.

4 Obligations binding

Subject to the Reservations and the Perfection Requirements, the obligations expressed to be assumed by it under each Interim Finance Document to which it is a party constitute its legal, valid, binding and enforceable obligations.

5 Holding company status

It has not traded, carried on any other business, acquired any assets or incurred any liabilities or commitments other than:

- (a) establishment and administration costs;
- (b) any Permitted Transaction;

- (c) Tax liabilities and other customary liabilities for a holding company;
- (d) the payment of any fees, costs and expenses, stamp, registration, land and other taxes incurred in connection with the Transaction or the Transaction Documents;
- (e) in connection with any arrangements entered into (or proposed to be entered into) for the purpose of financing or executing the Transaction and/or refinancing amounts outstanding under the Interim Finance Documents; and
- (f) ownership of shares in its Subsidiaries and other assets acquired pursuant to the Transaction Documents, intra-group debit and credit balances (or other intra-Group liabilities) or cash and cash equivalents or making loans to or borrowing loans from entities as shown in the Tax Structure Memorandum.

6 Scheme Documents

In respect of the Company only, in the case of an Acquisition by way of Scheme, the Scheme Circular contains all the material terms of the Acquisition in respect of such Scheme and the Scheme Circular(s) reflect the Scheme Press Release in all material respects (including all conditions listed therein, none of which have been waived, amended or varied, save to the extent permitted by paragraph 8 (*The Offer/The Scheme*) of Part II (*Major Undertakings*) of this Schedule 5 (*Major Representations, Undertakings and Events of Default*)).

7 Offer Documents

In respect of the Company only, in the case of an Acquisition by way of Offer, the Offer Documents contain all the material terms of the Acquisition in respect of such Offer and the Offer Documents reflect the Offer Press Release in all material respects (including all conditions listed therein, none of which have been waived, amended or varied, save to the extent permitted by paragraph 8 (*The Offer/The Scheme*) of Part II (*Major Undertakings*) of this Schedule 5 (*Major Representations, Undertakings and Events of Default*)).

8 Press Release

The Offer Press Release or the Scheme Press Release (as applicable) contains all the material terms of the Scheme (in the case of an Acquisition pursuant to a Scheme) or, as the case may be, the Offer (in the case of an Acquisition pursuant to an Offer).

Part II

Major Undertakings

1 Acquisitions, mergers and joint ventures

Save for any Permitted Transaction, it will not:

- (a) acquire or subscribe for any shares, stocks, securities convertible into share capital, or ownership interests in any person, or acquire any business, or incorporate any company, other than in connection with the Transaction; or
- (b) enter into any amalgamation, merger, demerger or reconstruction; or
- (c) enter into, invest in or acquire any shares, stocks, securities convertible into share capital, or other interest in any joint venture or 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.

2 Negative pledge

It will not create or permit to subsist any Security Interest over any of its assets, other than:

- (a) any Security Interest created or evidenced by the Interim Security Documents;
- (b) any netting, balance transfer or set-off arrangement entered into in the ordinary course of its banking arrangements (including any hedging) for the purpose of netting debit and credit balances;
- (c) security arising under the general business conditions in the ordinary course of day-to-day business, including without limitation with any bank with whom any Group Company maintains a banking relationship including security under the general terms and conditions of those banks;
- (d) security interests over credit balances created or subsisting pursuant to or in connection with cash pooling arrangements;
- (e) any lien arising by operation of law or in the ordinary course of day-to-day business and not as a result of a default by a Group Company;
- (f) any Security Interest arising under any Permitted Transaction; and
- (g) any Security Interest arising under or in connection with the Long-term Financing Agreements.

3 Indebtedness

It will not incur or allow to remain outstanding any financial indebtedness, other than:

- (a) financial indebtedness incurred under the Transaction Documents (including Bank Guarantees);
- (b) any financial indebtedness in relation to a Permitted Transaction or to facilitate a Permitted Payment;
- (c) to the extent drawn down to refinance amounts outstanding under the Interim Finance Documents in full, financial indebtedness under the Long-term Financing Agreements;

- (d) any Subordinated Shareholder Liabilities;
- (e) loans made in the ordinary course of intra-Group cash pooling arrangements;
- (f) any financial indebtedness arising under any non-speculative hedging transaction; and
- (g) intra-Group financial indebtedness.

4 Disposals

The Parent will not dispose of any of the shares in the Company or any receivables owed to it by the Company and the Company (or each of its Subsidiaries that holds the shares in the Target (if applicable)) will not (once acquired) dispose of any of the shares in the Target, in each case, other than the Security Interests granted under the Interim Security Documents or under a Permitted Transaction.

5 Distributions

It will not:

- (a) declare, make or pay, directly or indirectly, any dividend, or make any other distribution, or pay any interest or other amounts, whether in cash or otherwise, on or in respect of its share capital or any class of its share capital, repay or distribute any share premium reserve, or make any other payment to its shareholders; or
- (b) redeem, purchase, defease, retire or repay any of its share capital; or
- (c) pay any fee (or make any similar payment) to or to the order of any of its Holding Companies which is not a Group Company, the Sponsor Investors or any of their Affiliates; or
- (d) repay or pay any interest or other return on or in respect of any financial indebtedness (other than under the Interim Finance Documents),

except any payment or transaction which is a Permitted Payment or any payment made or transaction entered into to facilitate a Permitted Payment.

6 Guarantees

Save for any Permitted Transaction, it shall not incur or allow to remain outstanding any guarantee in respect of financial indebtedness other than as may arise under or in connection with any financial indebtedness permitted under paragraph 3 (Indebtedness) above.

7 Loans out

Save for any Permitted Transaction, it shall not be a creditor in respect of financial indebtedness other than as may arise under the Interim Finance Documents or the Subordinated Shareholder Documents and loans made to another Group Company, any credit balance held with any bank or financial institution, or any loan made for the purpose of, or to facilitate the making of, a Permitted Payment.

8 The Offer/The Scheme

The Company undertakes that:

- (a) it will not, without the prior consent of the Majority Interim Lenders:

- (i) in the case of an Acquisition by way of Offer, declare the Offer unconditional as to acceptances until it meets the Acceptance Condition;
 - (ii) other than as permitted by paragraph 9 (*Offer/Scheme Conversion*) below, waive, supplement, amend or vary any term or condition of the Offer or the Scheme (or the Offer Documents or Scheme Documents) in any respect which is materially prejudicial to the interests of the Interim Finance Parties (but no amendment, variation, supplement or waiver may be made to the Acceptance Condition, which would enable the Acceptance Condition to be satisfied in circumstances where the Minimum Acceptance Condition is not satisfied, without the consent of the Majority Interim Lenders), save to the extent required by the City Code on Takeovers and Mergers, the Takeover Panel or an English court of competent jurisdiction in connection with its review of the Acquisition; nor
 - (iii) in the case of an Acquisition by way of Offer, except as required by the Takeover Panel, treat as satisfied any condition to the Offer the satisfaction of which involves an assessment regarding the acceptability or otherwise to the Company of conditions imposed by any regulatory authority and which could reasonably be expected to have a Material Adverse Effect; and
- (b) it will promptly, following a request from the Interim Revolving Facility Agent, supply to the Interim Revolving Facility Agent:
- (i) a copy of the Offer Documents or Scheme Documents after its posting to the shareholders of the Target; and
 - (ii) copies of all other documents, certificates, notices or announcements received by it or issued at its instigation (including by its financial advisers) by way of Offer or the Scheme to the extent it could reasonably be considered to be material to the interests of the Interim Finance Parties.

9 Offer/Scheme Conversion

The Company may elect to cease the implementation of the Acquisition by way of Scheme and may implement the Acquisition by way of Offer (in which case all the provisions of this Agreement relating to the Acquisition by way of Offer will apply) provided that:

- (a) the implementation of the Offer would not breach any term of the Interim Finance Documents; and
- (b) there would be no difference between the terms of the Offer and the Scheme where such difference would cause a Material Adverse Effect.

Part III

Major Events of Default

1 Payment default

Following the Drawdown Date, the Obligors do not pay on the due date any amount payable by them under the Interim Finance Documents in the manner required under the Interim Finance Documents unless, in the case of principal or interest, payment is made with three Business Days of the due date and, in the case of any amount not constituting principal or interest, payment is made within five Business Days of the due date.

2 Breach of other obligations

The Obligors do not comply with any other Major Undertaking set out in Part II to this Schedule 5 and, if capable of remedy, the same is not remedied within twenty-one Business Days of the earlier of the Company:

- (a) becoming aware of a failure to comply; and
- (b) receiving written notice from the Interim Revolving Facility Agent notifying it of non-compliance.

3 Misrepresentation

A Major Representation set out in Part I to this Schedule 5 is incorrect or misleading in any material respect when made and, if capable of remedy, the same is not remedied within twenty-one Business Days of the earlier of the Company:

- (a) becoming aware of such failure; and
- (b) receiving written notice from the Interim Revolving Facility Agent notifying it of that failure.

4 Invalidity/repudiation

Any of the following occurs:

- (a) subject to the Reservations and the Perfection Requirements, any material obligation of the Obligors under any Interim Finance Document is or becomes invalid or unenforceable, in each case, in a manner which is materially adverse to the interests of the Interim Lenders (taken as a whole) under the Interim Finance Documents; or
- (b) subject to the Reservations and the Perfection Requirements, it is or becomes unlawful in any applicable jurisdiction for the Obligors to perform any of their material obligations under any Interim Finance Document, in each case, in a manner which is materially adverse to the interests of the Interim Lenders (taken as a whole) under the Interim Finance Documents; or
- (c) any of the Obligors repudiates or rescinds an Interim Finance Document or evidences in writing an intention to repudiate or rescind an Interim Finance Document and such repudiation or rescission is materially prejudicial to the interests of the Interim Lenders (taken as a whole) under the Interim Finance Documents.

5 Insolvency

Any Obligor is unable or admits inability to pay its debts as they fall due (other than solely as a result of liabilities exceeding assets), suspends making payments on any of its debts or publicly announces in writing an intention to do so, or by reason of actual or anticipated financial difficulties, commences negotiations with its financial creditors generally (excluding any Interim Finance Party) with a view to rescheduling its indebtedness generally.

6 Insolvency proceedings

- (a) Any of the following occurs in respect of any of the Obligors:
 - (i) any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, examiner, receiver, administrative receiver, administrator or similar officer is appointed in respect of it or any of its material assets; or
 - (ii) an application for the judicial winding-up or liquidation of the Obligors, or any analogous proceedings in any jurisdiction.
- (b) Paragraph (a) above shall not apply to:
 - (i) any proceedings or actions which are contested in good faith and discharged, stayed or dismissed within 28 days of commencement;
 - (ii) any petition or similar presented by a creditor which is:
 - (A) is being contested in good faith and due diligence and the relevant entity has demonstrated to the Interim Revolving Facility Agent (acting reasonably and in good faith) that it has sufficient financial means to meet the amount of the claim requested by the creditor;
 - (B) in the opinion of the Company (acting reasonably and in good faith), frivolous and vexatious; or
 - (C) discharged within twenty-one Business Days, or
 - (iii) any step or other matter set out in or contemplated by the Tax Structure Memorandum.

7 Similar events elsewhere

There occurs in relation to any Obligor or any of their respective assets in any country or territory in which it is incorporated or carries on business or to the jurisdiction of whose courts it or any of its assets are subject, any event or circumstance which corresponds to any of those mentioned in paragraphs 5 (Insolvency) or 6 (Insolvency Proceedings) above.

8 Change of control

- (a) The Equity Investors together cease to beneficially own (directly or indirectly) equity share capital having the right to cast more than 50 per cent. of the votes capable of being cast in general meetings of the Company.
- (b) The Equity Investors together cease to be able to appoint (directly or indirectly) a majority of the board of directors (or equivalent management body) of the Company.
- (c) The Parent ceases to beneficially own (directly) all of the issued equity share capital of the Company.

- (d) With effect after the Closing Date has occurred, any sale of all or substantially all the assets of the Group (taken as a whole) to persons who are not Group Companies.
- (e) For the purpose of this paragraph 8, Equity Investors means:
 - (i) the Sponsor Investors; and
 - (ii) management and employees of the Group having a direct or indirect interest in the Group (whether pursuant to an incentive scheme or otherwise), together with any other persons having a direct or indirect interest in the Group pursuant to an incentive or similar scheme or arrangement.
- (f) For the purpose of this paragraph 8, any step, matter or transaction entered into in order to effect a Permitted Transaction under paragraph (c) of the definition thereof shall not constitute a Major Event of Default.
- (g) For the purpose of paragraph (c) above, any issue of shares by the Company to current or prospective employees or officers of the Group for the purposes of facilitating such current or prospective employees or officers rollover investment in the Group shall not constitute a Major Event of Default provided that (i) such roll over occurs on an intra-day basis and (ii) from the Business Day following such rollover, the test in paragraph (c) above shall continue to apply.

SCHEDULE 6

IMPAIRMENT AND REPLACEMENT OF INTERIM FINANCE PARTIES

Part I Impaired Agent

1 Impaired Agent

- (a) If, at any time, an Agent becomes an Impaired Agent, an Obligor or an Interim Lender which is required to make a payment under the Interim Finance Documents to the Agents in accordance with Clause 12 (*Payments*) or otherwise under an Interim Finance Document may instead either pay that amount direct to the required recipient or pay that amount to an interest bearing account held with an Acceptable Bank in relation to which no Insolvency Event has occurred and is continuing, in the name of the Company or the Obligor or the Interim Lender making the payment and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Interim Finance Documents. In each case such payments must be made on the due date for payment under the Interim Finance Documents.
- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the beneficiaries of that trust account pro rata to their respective entitlements.
- (c) A Party which has made a payment in accordance with this paragraph 1 shall be discharged of the relevant payment obligation under the Interim 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 paragraph 3 (Replacement of an Interim Revolving Facility Agent) below, each Party which has made a payment to a trust account in accordance with this paragraph 1 shall give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution in accordance with Clause 19.1 (*Recoveries*).
- (e) A Party which has made a payment in accordance with paragraph 1 shall, promptly upon request by a recipient 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,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.

2 Communication when Interim Revolving Facility Agent is Impaired Agent

If an Agent is an Impaired Agent, the Parties may, instead of communicating with each other through the relevant Agent, communicate with each other directly and (while the Interim Revolving Facility Agent is an Impaired Agent) all the provisions of the Interim Finance Documents which require communications to be made or notices to be given to or by the relevant 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.

3 Replacement of an Interim Revolving Facility Agent

- (a) The Majority Interim Lenders or the Company may by giving 10 days' notice to an Agent which is an Impaired Agent replace that Agent by appointing a successor Agent (which shall be acting through an office in the United Kingdom).
 - (b) The retiring Agent shall (at its own cost, and otherwise at the expense of the Interim Lenders):
 - (i) 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 Interim Finance Documents; and
 - (ii) enter into and deliver to the successor Agent those documents and effect any registrations and notifications as may be required for the transfer or assignment of all its rights and benefits under the Interim Finance Documents to the successor Agent.
 - (c) An Obligor must take any action and enter into and deliver any document which is necessary to ensure that any Interim Security Document provides for effective and perfected Interim Security in favour of any successor Agent.
 - (d) The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Interim Lenders or the Company to the retiring Agent. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Interim Finance Documents (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).
 - (e) 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.
 - (f) The Interim Revolving Facility Agent shall resign and the Majority Interim Lenders shall replace the Interim Revolving Facility Agent in accordance with paragraph (a) above if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Interim Revolving Facility Agent under the Interim Finance Documents, either:
 - (i) the Interim Revolving Facility Agent fails to respond to a request under Clause 10.6(a) (*FATCA information*) and the Company or an Interim Lender reasonably believes that the Interim Revolving Facility 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 Interim Revolving Facility Agent pursuant to Clause 10.6(a) (*FATCA information*) indicates that the Interim Revolving Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
 - (iii) the Interim Revolving Facility Agent notifies the Company and the Interim Lenders that the Interim Revolving Facility 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 Company or an Interim Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Interim

Revolving Facility Agent were a FATCA Exempt Party, and the Company or that Interim Lender, by notice to the Interim Revolving Facility Agent, requires it to resign.

Part II

Defaulting Lender

- 1** For so long as a Defaulting Lender has any undrawn Interim Commitment, in ascertaining (i) the Majority Interim Lenders; or (ii) whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Interim Commitments under the Interim Revolving Facility/ies or the agreement of any specified group of Interim Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote of Interim Lenders under the Interim Finance Documents, that Defaulting Lender's Interim Commitments under the Interim Revolving Facility/ies will be reduced by the amount of its undrawn Interim Commitments under the Interim Revolving Facility/ies and, to the extent that that reduction results in that Defaulting Lender's Total Interim Commitments being zero, that Defaulting Lender shall be deemed not to be an Interim Lender for the purposes of (i) and (ii) above.

For the purposes of this paragraph 1, the Interim Revolving Facility Agent may assume that the following Interim Lenders are Defaulting Lenders:

- (a) any Interim Lender which has notified the Interim Revolving Facility Agent that it has become a Defaulting Lender;
- (b) any Interim 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 Interim Lender concerned (together with any supporting evidence reasonably requested by the Interim Revolving Facility Agent) or the Interim Revolving Facility Agent is otherwise aware that the Interim Lender has ceased to be a Defaulting Lender.

- 2** Without prejudice to any other provision of this Agreement, the Interim Revolving Facility Agent may disclose and, on the written request of the Company or the Majority Interim Lenders, shall, as soon as reasonably practicable, disclose the identity of a Defaulting Lender to the Company and to the other Interim Finance Parties.
- 3** If any Interim Lender becomes a Defaulting Lender, the Company may, at any time whilst the Interim Lender continues to be Defaulting Lender, give the Interim Revolving Facility Agent three Business Days' notice of cancellation of all or any part of each undrawn Interim Commitment of that Interim Lender.

Part III
Replacement of an Interim Lender / Increase

1 Replacement of an Interim Lender

(a) If at any time:

- (i) any Interim Finance Party becomes or is a Non-Consenting Lender (as defined in sub-paragraph (d) below); or
- (ii) an Obligor becomes obliged to repay any amount in accordance with Clause 11.3 (*Illegality*) or to pay additional amounts pursuant to Clause 10.1 (*Gross-up*), Clause 10.2 (*Tax indemnity*) or Clause 11.1 (*Increased Costs*) to any Interim Finance Party; or
- (iii) any Interim Finance Party invokes the benefit of Clause 9 (*Market Disruption*); or
- (iv) any Interim Finance Party becomes or is a Defaulting Lender,

then the Company may, on no less than five Business Days' prior written notice (a Replacement Notice) to the Interim Revolving Facility Agent and such Interim Finance Party (a Replaced Lender):

- (A) replace a participation of such Replaced Lender by requiring such Replaced Lender to (and such Replaced Lender shall) transfer pursuant to Clause 25 (*Changes to Parties*) on such dates as specified in the Replacement Notice all or part of its rights and obligations under this Agreement to an Interim Lender constituting a New Interim Lender under Clause 25.2 (*Transfers by Interim Lenders*) (a Replacement Lender) selected by the Company, which confirms its (or their) willingness to assume and does assume all or part of the obligations of the Replaced Lender (including the assumption of the Replaced Lender's participations or unfunded or undrawn participations (as the case may be) on the same basis as the Replaced Lender) for a purchase price in cash payable at the time of transfer in an amount equal to the applicable outstanding principal amount of such Replaced Lender's participation in the outstanding Interim Utilisations and all related accrued interest, Break Costs and other amounts payable in relation thereto under the Interim Finance Documents in respect of such transferred participation; and/or
 - (B) prepay on such dates as specified in the Replacement Notice all or any part of such Interim Lender's participation in the outstanding Interim Utilisations and all related accrued interest, Break Costs and other amounts payable in relation thereto under the Interim Finance Documents in respect of such participation; and/or
 - (C) cancel all or part of the undrawn Interim Commitments of that Replaced Lender on such dates as specified in the Replacement Notice.
- (b) Any notice delivered under paragraph (a) above (or any subsequent notice for this purpose, as applicable) may be accompanied by a Transfer Certificate complying with Clause 25.4 (*Procedure for transfer*) and/or an Assignment Agreement complying with Clause 25.5 (*Procedure for assignment*) and any other related documentation to effect the transfer or assignment, which Transfer Certificate, Assignment Agreement and any other related documentation to effect the transfer or assignment (if attached) shall be

promptly (and by no later than three Business Days from receiving such Transfer Certificate, Assignment Agreement and any other related documentation) executed by the relevant Replaced Lender and returned to the Company.

- (c) Notwithstanding the requirements of Clause 25 (*Changes to Parties*) or any other provisions of the Interim Finance Documents, if a Replaced Lender does not execute and/or return a Transfer Certificate, an Assignment Agreement and any other related documentation to effect the transfer or assignment as required by paragraph (b) above within three Business Days of delivery by the Company, the relevant transfer or transfers or assignment and assignments shall automatically and immediately be effected for all purposes under the Interim Finance Documents on payment of the replacement amount to the Interim Revolving Facility Agent (for the account of the relevant Replaced Lender), and the Interim Revolving Facility Agent may (and is authorised by each Interim Finance Party to) execute, without requiring any further consent or action from any other party, a Transfer Certificate, Assignment Agreement and any other related documentation to effect the transfer or assignment on behalf of the relevant Replaced Lender which is required to transfer its rights and obligations or assign its rights under this Agreement pursuant to paragraph (a) above which shall be effective for the purposes of Clause 25.4 (*Procedure for transfer*) and Clause 25.5 (*Procedure for assignment*). The Interim Revolving Facility Agent shall not be liable in any way for any action taken by it pursuant to this paragraph 1 and, for the avoidance of doubt, the provisions of Clause 18.4 (*Exoneration of the Arranger and the Agent*) shall apply in relation thereto.
- (d) If the Company or the Interim Revolving Facility Agent (at the request of the Company) has requested the Interim Lenders to give a consent in relation to, or to agree to a release, waiver or amendment of, any provisions of the Interim Finance Documents or other vote of the Interim Lenders under the terms of this Agreement, where the requested consent, release, waiver or amendment is one which requires greater than Majority Interim Lender consent pursuant to this Agreement and has been agreed to by the Majority Interim Lenders, then any Interim Lender who has not consented or agreed (or fails to reject) to such request by the end of the period of ten Business Days (or any other period of time notified by the Company, with the prior agreement of the Interim Revolving Facility Agent if the period for this provision to operate is less than ten Business Days) of a request being made such Interim Lender shall be deemed a Non-Consenting Lender.
- (e) If any Non-Consenting Lender fails to assist with any step required to implement the Company's right to prepay that Non-Consenting Lender or to replace that Non-Consenting Lender pursuant to this paragraph 1 within three Business Days of a request to do so by the Company, then that Non-Consenting Lender shall be automatically excluded from participating in that vote, and its participations, Interim Commitments and vote (as the case may be) shall not be included (or, as applicable, required) with the Total Interim Commitments or otherwise when ascertaining whether the approval of Majority Interim Lenders, all Interim Lenders, or any other class of Interim Lenders (as applicable) has been obtained with respect to that request for a consent or agreement; and its status as an Interim Lender shall be disregarded for the purpose of ascertaining whether the agreement or any specified group of Interim Lenders has been obtained to approve the request.

2 Increase

- (a) The Company may by giving prior notice to the Interim Revolving Facility Agent after the effective date of a cancellation of:
 - (i) the undrawn Interim Commitments of a Defaulting Lender in accordance with paragraph 3 of Part II (Defaulting Lender) of this Schedule 6; or

- (ii) the Interim Commitments of an Interim Lender in accordance with Clause 11.3 (*Illegality*) or paragraph 1 (*Replacement of an Interim Lender*) above,

request that the Interim Commitments relating to the Interim Revolving Facility be increased (and the Interim Commitments relating to that Interim Revolving Facility shall be so increased) up to the amount of the undrawn Interim Commitments or Interim Commitments relating to that Interim Revolving Facility so cancelled as described in the following paragraphs.

- (b) Following a request as described in paragraph (a) above:
 - (i) the increased Interim Commitments will be assumed by one or more Interim Lenders or other banks, financial institutions, trusts, funds or other entities (each an Increase Lender) selected by the Company 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 an Interim Lender corresponding to that part of the increased Interim Commitments which it is to assume, as if it had been an Original Interim Lender;
 - (ii) 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 Interim Lender;
 - (iii) each Increase Lender shall become a Party as an Interim Lender and any Increase Lender and each of the other Interim Finance Parties shall assume obligations towards one another and acquire rights against one another as that Increase Lender and those Interim Finance Parties would have assumed and/or acquired had the Increase Lender been an Original Interim Lender;
 - (iv) the Interim Commitments of the other Interim Lenders shall continue in full force and effect; and
 - (v) any increase in the Interim Commitments relating to an Interim Revolving Facility shall take effect on the date specified by the Company in the notice referred to above or any later date on which the conditions set out in paragraph (c) below are satisfied.
- (c) An increase in the Interim Commitments relating to an Interim Revolving Facility will only be effective on:
 - (i) the execution by the Interim Revolving Facility Agent of an Increase Confirmation from the relevant Increase Lender;
 - (ii) in relation to an Increase Lender which is not an Interim Lender immediately prior to the relevant increase the Interim Revolving Facility 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 Interim Commitments by that Increase Lender. The Interim Revolving Facility Agent shall promptly notify the Company and the Increase Lender upon being so satisfied.
- (d) Each Increase Lender, by executing the Increase Confirmation, confirms that the Interim Revolving Facility Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Interim Lender or Interim Lenders in accordance with this Agreement on or prior to the date on which the increase becomes effective.

- (e) The Interim Revolving Facility Agent shall, as soon as reasonably practicable after it has executed an Increase Confirmation, send to the Company a copy of that Increase Confirmation.
- (f) Clause 25.3 (*Limitation of responsibility of Existing Interim Lenders*) shall apply mutatis mutandis in this paragraph 2 in relation to an Increase Lender as if references in that Clause to:
 - (i) an Existing Interim Lender were references to all the Interim Lenders immediately prior to the relevant increase;
 - (ii) the New Interim Lender were references to that Increase Lender; and
 - (iii) a re-transfer and re-assignment were references to respectively a transfer and assignment.

Part IV
Form of Increase Confirmation

To: [●] as Interim Revolving Facility Agent, [●] as Interim Security Agent and [●] as the Company

From: [●] (the **Increase Lender**)

Dated: [●]

[The Company] – £[●] Interim Revolving Facility Agreement
dated [●] (as amended from time to time) (the Interim Revolving Facility Agreement)

- 1** We refer to the Interim Revolving Facility Agreement. This agreement (the Agreement) shall take effect as an Increase Confirmation for the purpose of the Interim Revolving Facility Agreement. Terms defined in the Interim Revolving Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
- 2** We refer to paragraph 2 (*Increase*) of Part III of Schedule 6 (*Impaired Agent, Replacement of an Interim Revolving Facility Agent, Defaulting Lender, Replacement of an Interim Lender / Increase,*) of the Interim Revolving Facility Agreement.
- 3** The Increase Lender agrees to assume and will assume all of the obligations corresponding to the Interim Commitment specified in the Schedule (*the Relevant Commitment*) as if it was an Original Interim Lender under the Interim Revolving Facility 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 party to the relevant Interim Finance Documents as an Interim Lender.
- 6** The Facility Office and address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 21.1 (*Mode of service*) of the Interim Revolving Facility Agreement are set out in the Schedule.
- 7** The Increase Lender expressly acknowledges the limitations on the Interim Lenders' obligations referred to in sub-paragraph (f) of paragraph 2 (*Increase*) of Part III of Schedule 6 (of the Interim Revolving Facility Agreement.)
- 8** The Increase Lender confirms that it is:
 - (a) [a Qualifying Interim Lender (other than a Treaty Interim Lender);]
 - (b) [a Treaty Interim Lender;]
 - (c) [not a Qualifying Interim Lender].²
- 9** [The Increase Lender confirms that the person beneficially entitled to interest payable to that Increase 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;

² Delete as applicable - each New Lender is required to confirm which of these three categories it falls within.

- (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
 - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]³
- 10** [The Increase Interim 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 each Borrower which is a Party as a Borrower as at the Transfer Date, and that it wishes that scheme to apply to the Interim Revolving Facility Agreement.]**
- 11** This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 12** This Agreement has been entered into on the date stated at the beginning of this Agreement.

³ Include if New Lender comes within paragraph (i)(B) of the definition of Qualifying Lender in Clause 18.1 (*Definitions*).

* Insert jurisdiction of tax residence.

** Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Interim Revolving Facility Agreement.

The Schedule to the Increase Confirmation

Relevant Commitment/rights and obligations to be assumed by the Increase Lender

[INSERT RELEVANT DETAILS]

[Facility office address, fax number and attention details for notices and account details for payments]

[Increase Lender]

By:

This Agreement is accepted as an Increase Confirmation for the purposes of the Interim Revolving Facility Agreement by the Interim Revolving Facility Agent.

[Interim Revolving Facility Agent]

By:

Part V

Definitions

Capitalised terms in this Schedule 6 shall have the meanings ascribed to such terms in Schedule 1 (*Definitions and Interpretation*) and this Part V, as applicable.

“Acceptable Bank” means a bank or financial institution which has a long term credit rating of at least BBB by Standard & Poor’s Rating Services or Fitch Ratings Ltd or at least Baa2 by Moody’s Investor Services Limited or a comparable rating from an internationally recognised credit rating agency; or any Interim Finance Party or any Affiliate of an Interim Finance Party.

“Defaulting Lender” means any Interim Lender:

- (a) which has failed to make its participation in an Interim Loan available (or has notified the Interim Revolving Facility Agent or the Company (which has notified the Interim Revolving Facility Agent) that it will not make its participation in an Interim Loan available) by the Drawdown Date of that Interim Loan in accordance with Clause 6.3 (*Advance of Interim Loans*) or which has failed to provide cash collateral;
- (b) which has otherwise rescinded or repudiated an Interim Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing.

“Impaired Agent” means an 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 Interim Finance Documents by the due date for payment;
- (b) the relevant Agent otherwise rescinds or repudiates an Interim Finance Document;
- (c) (if the relevant Agent is also an Interim Lender) it is a Defaulting Lender under paragraphs (a) or (b) of the definition of Defaulting Lender; or
- (d) an Insolvency Event has occurred and is continuing with respect to an Agent, unless, in the case of paragraph (a) above:
 - (i) its failure to pay is caused by administrative or technical error or a Disruption Event and payment is made within three Business Days of its due date; or
 - (ii) the relevant 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 Part IV (*Form of Increase Confirmation*) of this Schedule 6.

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

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

jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;

- (e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:
 - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
 - (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (f) has 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;
- (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.

“Non-Consenting Lender” has the meaning given to that term in sub-paragraph (d) of paragraph 1 (*Replacement of an Interim Lender*) of Part III of this Schedule 6.

SCHEDULE 7

FORM OF TRANSFER CERTIFICATE

To: [●] as Interim Revolving Facility Agent

From: [●] (the Existing Interim Lender) and [●] (the New Interim Lender)

Dated: [●]

[The Company] – £[●] Interim Revolving Facility Agreement

dated [●] (as amended from time to time) (the Interim Revolving Facility Agreement)

1. We refer to the Interim Revolving Facility Agreement. This is a Transfer Certificate. Terms defined in the Interim Revolving Facility Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
2. We refer to Clause 25.4 (*Procedure for transfer*) of the Interim Revolving Facility Agreement:
 - (a) The Existing Interim Lender and the New Interim Lender agree to the Existing Interim Lender transferring to the New Interim Lender by novation all or part of the Existing Interim Lender's Interim Commitments, rights and obligations referred to in the Schedule in accordance with Clause 25.4 (*Procedure for transfer*) of the Interim Revolving Facility Agreement.
 - (b) The proposed Transfer Date is [●].
 - (c) The Facility Office and address, fax number and attention details for notices of the New Interim Lender for the purposes of Clause 21.1 (*Mode of service*) of the Interim Revolving Facility Agreement are set out in the Schedule.
3. The New Interim Lender expressly acknowledges the limitations on the Existing Interim Lender's obligations set out in paragraph (c) of Clause 25.3 (*Limitation of responsibility of Existing Interim Lenders*) of the Interim Revolving Facility Agreement.
4. The New Interim Lender confirms that it is:
 - (d) [a Qualifying Interim Lender (other than a Treaty Interim Lender);]
 - (e) [a Treaty Interim Lender;]
 - (f) [not a Qualifying Interim Lender].⁴
5. [The New Interim Lender confirms that the person beneficially entitled to interest payable to that New Interim Lender in respect of an advance under a Finance Document is either:
 - (g) a company resident in the United Kingdom for United Kingdom tax purposes;
 - (h) a partnership each member of which is:

⁴ Delete as applicable - each New Lender is required to confirm which of these three categories it falls within.

- (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
- (i) 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.]⁵

[The New Interim 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 each Borrower which is a Party as a Borrower as at the Transfer Date, and that it wishes that scheme to apply to the Interim Revolving Facility Agreement.]**

- 6. This Transfer Certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 7. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

Note: The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Interim Lender's interest in the Interim Security in all jurisdictions. It is the responsibility of the New Interim Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Interim Lender's Interim Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

The Schedule to the Transfer Certificate

Commitment/rights and obligations to be transferred

[INSERT RELEVANT DETAILS]

[Facility office address, fax number and attention details for notices and account details for payments]

⁵ Include if New Lender comes within paragraph (i)(B) of the definition of Qualifying Lender in Clause 18.1 (*Definitions*).

* Insert jurisdiction of tax residence.

** Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Interim Revolving Facility Agreement.

[Existing Interim Lender]

By:

[New Interim Lender]

By:

This Transfer Certificate is accepted by the Interim Revolving Facility Agent and the Transfer Date is confirmed as [●].

[Interim Revolving Facility Agent]

By:

SCHEDULE 8

FORM OF ASSIGNMENT AGREEMENT

To: [●] as Interim Revolving Facility Agent

From: [●] (the Existing Interim Lender) and [●] (the New Interim Lender)

Dated: [●]

[The Company] – £[●] Interim Revolving Facility Agreement

dated [●] (as amended from time to time) (the Interim Revolving Facility Agreement)

1. We refer to the Interim Revolving Facility Agreement. This is an Assignment Agreement. Terms defined in the Interim Revolving Facility Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.
2. We refer to Clause 25.5 (*Procedure for assignment*) of the Interim Revolving Facility Agreement.
3. The Existing Interim Lender assigns absolutely to the New Interim Lender all the rights of the Existing Interim Lender under the Interim Revolving Facility Agreement, the other Interim Finance Documents and in respect of the Interim Security which correspond to that portion of the Existing Interim Lender's Interim Commitments and participations in Interim Utilisations under the Interim Revolving Facility Agreement as specified in the Schedule.
4. The Existing Interim Lender is released from all the obligations of the Existing Interim Lender which correspond to that portion of the Existing Interim Lender's Interim Commitments and participations in Interim Utilisations under the Interim Revolving Facility Agreement specified in the Schedule.
5. The New Interim Lender becomes a Party as an Interim Lender and is bound by obligations equivalent to those from which the Existing Interim Lender is released under paragraph 4 above.
6. The proposed Transfer Date is [●].
7. On the Transfer Date the New Interim Lender becomes Party to the Interim Finance Documents as an Interim Lender.
8. The New Interim Lender expressly acknowledges the limitations on the Existing Interim Lender's obligations set out in paragraph (c) of Clause 25.3 (*Limitation of responsibility of Existing Interim Lenders*) of the Interim Revolving Facility Agreement.
9. This Assignment Agreement acts as notice to the Interim Revolving Facility Agent (on behalf of each Interim Finance Party) and, upon delivery in accordance with Clause 25.5 (*Procedure for assignment*) of the Interim Revolving Facility Agreement, to the Company (on behalf of each Obligor) of the assignment referred to in this Assignment Agreement.
10. The New Interim Lender confirms that it is:
 - (j) [a Qualifying Interim Lender (other than a Treaty Interim Lender);]
 - (k) [a Treaty Interim Lender;]

- (l) [not a Qualifying Interim Lender].⁶
11. [The New Interim Lender confirms that the person beneficially entitled to interest payable to that New Interim Lender in respect of an advance under a Finance Document is either:
- (m) a company resident in the United Kingdom for United Kingdom tax purposes;
 - (n) 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
 - (o) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]⁷

[The New Interim 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 each Borrower which is a Party as a Borrower as at the Transfer Date, and that it wishes that scheme to apply to the Interim Revolving Facility Agreement.]**

12. This Assignment 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 Assignment Agreement.
13. This Assignment Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
14. This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

Note: The execution of this Assignment Agreement may not transfer a proportionate share of the Existing Interim Lender's interest in the Interim Security in all jurisdictions. It is the responsibility of the New Interim Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Interim Lender's Interim Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

⁶ Delete as applicable - each New Lender is required to confirm which of these three categories it falls within.

⁷ Include if New Lender comes within paragraph (i)(B) of the definition of Qualifying Lender in Clause 18.1 (*Definitions*).

* Insert jurisdiction of tax residence.

** Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Interim Revolving Facility Agreement.

The Schedule to the Assignment Agreement

Commitment/rights and obligations to be transferred by assignment, release and accession

[INSERT RELEVANT DETAILS]

[Facility office address, fax number and attention details for notices and account details for payments]

[Existing Interim Lender]
By:

[New Interim Lender]
By:

This Assignment Agreement is accepted by the Interim Revolving Facility Agent and the Transfer Date is confirmed as [●].

[Signature of this Assignment Agreement by the Interim Revolving Facility Agent constitutes confirmation by the Interim Revolving Facility Agent of receipt of notice of the assignment referred to herein, which notice the Interim Revolving Facility Agent receives on behalf of each Interim Finance Party.]

[Interim Revolving Facility Agent]
By:

SCHEDULE 9

BANK GUARANTEES

UTILISATION

1 Purpose

The Interim Revolving Facility shall be available for utilisation by way of Bank Guarantees for the purposes referred to in paragraph (c) of Clause 3 (*The Making of the Interim Utilisations*) of this Agreement.

2 Delivery of a Bank Guarantee Request

- (a) The Company may request a Bank Guarantee by delivery to the Interim Revolving Facility Agent of a duly completed Bank Guarantee Request.
- (b) Each Bank Guarantee Request is, once given, irrevocable.
- (c) Unless otherwise agreed by the Interim Revolving Facility Agent, the latest time for receipt by the Interim Revolving Facility Agent of a duly completed Bank Guarantee Request is 11.00 a.m. (London time) one Business Day before the proposed Drawdown Date.
- (d) The Company may not deliver a Bank Guarantee Request if as a result of the proposed Bank Guarantee the number of Bank Guarantees outstanding under this Agreement (excluding for this purpose any Bank Guarantee issued at or about the first Drawdown Date to replace or counter-indemnify any existing guarantee or similar assurance against financial loss issued by or in respect of the Target) would exceed 15.

3 Completion of a Bank Guarantee Request

A Bank Guarantee Request will not be regarded as having been duly completed unless:

- (a) it specifies the identity of the Issuing Bank;
- (b) the proposed Drawdown Date is a Business Day within the relevant Interim Revolving Facility Availability Period;
- (c) the currency of the Bank Guarantee requested is Euro, Sterling or US Dollars;
- (d) the form of Bank Guarantee is attached;
- (e) the delivery instructions for the Bank Guarantee are specified;
- (f) the Base Currency Amount of the Bank Guarantee requested, when aggregated with the Base Currency Amount of each other Interim Utilisation made or due to be made on or before the proposed Drawdown Date (but excluding any part of any Interim Utilisation prepaid or due to be prepaid on or before the proposed Drawdown Date), does not exceed the Total Interim Commitments; and
- (g) the Issuing Bank is not precluded from issuing a Bank Guarantee by law or regulation or its internal policies to the beneficiary of the Bank Guarantee.

4 Issue of Bank Guarantees

- (a) The Interim Revolving Facility Agent must promptly notify the relevant Issuing Bank of the details of a requested Bank Guarantee.
- (b) If the conditions set out in this Agreement have been met, the relevant Issuing Bank shall issue the Bank Guarantee on the Drawdown Date.
- (c) Each Interim Lender will participate in each Bank Guarantee in the proportion which its Interim Commitment bears to the Total Interim Commitments immediately before the issue of that Bank Guarantee.
- (d) The obligation of any Issuing Bank to issue a Bank Guarantee is subject to the condition that on the Drawdown Date the conditions precedent referred to in paragraph (a) of Clause 3 (*The Making of the Interim Utilisations*) have been satisfied or, as the case may be, waived. The provisions of paragraph (a) of Clause 3 (*The Making of the Interim Utilisations*) shall apply to each Issuing Bank in respect of any Bank Guarantee issued or to be issued by that Issuing Bank.

BANK GUARANTEES

5 Immediately payable

If a Bank Guarantee or any amount outstanding under a Bank Guarantee is expressed to be immediately payable, the Company shall repay or prepay that amount within two Business Days of demand or, if payment is being funded by an Interim Loan, within four Business Days of demand.

6 Demands

Each Issuing Bank shall forthwith notify the Interim Revolving Facility Agent of any demand received by it under and in accordance with any Bank Guarantee (including details of the Bank Guarantee under which such demand has been received and the amount demanded (if applicable, minus the amount of any cash cover provided in respect of that Bank Guarantee)) (the “**Demand Amount**”) and the Interim Revolving Facility Agent on receipt of any such notice shall forthwith notify the Company and each of the Interim Lenders under the Interim Revolving Facility.

7 Payments

- (a) The Company shall immediately on receipt of any notice from the Interim Revolving Facility Agent under paragraph 6 (*Demands*) above (unless the Company notifies the Interim Revolving Facility Agent otherwise) be deemed to have delivered to the Interim Revolving Facility Agent a duly completed Drawdown Request requesting an Interim Loan in an amount equal to the Demand Amount which shall be drawn three Business Days following receipt by the Interim Revolving Facility Agent of the demand and applied in discharge of the Demand Amount.
- (b) If the Company notifies the Interim Revolving Facility Agent pursuant to paragraph (a) above that an Interim Loan is not to be drawn in accordance with the provisions of such paragraph, then the Company shall within two Business Days after receipt of any notice from the Interim Revolving Facility Agent under paragraph 6 (*Demands*) above pay to the Interim Revolving Facility Agent for the account of the relevant Issuing Bank the amount demanded from that Issuing Bank as notified to the Interim Revolving Facility Agent in accordance with paragraph 6 (*Demands*) above less any amount of cash cover provided in respect of the Bank Guarantee under which the relevant Issuing Bank has received demand.

- (c) The Interim Revolving Facility Agent shall pay to the relevant Issuing Bank any amount received by it from the Company under paragraph (b) above.

8 Cash cover

Each Issuing Bank is hereby irrevocably authorised by the Company following a demand under and in accordance with any Bank Guarantee issued by that Issuing Bank to apply all amounts of cash cover provided in respect of that Bank Guarantee in satisfaction of the Company's obligations in respect of that Bank Guarantee.

9 Fees payable in respect of Bank Guarantees

- (a) The Company shall pay to the Interim Revolving Facility Agent (for the account of each Interim Lender with an Interim Commitment) a Bank Guarantee fee in euro computed at the rate equal to the Margin applicable to an Interim Loan on the outstanding amount of each Bank Guarantee (less any amount which has been repaid or prepaid) for the period from the issue of that Bank Guarantee until its Expiry Date (or, if earlier, the date of its repayment or cancellation). This fee shall be distributed according to each Interim Lender's pro rata share of that Bank Guarantee. Any accrued Bank Guarantee fee on a Bank Guarantee shall be payable on the Final Repayment Date.
- (b) The Company shall pay to the Issuing Bank which issues a Bank Guarantee a fee equal to [0.125] per cent. per annum (or such other amount as may be agreed between the Company and the relevant Issuing Bank from time to time) on the face amount of that Bank Guarantee (excluding the amount of the share of that Issuing Bank in the Bank Guarantee if that Issuing Bank (or an Affiliate of it) is also an Interim Lender), less any amount which has been repaid or prepaid. That fee shall be payable on the Final Repayment Date.

10 Claims under a Bank Guarantee

- (a) The Company irrevocably and unconditionally authorises each Issuing Bank to pay any claim made or purported to be made under a Bank Guarantee issued by such Issuing Bank and requested by it and which appears on its face to be in order (a claim).
- (b) The Company shall, within two Business Days after receipt of demand or, if such payment is being funded by an Interim Loan, shall within four Business Days of demand, pay to the Interim Revolving Facility Agent for the relevant Issuing Bank an amount equal to the amount of any claim (less any cash cover provided in respect of that Bank Guarantee).
- (c) The Company acknowledges that the relevant Issuing Bank:
 - (i) is not obliged to carry out any investigation or seek any confirmation from any other person before paying a claim;
 - (ii) deals in documents only and will not be concerned with the legality of a claim or any underlying transaction or any available set-off, counterclaim or other defence of any person; and
 - (iii) if the relevant Issuing Bank, acting reasonably, informs the Company not less than two Business Days prior to the issue of a Bank Guarantee that the issue by it of a Bank Guarantee would breach any law, regulation or directive applicable to it, then such Issuing Bank will not be obliged to issue that Bank Guarantee. For the avoidance of doubt, such Issuing Bank will remain Issuing Bank for all other purposes under this Agreement and the Company will be free

to request any other Interim Lender to become the Issuing Bank in respect of that Bank Guarantee.

- (d) The obligations of the Company under this paragraph 10 will not be affected by:
 - (i) the sufficiency, accuracy or genuineness of any claim or any other document; or
 - (ii) any incapacity of, or limitation on the powers of, any person signing a claim or other document.

11 Indemnities

- (a) The Company shall immediately (save as referred to in paragraph 5 (Immediately payable) above and sub-paragraph (b) of paragraph 10 (Claims under a Bank Guarantee) above) on demand indemnify an Issuing Bank against any cost, loss or liability incurred by that Issuing Bank (otherwise than by reason of the Issuing Bank's fraud, negligence, wilful misconduct or breach of the terms of this Agreement) in acting as the Issuing Bank under any Bank Guarantee requested by (or on behalf of) the Company.
- (b) Each Interim Lender shall immediately on demand indemnify the relevant Issuing Bank against such Interim Lender's pro rata proportion of any cost, loss or liability incurred by such Issuing Bank (otherwise than by reason of the Issuing Bank's fraud, negligence, wilful misconduct or breach of the terms of this Agreement) in acting as the Issuing Bank under any Bank Guarantee (unless the relevant Issuing Bank has been reimbursed by an Obligor).
- (c) The Company shall immediately on demand reimburse any Interim Lender for any payment it makes to the Issuing Bank under this paragraph 11 in respect of that Bank Guarantee (otherwise than by reason of such Interim Lender's fraud, negligence, wilful misconduct or breach of the terms of this Agreement).
- (d) The obligations of each Interim Lender under this paragraph 11 are continuing obligations and will extend to the ultimate balance of sums payable by that Interim Lender in respect of any Bank Guarantee, regardless of any intermediate payment or discharge in whole or in part.
- (e) The obligations of any Interim Lender or the Company under this paragraph 11 will not be affected by any act, omission, matter or thing which, but for this paragraph 11, would reduce, release or prejudice any of its obligations under this paragraph 11 (without limitation and whether or not known to it or any other person) including:
 - (i) any time, waiver or consent granted to, or composition with, any Obligor, any beneficiary under a Bank Guarantee or other person;
 - (ii) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor or any Group Company;
 - (iii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce any rights against, or security over assets of, any Obligor, any beneficiary under a Bank Guarantee or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - (iv) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor, any beneficiary under a Bank Guarantee or any other person;

- (v) any amendment (however fundamental) or replacement of an Interim Finance Document, any Bank Guarantee or any other document or security unless in the case of amendments to the Bank Guarantee, the Company had not provided its consent to such amendment(s);
- (vi) any unenforceability, illegality or invalidity of any obligation of any person under any Interim Finance Document, any Bank Guarantee (unless such obligation arose by reason of the relevant Issuing Bank's negligence or wilful misconduct) or any other security provided by an Obligor; or
- (vii) any insolvency or similar proceedings.

12 Repayment

- (a) Subject to paragraph (b) below, if not previously repaid, the Company shall repay each Bank Guarantee in full on the Final Repayment Date.
- (b) Notwithstanding paragraph (a) above and Clause 7 (*Repayment and Prepayment*) of this Agreement, the relevant Issuing Bank and the Company may agree to a Bank Guarantee not being repaid in full on the Final Repayment Date provided that any such Bank Guarantee shall remain outstanding on a bilateral basis between such parties and not under (or subject to the terms of) the Interim Finance Documents.

13 Interim Lender as Issuing Bank

An Interim Lender which is also an Issuing Bank shall be treated as a separate entity in those capacities and capable, as an Interim Lender, of contracting with itself as an Issuing Bank.

14 Rights of contribution

No Obligor will be entitled to any right of contribution or indemnity from any Interim Finance Party for so long as any sum remains payable or capable of becoming payable under the Interim Finance Documents or in respect of any payment it may make under this paragraph 14.

15 Settlement conditional

Any settlement or discharge between an Interim Lender and an Issuing Bank shall be conditional upon no security or payment to the Issuing Bank by an Interim Lender or any other person on behalf of an Interim Lender being avoided or reduced by virtue of any laws relating to bankruptcy, insolvency, liquidation or similar laws of general application and, if any such security or payment is so avoided or reduced, the Issuing Bank shall be entitled to recover the value or amount of such security or payment from such Interim Lender subsequently as if such settlement or discharge had not occurred.

16 Exercise of rights

No Issuing Bank shall be obliged before exercising any of the rights, powers or remedies conferred upon it in respect of any Interim Lender by this Agreement or by law:

- (a) to take any action or obtain judgment in any court against any Obligor;
- (b) to make or file any claim or proof in a winding-up or dissolution of any Obligor; or
- (c) to enforce or seek to enforce any other security taken in respect of any of the obligations of any Obligor under this Agreement.

17 Role of the Issuing Bank

- (a) Nothing in this Agreement constitutes the Issuing Bank as a trustee or fiduciary of any other person.
- (b) The Issuing Bank shall not be bound to account to any Interim Lender for any sum or the profit element of any sum received by it for its own account.
- (c) The Issuing Bank may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Group Company.
- (d) The Issuing Bank may rely on:
 - (i) any representation, notice or document 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.
- (e) The Issuing Bank may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (f) The Issuing Bank may act in relation to the Interim Finance Documents through its personnel and agents.
- (g) Except where an Interim Finance Document specifically provides otherwise, the Issuing Bank is not responsible for:
 - (i) the adequacy, accuracy and/or completeness of any information (whether oral or written) provided under or in connection with any Interim Finance Document or any notice or document delivered in connection with any Interim Finance Document; or
 - (ii) the legality, validity, effectiveness, adequacy, completeness or enforceability of any Interim Finance Document or any other agreement or document entered into in connection with any Interim Finance Document.

18 Exclusion of liability

- (a) Without limiting paragraph (b) below, the Issuing Bank will not be liable for any action taken by it under or in connection with any Interim Finance Document, unless caused by its fraud, negligence, wilful misconduct or breach of the terms of this Agreement.
- (b) No Party (other than the Issuing Bank) may take any proceedings against any officer, employee or agent of the Issuing Bank in respect of any claim it might have against the Issuing Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Interim Finance Document. Any officer, employee or agent of the Issuing Bank may rely on this paragraph 18 in accordance with the Contracts (Rights of Third Parties) Act 1999.

19 Appointment of additional Issuing Banks

Any Interim Lender which has agreed to the Company's request to be an Issuing Bank pursuant to the terms of this Agreement shall become an Issuing Bank for the purposes of this Agreement upon notifying the Interim Revolving Facility Agent and the Company that it has so agreed to be an Issuing Bank and acceding to this Agreement as an Issuing Bank and on making that notification that Interim Lender shall become bound by the terms of this Agreement as an Issuing Bank.

SCHEDULE 10

FORM OF BANK GUARANTEE

To: [●] (the Beneficiary)

Date: [●]

Irrevocable Standby Letter of Credit no. [●]

At the request of [●], [Issuing Bank] (the “**Issuing Bank**”) issues this irrevocable standby Letter of Credit (“**Letter of Credit**”) in your favour on the following terms and conditions:

1 Definitions

In this Letter of Credit:

“**Business Day**” means a day (other than a Saturday or a Sunday) on which banks are open for general business in [London].

“**Demand**” means a demand for a payment under this Letter of Credit in the form of the Schedule to this Letter of Credit.

“**Expiry Date**” means [●].

“**Total Letter of Credit Amount**” means [●].

2 Issuing Bank’s agreement

- (a) The Beneficiary may request a drawing or drawings under this Letter of Credit by giving to the Issuing Bank a duly completed Demand. A Demand must be received by the Issuing Bank by 11.00 a.m. (London time) on the Expiry Date.
- (b) Subject to the terms of this Letter of Credit, the Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that, within [ten] Business Days of receipt by it of a Demand, it must pay to the Beneficiary the amount demanded in that Demand.
- (c) The Issuing Bank will not be obliged to make a payment under this Letter of Credit if as a result the aggregate of all payments made by it under this Letter of Credit would exceed the Total Letter of Credit Amount.

3 Expiry

- (a) The Issuing Bank will be released from its obligations under this Letter of Credit on the date (if any) notified by the Beneficiary to the Issuing Bank as the date upon which the obligations of the Issuing Bank under this Letter of Credit are released.
- (b) Unless previously released under paragraph (a) above, on 5.00 p.m.([London] time) on the Expiry Date, the obligations of the Issuing Bank under this Letter of Credit will cease with no further liability on the part of the Issuing Bank except for any Demand validly presented under the Letter of Credit that remains unpaid.

When the Issuing Bank is no longer under any further obligations under this Letter of Credit, the Beneficiary must return the original of this Letter of Credit to the Issuing Bank.

4 Payments

All payments under this Letter of Credit shall be made in [euro] and for value on the due date to the account of the Beneficiary specified in the Demand.

5 Delivery of Demand

Each Demand shall be in writing, and, unless otherwise stated, may be made by letter, fax or telex and must be received in legible form by the Issuing Bank at its address and by the particular department or office (if any) as follows:

[•]

6 Assignment

The Beneficiary's rights under this Letter of Credit may not be assigned or transferred.

7 ISP 98

Except to the extent it is inconsistent with the express terms of this Letter of Credit, this Letter of Credit is subject to the International Standby Practices (ISP 98), International Chamber of Commerce Publication No. 590.

8 Governing law

This Letter of Credit and any non-contractual obligations arising out of or in connection with it are governed by English law.

9 Jurisdiction

The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Letter of Credit.

Yours faithfully

[Issuing Bank]

By:

Schedule to the Bank Guarantee

Form of Demand

To: [Issuing Bank]

Date: [●]

Dear Sirs

Standby Letter of Credit no. [●] issued in favour of [Beneficiary]

(the Letter of Credit)

1. We refer to the Letter of Credit. Terms defined in the Letter of Credit have the same meaning when used in this Demand.
2. We certify that the sum of [●] is due [and has remained unpaid for at least [] Business Days] [under [set out underlying contract or agreement]]. We therefore demand payment of the sum of [●].
3. Payment should be made to the following account:

Name: [●]

Account Number: [●]

Bank: [●]
4. The date of this Demand is not later than the Expiry Date.

Yours faithfully

For and on behalf of

[●]

Authorised Signatory for [Beneficiary]

SIGNATURE PAGES TO INTERIM REVOLVING FACILITY AGREEMENT

THE ARRANGERS

For and on behalf of

HSBC BANK PLC

(as an Arranger)

Name:

Title:

For and on behalf of
ING BANK N.V., LONDON BRANCH
(as an Arranger)
Name:
Title

For and on behalf of
LLOYDS BANK PLC
(as an Arranger)

Name:

Title:

THE ORIGINAL INTERIM LENDERS

For and on behalf of
HSBC BANK PLC
(as an Original Interim Lender)
Name:
Title:

For and on behalf of
ING BANK N.V., LONDON BRANCH
(as an Original Interim Lender)
Name:
Title:

For and on behalf of
LLOYDS BANK PLC
(as an Original Interim Lender)
Name:
Title:

THE INTERIM REVOLVING FACILITY AGENT

For and on behalf of

[●]

(as Interim Revolving Facility Agent)

Name:

Title:

THE INTERIM SECURITY AGENT

For and on behalf of

[●]

(as Interim Security Agent)

Name:

Title:

For and on behalf of
AI ROBIN MIDCO LIMITED
(as Holdco)

For and on behalf of
AI ROBIN MIDCO 2 LIMITED
(as the Parent)

For and on behalf of
AI ROBIN LIMITED
(as the Company)

APPENDIX C
Accession Deed

THIS DEED POLL dated [●] 2016 (the “**Accession Deed**”) is supplemental to a commitment letter (the “**Commitment Letter**”) originally dated [●] 2016 between, amongst others, [●] (the “**Company**”) and [●] as the Arranger[s] set out therein.

- 2 Terms defined in the Commitment Letter have the same meanings when used in this Accession Deed.
- 3 This is an Accession Deed referred to in the Commitment Letter.
- 4 [●] (the “**Permitted Transferee**”) undertakes for the benefit of each other party to the Commitment Letter and the other Commitment Documents that with effect on and from the date of this Accession Deed it will be bound by the terms of the Commitment Letter and the other Commitment Documents as if it had been an original party to the Commitment Letter and the other Commitment Documents in that capacity.
- 5 In accordance with paragraph 12.3 of the Commitment Letter, we accept and agree to the terms of the Commitment Letter and the other Commitment Documents, and no further acknowledgement or acceptance from the Company shall be required.
- 6 Our address and contact details for notices delivered under the Commitment Letter are:
- | | |
|----------|-----|
| Address: | [●] |
| Email: | [●] |
| FAO: | [●] |
- 7 This Accession Deed and any non-contractual obligations arising out of or in connection with it shall be governed by English law.

THIS DEED POLL has been executed and delivered as a deed on the date stated at the beginning of this Accession Deed.

EXECUTED as a deed poll by
[PERMITTED TRANSFEREE]

.....

Authorised signatory of
[PERMITTED TRANSFEREE]
as the Permitted Transferee

Sponsor Precedent Facilities Agreement

2 July 2015

as amended and restated by an amendment and restatement deed dated 5 October 2016

SENIOR FACILITIES AGREEMENT

between among others

**AI ALABAMA MIDCO B.V.
as Parent**

and

**AI ALABAMA B.V.
as Company**

with

JEFFERIES FINANCE LLC

ING BANK NV

**COÖPERATIEVE RABOBANK U.A. (formerly known as COÖPERATIEVE CENTRALE
RAIFFEISEN – BOERENLEENBANK B.A. (ACTING AS RABOBANK))**

and

**MIZUHO BANK, LTD
as Mandated Lead Arrangers**

The Lenders as set out herein

**COÖPERATIEVE RABOBANK U.A. (formerly known as COÖPERATIEVE CENTRALE
RAIFFEISEN – BOERENLEENBANK B.A. (ACTING AS RABOBANK))
as Agent**

and

**COÖPERATIEVE RABOBANK U.A. (formerly known as COÖPERATIEVE CENTRALE
RAIFFEISEN – BOERENLEENBANK B.A. (ACTING AS RABOBANK))
as Security Agent**

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THIS AGREEMENT is dated 2 July 2015, as amended and restated by an amendment and restatement deed dated 5 October 2016, and is made between the following parties:

- (1) **AI ALABAMA MIDCO B.V.**, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands having its corporate seat (*statutaire zetel*) in Amsterdam, the Netherlands, its registered office at Herengracht 450, 1017 CA, Amsterdam, the Netherlands and registered with the Trade Register of the Chamber of Commerce (*Kamer van Koophandel, afdeling Handelsregister*) under number 63594412 (the “**Parent**”);
- (2) **AI ALABAMA B.V.**, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands having its corporate seat (*statutaire zetel*) in Amsterdam, the Netherlands, its registered office at Herengracht 450, 1017 CA, Amsterdam, the Netherlands and registered with the Trade Register of the Chamber of Commerce (*Kamer van Koophandel, afdeling Handelsregister*) under number 63278979 (the “**Company**” and the “**Original Borrower**”);
- (3) **THE COMPANIES** listed in Part 1 of Schedule 1 (*The Original Parties*) as original guarantors (the “**Original Guarantors**”);
- (4) **JEFFERIES FINANCE LLC, ING BANK NV, COÖPERATIEVE RABOBANK U.A. (formerly known as COÖPERATIEVE CENTRALE RAIFFEISEN – BOERENLEENBANK B.A. (ACTING AS RABOBANK))** and **MIZUHO BANK, LTD** as mandated lead arrangers (together the “**Mandated Lead Arrangers**” and each a “**Mandated Lead Arranger**”);
- (5) **JEFFERIES FINANCE LLC, ING BANK NV** and **COÖPERATIEVE RABOBANK U.A. (formerly known as COÖPERATIEVE CENTRALE RAIFFEISEN – BOERENLEENBANK B.A. (ACTING AS RABOBANK))** as underwriters (together the “**Underwriters**” and each an “**Underwriter**”);
- (6) **THE FINANCIAL INSTITUTIONS** listed in Part 2 of Schedule 1 (*The Original Parties*) as Lenders (the “**Original Lenders**”);
- (7) **COÖPERATIEVE RABOBANK U.A. (formerly known as COÖPERATIEVE CENTRALE RAIFFEISEN – BOERENLEENBANK B.A. (ACTING AS RABOBANK))** as agent of the other Finance Parties (the “**Agent**”); and
- (8) **COÖPERATIEVE RABOBANK U.A. (formerly known as COÖPERATIEVE CENTRALE RAIFFEISEN – BOERENLEENBANK B.A. (ACTING AS RABOBANK))** as security agent for the Secured Parties (the “**Security Agent**”).

IT IS AGREED as follows

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

“**2016 Funds Flow**” means the funds flow statement in the agreed form in relation to the transactions contemplated by the Amendment and Restatement Deed.

“**Acceptable Bank**” means:

- (a) a bank or financial institution which has a long term credit rating of at least BBB by Standard & Poor’s Rating Services or Fitch Ratings Ltd or at least Baa2 by Moody’s

Investor Services Limited or a comparable rating from an internationally recognised credit rating agency, or any bank or financial institution which (having previously satisfied such requirement) ceases to satisfy the foregoing ratings requirement for a period of not more than three (3) Months;

- (b) any Finance Party or any Affiliate of a Finance Party;
- (c) any other bank or financial institution included in the list of banks provided by the Parent to the Agent in the agreed form and accepted by the Agent or otherwise provides banking services to the Target Group and is notified in writing to the Agent on or before the first Utilisation Date; and
- (d) any other bank or financial institution approved by the Agent (acting reasonably) or providing banking services to a business or entity acquired by a member of the Group, **provided that** such services are terminated and moved to a bank or financial institution falling under another limb of this definition within six (6) months of completion of the relevant acquisition.

“Acceptable Funding Sources” means:

- (a) Excluded Disposal Proceeds (and other proceeds of Permitted Disposals to the extent not required to be applied in prepayment of the Facilities), Excluded Recovery Proceeds and Excluded Insurance Proceeds;
- (b) New Shareholder Injections;
- (c) Permitted Financial Indebtedness;
- (d) Retained Cash;
- (e) Excess IPO Proceeds;
- (f) Closing Overfunding;
- (g) cash and Cash Equivalent Investments held by members of the Group **provided that** such cash and Cash Equivalent Investments would otherwise have been able to be used at that time to make a Permitted Payment (excluding paragraph (i)(ii)(A) of the definition thereof); and
- (h) any Residual Waived Amount.

“Acceptable Nation” means any member state of the European Union or any Participating Member State which in each case:

- (a) has a rating for its short term unsecured and non-credit enhanced debt obligations of A 1 or higher by Standard & Poor’s Rating Services or F1 or higher by Fitch Ratings Ltd or P 1 or higher by Moody’s Investor Services Limited; or
- (b) has been approved by the Agent (acting on the instructions of the Majority Lenders).

“Accession Deed” means a document substantially in the form set out in Schedule 6 (*Form of Accession Deed*) or any other form agreed between the Agent and the Parent (each acting reasonably).

“Accounting Principles” means, in respect of the Parent or a member of the Group, IFRS or the accounting principles applicable to it in its jurisdiction of incorporation (including IFRS (if

applicable)), in each case to the extent applicable to the relevant financial statements and as applied by the Parent from time to time.

“Accounting Reference Date” means 31 December.

“Acquisition” means the acquisition by the Company of the Target Shares in accordance with the terms of the Acquisition Agreement.

“Acquisition Agreement” means the sale and purchase agreement relating to, among other things, the sale and purchase of the Target Shares and made between (amongst others) the Company and the Vendor.

“Acquisition Costs” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Acquisition Documents” means the Acquisition Agreement and the Signing Protocol and any other document designated as such by the Parent and the Agent.

“Additional Borrower” means a limited liability entity which becomes a Borrower in accordance with Clause 32 (*Changes to the Obligors*).

“Additional Facility” means one or more additional facilities which are documented under this Agreement including as new or existing facility commitment(s) and/or as an additional tranche or class of, or an increase of, or an extension of, any existing Facility or a previously incurred Additional Facility (including, in each case, term or revolving facilities).

“Additional Facility Borrower” means the Company or any member of the Group which is specified as a borrower under an Additional Facility in an Additional Facility Notice.

“Additional Facility Commencement Date” means:

- (a) in respect of an Additional Facility, the date specified as the Additional Facility Commencement Date in the Additional Facility Notice relating to that Additional Facility;
- (b) in respect of an Second Lien Additional Facility, the date specified as the Additional Facility Commencement Date in the Additional Facility Notice relating to that Second Lien Additional Facility; and
- (c) in respect of any Permitted Alternative Debt, the date specified as the Additional Facility Commencement Date in the Additional Facility Notice relating to that Permitted Alternative Debt.

“Additional Facility Commitment” means:

- (a) in relation to an Additional Facility Lender, the amount set out in each Additional Facility Notice signed by that Additional Facility Lender and the amount of any other Additional Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Additional Facility*) or Clause 2.3 (*Increase*); and
- (b) in relation to any other Lender, the amount of any Additional Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Additional Facility*) or Clause 2.3 (*Increase*),

to the extent:

- (i) not cancelled, reduced or transferred by it under this Agreement;
- (ii) not deemed to be zero pursuant to Clause 31 (*Restriction on Debt Purchase Transactions*).

“Additional Facility Lender” means any Lender or other financial institution or fund or other entity which signs an Additional Facility Notice and confirms its willingness to provide all or a part of an Additional Facility.

“Additional Facility Lender Accession Notice” means a notice substantially in the form set out in Part 1 (*Form Of Additional Facility Lender Accession Notice*) of Schedule 15 (*Additional Facility*) or any other form agreed between the Agent and the Parent (each acting reasonably).

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

“Additional Facility Notice” means:

- (a) in respect of an Additional Facility, a notice substantially in the form set out in Part 2 of Schedule 15 (*Form of Additional Facility Notice for Additional Facility*) (or any other form agreed between the Agent and the Parent (each acting reasonably)) delivered by the Parent to the Agent in accordance with Clause 2.2 (*Additional Facility*);
- (b) in respect of a Second Lien Additional Facility, a notice substantially in the form set out in part 2 of schedule 14 (*Form of Additional Facility Notice for Additional Facility*) of the Second Lien Facility Agreement (or any other form agreed between the Second Lien Agent and the Parent (each acting reasonably)) delivered by the Parent to the Second Lien Agent in accordance with clause 2.2 (*Additional Facility*) of the Second Lien Facility Agreement; or
- (c) in respect of any Permitted Alternative Debt, a notice substantially in the form set out in Part 3 of Schedule 15 (*Form of Additional Facility Notice for Permitted Alternative Debt*) (or any other form agreed between the Agent and the Parent (each acting reasonably)) delivered by the Parent to the Agent in accordance with paragraph (f) of the definition of Permitted Alternative Debt.

“Additional Guarantor” means an entity which becomes an Additional Guarantor in accordance with Clause 32 (*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. For the purposes of this definition, each of Jefferies LLC and Jefferies International Limited and each of their respective Affiliates shall be deemed to be **“Affiliates”** of Jefferies Finance LLC.

“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 London or other relevant foreign exchange market at or about 11:00 a.m. (local time) on a particular day.

“Agreed Certain Funds Obligor” means any member of the Group designated as an Agreed Certain Funds Obligor by the Parent and the relevant Revolving Facility Lenders or Additional Facility Lenders who have agreed to provide an Agreed Certain Funds Utilisation in accordance with the provisions of Clause 4.6 (*Utilisations of Revolving Facility/Additional Facility during the Agreed Certain Funds Period*).

“Agreed Certain Funds Period” means:

- (a) in respect of the Revolving Facility which the Revolving Facility Lenders have agreed shall be provided on a “certain funds basis” in accordance with the provisions of Clause 4.6 (*Utilisations of Revolving Facility/Additional Facility during the Agreed Certain*

Funds Period), the period specified in a notice delivered by the Parent and the Revolving Facility Lenders to the Agent; and

- (b) in respect of an Additional Facility which the Additional Facility Lenders have agreed shall be provided on a “certain funds basis” in accordance with the provisions of Clause 4.6 (*Utilisations of Revolving Facility/Additional Facility during the Agreed Certain Funds Period*), the period specified in the relevant Additional Facility Notice;

“Agreed Certain Funds Utilisation” means:

- (a) in respect of the Revolving Facility which the Revolving Facility Lenders have agreed shall be provided on a “certain funds basis” in accordance with the provisions of Clause 4.6 (*Utilisations of Revolving Facility/Additional Facility during the Agreed Certain Funds Period*), a Utilisation made or to be made under the Revolving Facility during the Agreed Certain Funds Period solely for any of the purposes agreed with the Revolving Facility Lenders; and
- (b) in respect of an Additional Facility which the Additional Facility Lenders have agreed shall be provided on a “certain funds basis” in accordance with the provisions of Clause 4.6 (*Utilisations of Revolving Facility/Additional Facility during the Agreed Certain Funds Period*), a Utilisation made or to be made under the relevant Additional Facility during the Agreed Certain Funds Period solely for any of the purposes agreed with the relevant Additional Facility Lenders providing such Additional Facility.

“Agreed Co-Investor” means any co-investor which has been notified in writing to the Mandated Lead Arrangers and which becomes a co-investor no later than six (6) Months following the Closing Date and which (1) is a limited partner in one or more of the Initial Investors’ funds participating in the Acquisition (for the purpose of this limb (1), “Initial Investors” shall be limited to those under paragraph (i) of that definition) and (2) does not beneficially own and control (when aggregated with any other co-investor notified to the Mandated Lead Arrangers and which becomes a co-investor under this definition) more than thirty per cent. (30%) of the issued voting share capital of the Parent.

“Agreed Security Principles” means the principles set out in Schedule 12 (*Agreed Security Principles*).

“Amendment and Restatement Deed” means the amendment and restatement deed relating to this Agreement, the Second Lien Facility Agreement and the Intercreditor Agreement and entered into on 5 October 2016 between, amongst others, the Agent, the Security Agent and each Obligor.

“Amendment Costs” has the meaning given to that term in paragraph (a)(iii)(B) of Clause 3.1 (*Purpose*).

“Amendment Effective Date” has the meaning given to the term “Effective Date” in the Amendment and Restatement Deed.

“Amortising Additional Facility” means an Additional Facility which is repayable by instalments as a result of the provisions of paragraph (b)(ii)(B) of Clause 2.2 (*Additional Facility*).

“Amortising Facility” means a Term Facility which is repayable by instalments.

“Amortising Facility Commitment” means any Commitment under an Amortising Facility.

“Amortising Facility Loan” means a Loan made or to be made under an Amortising Facility.

“Amortising Facility Repayment Date” means each date set out in the relevant Additional Facility Notice for that Additional Facility which is an Amortising Facility.

“Amortising Facility Repayment Instalment” means each repayment instalment in relation to an Amortising Facility calculated and payable in accordance with the provisions of paragraph (a)(i) of Clause 10.2 (*Repayment of Additional Facility Loans*).

“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 9 (*Ancillary Facilities*), in each case as notified by the Ancillary Lender to the Agent pursuant to Clause 9.2 (*Availability*) to the extent that amount is not cancelled or reduced under this Agreement or the Ancillary Documents relating to that Ancillary Facility.

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

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

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

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

- (a) the principal amount under each overdraft facility and on-demand short term loan facility (**provided that**, for the purposes of this definition, any amount of intra-day exposure facilities (or similar) made available by an Ancillary Lender shall be excluded, unless, relation to that Ancillary Facility, otherwise agreed between the Parent and the relevant Ancillary Lender);
- (b) the principal face value amount of each guarantee, bond and letter of credit under that Ancillary Facility; and
- (c) the amount fairly representing the aggregate principal or equivalent outstanding (excluding interest and similar charges) of that Ancillary Lender under each other type of accommodation provided under that Ancillary Facility,

in each case net of any credit balances on any account of any Borrower of an Ancillary Facility with the Ancillary Lender making available that Ancillary Facility to the extent that the credit balances are freely available to be set-off by that Ancillary Lender against liabilities owed to it by that Borrower under that Ancillary Facility and in each case as determined by such Ancillary Lender, acting reasonably and in accordance with the relevant Ancillary Document, or (if not provided for in the relevant Ancillary Document), after consultation with the relevant Borrower, in accordance with its normal banking practice and in accordance with the relevant Ancillary Document.

For the purposes of this definition:

- (i) in relation to any Utilisation denominated in the Base Currency, the amount of that Utilisation (determined as described in paragraphs (a) to (c) above) shall be used; and
- (ii) in relation to any Utilisation not denominated in the Base Currency, the equivalent (calculated as specified in the relevant Ancillary Document or, if not so specified, as the relevant Ancillary Lender may specify, in each case in accordance with its usual practice at that time for calculating that equivalent in the Base Currency (acting reasonably)) of the amount of that Utilisation (determined as described in paragraphs (a) to (c) above) shall be used.

“Annual Compliance Certificate” means a certificate substantially in the form set out in Part 2 of Schedule 8 (*Form of Annual Compliance Certificate*) or such other form as may be agreed by the Parent and the Agent and delivered by the Parent to the Agent under Clause 25.5(b) (*Compliance Certificates*).

“Annual Financial Statements” has the meaning given to it in paragraph (a)(i)(A) of Clause 25.4 (*Financial Statements*).

“Approved Acquisition” means an acquisition which complies with all the applicable conditions set out in paragraph (f) of the definition of Permitted Acquisition.

“Approved List” means the list of lenders and potential lenders agreed by the Parent and the Mandated Lead Arrangers before the first Utilisation Date and held by the Agent (as the same may be amended from time to time pursuant to Clause 30.3(b)) (*Conditions of assignment or transfer*).

“Assignment Agreement” means an agreement substantially in the form set out in Schedule 5 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee **provided that** if that other form does not contain an undertaking substantially similar to the undertaking set out at paragraph 10 in the form set out in Schedule 5 (*Form of Assignment Agreement*) it shall not be a Creditor/Agent Accession Undertaking as defined in, and for the purposes of, the Intercreditor Agreement.

“Auditors” means any firm of independent accountants appointed by the Parent as its auditors from time to time and who, in the reasonable opinion of the Parent, has sufficient skill and expertise, or any other firm of auditors approved by the Majority Lenders.

“Authorisation” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration, in each case required by any applicable law or regulation.

“Availability Period” means:

- (a) in relation to Facility B other than Facility B Tranche 3, 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 Facility B Tranche 3, the period from and including the Amendment Effective Date to (and including) the date falling 10 Business Days after the Amendment Effective Date;
- (c) in relation to the Revolving Facility, the period from (and including) the date of this Agreement to (and including) the date falling one (1) Month prior to the applicable Termination Date; and
- (d) in relation to any Additional Facility, the period specified in the notice delivered by the Parent in accordance with Clause 2.2 (*Additional Facility*) for that Additional Facility.

“Available Ancillary Commitment” means in relation to an Ancillary Facility, an Ancillary Lender’s Ancillary Commitment (which in the case of an Ancillary Facility which is an overdraft facility comprising more than one account, for the purpose of this definition, shall be the Designated Net Amount) (unless, in relation to any Ancillary Commitment, otherwise agreed between the Parent and the relevant Ancillary Lender) less the Ancillary Outstandings in relation to that Ancillary Facility.

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

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

- (i) that Lender’s (or its Affiliate’s) participation in any Revolving Facility Utilisations that are due to be repaid or prepaid on or before the proposed Utilisation Date; and
- (ii) that Lender’s (or its Affiliate’s) Ancillary Commitments to the extent that they are due to be reduced or cancelled on or before the proposed Utilisation Date.

“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.

“Bank Levy” means any amount payable by any Finance Party or any of its Affiliates on the basis of, or in relation to, its balance sheet or capital base or any part of that person or its liabilities or minimum regulatory capital or any combination thereof (including, without limitation, the UK bank levy as set out in the Finance Act 2011, the Belgian bank levies as set out in both the Belgian Code on Miscellaneous Duties and Taxes (*Wetboek diverse rechten en taksen*) and the Belgian Inheritance Tax Code (*Wetboek der successierechten*), the Dutch *bankenbelasting* as set out in the bank levy act (*Wet bankenbelasting*), the French *taxe bancaire de risque systémique* as set out in Article 235 *ter* ZE of the French Tax Code and the French *taxe pour le financement du fonds de soutien aux collectivités territoriales* as set out in Article 235 *ter* ZE *bis* of the French Tax Code, the German bank levy as set out in the German Restructuring Fund Act 2010 (*Restrukturierungsfondsgesetz*) (as amended), the Spanish bank levy (*Impuesto sobre los Depósitos en las Entidades de Crédito*) as set out in the Law 16/2012 of 27 December 2012 and any tax in any jurisdiction levied on a similar basis or for a similar purpose) which has been enacted and/or which has been formally announced as proposed as at the date of this Agreement.

“Base Case Model” means the financial model relating to the Group in the agreed form (including profit and loss, balance sheet and cashflow projections) and delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*).

“Base Currency” means:

- (a) for Facility B and the Revolving Facility, euro and
- (b) in relation to any Additional Facility, as agreed between the Parent and the applicable Additional Facility Lenders.

“Base Currency Amount” means:

- (a) in relation to a Utilisation for an amount in the Base Currency, the amount specified in the Utilisation Request delivered by a Borrower for that Utilisation (or, if the amount requested is not denominated in the Base Currency), that amount converted into the Base Currency at the Agent’s Spot Rate of Exchange on the date which is three (3) 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;
- (b) in relation to an Ancillary Commitment, the amount specified as such in the notice delivered to the Agent by the Parent pursuant to Clause 9.2 (*Availability*) (or, if the amount specified is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent’s Spot Rate of Exchange on the date which is three (3) 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); and
- (c) in relation to an Additional Facility Commitment, the amount specified as such in the Additional Facility Notice delivered to the Agent by the Parent pursuant to Clause 2.2 (*Additional Facility*) (or, if the amount specified is not denominated in the Base Currency, that amount of the Additional Facility converted into the Base Currency at the Agent’s Spot Rate of Exchange on the date which is three (3) Business Days before the Additional Facility Commencement Date for that Additional Facility or, if later, the date the Agent receives the notice of the Additional Facility in accordance with the terms of this Agreement),

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

“Base Reference Bank Rate” means:

- (a) 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:
 - (i) in relation to LIBOR:
 - (A) (other than where paragraph (B) below 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
 - (B) 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
 - (ii) in relation to EURIBOR:
 - (A) (other than where paragraph (B) below 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

- (B) 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; or

(iii) in relation to CIBOR:

- (A) (other than where paragraph (B) below 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 Danish Kroner within the Danish interbank market for the relevant period; or
- (B) 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 Bank Quotation” means any quotation supplied to the Agent by a Base Reference Bank.

“Base Reference Banks” means the principal offices of Coöperatieve Rabobank U.A. and no more than two (2) other banks appointed by the Agent in consultation with the Parent.

“Belgian Borrower” means a Borrower incorporated in Belgium.

“Belgian Guarantor” means a Guarantor incorporated in Belgium.

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

“Belgium Stamp Duty” means a stamp duty of EUR 0.15 that is payable for each original copy of certain Finance Documents if executed in Belgium and any other Belgian documentary and registration duties in respect of Belgian law governed Transaction Security Documents.

“Board” means the Board of Governors of the Federal Reserve System of the U.S..

“Borrower” means an Original Borrower or an Additional Borrower unless it has ceased to be a Borrower in accordance with Clause 32 (*Changes to the Obligors*) and, in respect of an Ancillary Facility only, any Affiliate of a Borrower that becomes a borrower of that Ancillary Facility pursuant to the provisions of Clause 9.9 (*Affiliates of Borrowers*).

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

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

exceeds:

- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market 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 ending on 31 December 2015, the Base Case Model; and
- (b) in relation to any Financial Year commencing on or after 1 January 2016, any budget delivered to the Agent in respect of that period pursuant to paragraph (a)(iv) of Clause 25.4 (*Financial Statements*).

“Business Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Amsterdam and New York, 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.

“Canadian Obligor” means an Obligor that is incorporated or organised under the laws of Canada or any province or territory of Canada.

“Capital Expenditure” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Cash” means, at any time (without double counting), cash at bank or in hand (including money market deposits, cash in tills and safes) or in transit, or payments made by cheques or debit cards which are yet to be received in cleared funds, or any credit balance on an account to which a member of the Group (or together with other members of the Group) is beneficially entitled (together, when used in this definition moneys) and for so long as:

- (a) repayment of those moneys are not contingent on the prior discharge of any other indebtedness of any Group member other than any indebtedness included in the calculation of Consolidated Total Net Debt and/or Consolidated Senior Secured Net Debt;
- (b) there is no Security over those moneys except for (i) Transaction Security; (ii) pursuant to any cash pooling arrangements; (iii) Permitted Security under paragraphs (a), (b), (c), (d), (n) and (x) of that definition; and (iv) any other Permitted Security in respect of any Financial Indebtedness taken into account when calculating Consolidated Total Net Debt and/or Consolidated Senior Secured Net Debt; and
- (c) such moneys (save for and in such circumstances, moneys securing the indebtedness referred to in parentheses in paragraphs (a) and (b) above) are capable of being applied in repayment or prepayment of the Facilities, Second Lien Facility, Additional Facility, Second Lien Additional Facility or any other Permitted Alternative Debt within ninety (90) days without any condition other than the lapse of time and notice (together with any ordinary course administrative clearances if any) being given having to be fulfilled.

“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 Canada, the United States, the United Kingdom or any Acceptable Nation 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 a country, the government of which has a rating for its short-term unsecured and non-credit enhanced debt obligations of A 1 or higher by Standard & Poor's Rating Services or P 1 or higher by Moody's Investor Services Limited or by an instrumentality or agency of any such government having an equivalent credit rating;
- (iii) which matures within one year after the relevant date of calculation; and
- (iv) which has a credit rating of either A 1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P 1 or higher by Moody's Investor Services Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its short-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 1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P 1 or higher by Moody's Investor Services 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 thirty (30) 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 (i) Transaction Security; (ii) pursuant to any cash pooling arrangements; (iii) Permitted Security under paragraphs (a), (b), (c), (d), (n) and (x) of that definition; and (iv) any other Permitted Security in respect of any Financial Indebtedness taken into account when calculating Consolidated Total Net Debt and/or Consolidated Secured Net Debt.

"CEO" means the chief executive officer of the Parent or, if no chief executive officer is appointed, such other person fulfilling the functions of chief executive officer of the Parent.

"Certain Funds Period" means the period from (and including) the date of this Agreement to and including the earliest to occur of:

- (a) 16 November 2015;
- (b) the Closing Date, following Completion; and
- (c) the date on which the Parent (or any Affiliate) notifies the Agent that its rights under the Signing Protocol and (if signed) the Acquisition Agreement have been conclusively terminated in accordance with the provisions therein (which notification shall be provided as soon as reasonably practicable following such termination).

"Certain Funds Utilisation" means a Utilisation made or to be made under Facility B Tranche 1, Facility B Tranche 2 or the Revolving Facility during the Certain Funds Period where such Utilisation is to be made solely for any of the purposes described in paragraphs (a)(i) and (a)(ii) and (to the extent specified in the Funds Flow Statement) paragraph (b) of Clause 3.1 (*Purpose*).

"CFO" means the chief financial officer of the Parent or, if no chief financial officer is appointed, such other person fulfilling the functions of chief financial officer of the Parent.

"Change of Control" means:

- (a) at any time prior to a Listing:
 - (i) the Consortium cease (directly or indirectly) to have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to appoint directors or other equivalent officers of the Parent which control the majority of the votes which may be cast at a meeting of the board of directors of the Parent; or
 - (ii) the Consortium cease (directly or indirectly) to beneficially own and control more than fifty per cent. (50%) of the issued voting share capital of the Parent; or
- (b) upon and at any time after a Listing:
 - (i) the Consortium cease (directly or indirectly) to beneficially own and control more than thirty per cent. (30%) of the issued voting share capital of the Parent; or
 - (ii) any person or group of persons acting in concert (other than with the Initial Investors and any person directly or indirectly controlled by any of them) acquires (directly or indirectly) beneficially more of the issued voting share capital of the Parent than is held (directly or indirectly) in aggregate by the Consortium; or
- (c) the Parent ceases to own and control all of the shares in the Company,

where “acting in concert” means a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition and/or ownership of voting shares in the Parent, to obtain or consolidate control (directly or indirectly) of the Parent **provided that** the persons voting in the same or consistent manner at any general meeting of the Parent will not be considered to be acting in concert by virtue only of exercising their votes in such manner.

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

“**CIBOR**” means, in relation to any Loan in Danish Kroner:

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

and if in either case that rate is less than zero, CIBOR shall be deemed to be zero.

“**Clean-Up Period**” has the meaning given to it in Clause 29.19 (*Clean-Up Period*).

“**Closing Certificate**” means the certificate provided by the Company to the Agent as a condition precedent under and in accordance with Part 1 of Schedule 2 (*Conditions Precedent to First Utilisation*).

“**Closing Date**” means the date on which the first Utilisation occurs.

“**Closing Overfunding**” means the amount (if any) by which the aggregate amount invested (indirectly via the Parent) in the Original Borrower by way of a Permitted Share Issue and Investor Loans on or prior to the Closing Date and identified as “Closing Overfunding” in the Funds Flow Statement plus the amount of cash on the balance sheet of the Target Group as at the Closing Date, exceeds EUR 7,500,000, as certified by the Parent to the Agent as soon as practicable following the Closing Date, as reduced from time to time when used for a permitted purpose under this Agreement.

“Commitment” means a Facility B Commitment, a Revolving Facility Commitment and an Additional Facility Commitment.

“Completion” means the completion of the Acquisition in accordance with the Acquisition Agreement.

“Compliance Certificate” means an Annual Compliance Certificate or a Quarterly Compliance Certificate (as applicable) or such other form as may be agreed by the Parent and the Agent.

“Confidential Information” means all information relating to the Parent, any Obligor, the Group, the Target Group, the Investors, the Finance Documents or a Facility 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 Parent, any member of the Group, the Target Group or any of their respective advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from the Parent, any member of the Group, the Target Group or any of its 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 43 (*Confidentiality*);
- (ii) is identified in writing at the time of delivery as non confidential by the Parent, any member of the Group, the Target Group or any of its 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 Parent, the Group or the Target Group 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.

“Confidentiality Undertaking” means a confidentiality undertaking substantially in a recommended form of the LMA on the date of this Agreement or in any other form agreed between the Parent and the Agent, and in any case capable of being relied upon by, and not capable of being materially amended without the consent of, the Parent.

“Consolidated Cash Flow” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Consolidated Debt Service” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Consolidated EBIT” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Consolidated EBITDA” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Consolidated Pro Forma EBITDA” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Consolidated Total Net Cash Interest Expenses” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Consolidated Senior Secured Net Debt” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Consolidated Total Net Debt” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Consortium” means:

- (a) the Initial Investors;
- (b) the Management Investors; and
- (c) the Rollover Investors,

provided that, for the purposes of the definition of “Change of Control”, (b) and (c) shall be capped (in aggregate) at ten per cent. (10%) of the issued voting share capital of the Parent.

“Constitutional Documents” means the constitutional documents of the Parent and the Original Borrower.

“Control Agreement” means, with respect to any deposit account, securities account, commodity account, securities entitlement or commodity contract, an agreement, in form and substance reasonably satisfactory to Agent, the financial institution or other Person at which such account is maintained or with which such entitlement or contract is carried and the U.S. Obligor maintaining such account or owning such entitlement or contract, effective to grant “control” (within the meaning of Articles 8 and 9 under the applicable UCC) over such account to Agent.

“Danish Obligor” means an Obligor incorporated under the laws of Denmark.

“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.

“Debt Pushdown” means the assumption of Facility B Loan(s) made in respect of Facility B Tranche 2 by the Debt Pushdown Borrower pursuant to Clause 32.7 (*Debt Pushdown*) as contemplated in the Tax Structure Report.

“Debt Pushdown Borrower” means Ammeraal Beltech Holding B.V. upon its accession as an Additional Borrower under Facility B in accordance with Clause 32.2 (*Additional Borrowers*).

“Debt Pushdown Certificate” has the meaning ascribed to that term in Clause 32.7 (*Debt Pushdown*).

“Debt Pushdown Date” has the meaning ascribed to that term in Clause 32.7 (*Debt Pushdown*).

“Declared Default” means the giving of notice by the Agent under paragraphs (a)(i), (a)(ii), (a)(iv) or (a)(vi) of Clause 29.18 (*Acceleration*).

“Default” means an Event of Default or an event or circumstance which would (with the expiry of a grace period, the making of a determination, or the giving of notice provided for in Clause 29 (*Events of Default*) or any combination of the foregoing) be an Event of Default, **provided that** any such event or circumstance which requires the satisfaction of a condition as to materiality before it becomes an Event of Default shall not be a Default unless that condition is satisfied.

“Defaulting Lender” means any Lender (other than a Lender which is the Parent, a member of the Group or a Sponsor Affiliate):

- (a) which has failed to make its participation in a Loan available or has notified the Agent or the Parent that it will not make its participation in a Loan available by the Utilisation Date of that Loan in accordance with Clause 5.4 (*Lenders’ participation*) or has failed to provide cash collateral (or has notified the Issuing Bank or the Parent that it will not provide cash collateral) in accordance with Clause 7.4 (*Cash collateral by Non-Acceptable L/C Lender*);
- (b) which has otherwise rescinded or repudiated a Finance Document; or
- (c) with respect to which (or any Holding Company of which) an Insolvency Event has occurred and is continuing,

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

- (i) its failure to pay or issue a Letter of Credit is caused by:
 - (A) administrative or technical error; or
 - (B) a Disruption Event; and
- (ii) payment is made within three (3) Business Days of its due date; or
- (iii) 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” has the meaning given to that term in Clause 9.2 (*Availability*).

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

“Discharged Borrower Rights and Obligations” has the meaning ascribed to that term in Clause 32.7 (*Debt Pushdown*).

“Disposal” has the meaning ascribed to that term in Clause 12.2 (*Disposal, insurance and recovery proceeds*).

“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.

“Dutch Civil Code” means the Dutch Civil Code (*Burgerlijk Wetboek*).

“Dutch Obligor” means an Obligor incorporated under Dutch law.

“Employee Loan Basket” means EUR 2,000,000.

“English Guarantor” means a Guarantor incorporated under the laws of England and Wales.

“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 binding upon a member of the Group in the jurisdiction in which it operates 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.

“ERISA” means the Employee Retirement Income Security Act of 1974 as amended, and the regulations promulgated and ruling issued thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that is under common control with any U.S. Obligor and is treated as a single employer within the meaning of Section 414 of the Internal Revenue Code or Section 4001 of ERISA.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any U.S. Obligor or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations at any facility of any U.S. Obligor or any ERISA Affiliate as

described in Section 4062(e) of ERISA, in each case, resulting in liability pursuant to Section 4063 of ERISA; (c) a complete or partial withdrawal by any U.S. Obligor or any ERISA Affiliate from a Multiemployer Plan resulting in the imposition of Withdrawal Liability on any U.S. Obligor, notification of any U.S. Obligor or any ERISA Affiliate concerning the imposition of Withdrawal Liability or notification that a Multiemployer Plan is “insolvent” within the meaning of Section 4245 of ERISA or is in “reorganization” within the meaning of Section 4241 of ERISA; (d) the filing of a notice of intent to terminate a Pension Plan under Section 4041(c) of ERISA, the treatment of a Pension Plan amendment as a termination under Section 4041(c) of ERISA, the commencement of proceedings by the PBGC to terminate a Pension Plan or the receipt by any U.S. Obligor or any ERISA Affiliate of notice of the treatment of a Multiemployer Plan amendment as a termination under Section 4041A of ERISA or of notice of the commencement of proceedings by the PBGC to terminate a Multiemployer Plan; (e) the occurrence of an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any U.S. Obligor or ERISA Affiliates, with respect to the termination of any Pension Plan; (g) the conditions for imposition of a Lien under Section 303(k) of ERISA have been met with respect to any Pension Plan; (h) the failure by any Pension Plan to satisfy the minimum funding requirements of Sections 412 and 430 of the Internal Revenue Code or Section 302 of ERISA applicable to such Pension Plan, whether or not waived; (i) the failure to make a required contribution to any Pension Plan that would result in the imposition of an encumbrance under Section 412 or 430 of the Internal Revenue Code or at any time prior to the date hereof, a filing under Section 412 of the Internal Revenue Code or Section 302 of ERISA of any request for a minimum funding variance with respect to any Pension Plan or Multiemployer Plan; or (j) an engagement in a non-exempt prohibited transaction within the meaning of Section 4975 of the Internal Revenue Code or Section 406 of ERISA.

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

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

and if in either case that rate is less than zero, EURIBOR shall be deemed to be zero.

“**Event of Default**” means any event or circumstance specified as such in Clause 29 (*Events of Default*).

“**Excess Cash Flow**” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“**Excess Cash Flow De Minimis**” means EUR 3,000,000.

“**Excess IPO Proceeds**” has the meaning given to that term in Clause 12.1 (*Exit and Listing*).

“**Excluded Entity**” has the meaning given to that term in paragraph (b)(ii) of Clause 27.29 (*Guarantees and Security*).

“**Excluded Lender**” has the meaning given to that term in paragraph (b)(i) of Clause 42.6 (*Excluded Commitments*).

“**Excluded Recovery Proceeds**” has the meaning given to that term in paragraph (a) of Clause 12.2 (*Disposal, insurance and recovery proceeds*).

“**Exclusion Date**” has the meaning given to that term in paragraph (a) of Clause 42.6 (*Excluded Commitments*).

“Existing Ancillary Facility” means an **“Ancillary Facility”** issued under and as defined in the Existing Debt Facilities.

“Existing Debt” means the outstanding indebtedness of the Target Group existing immediately prior to the Closing Date under (i) an Existing Debt Financing, and (ii) hedging agreements in relation to an Existing Debt Financing which are to be terminated (as contemplated in the Funds Flow Statement) as a result of and on or about the time of the Acquisition.

“Existing Debt Facilities” means the EUR 130,000,000 term loan and revolving credit facilities agreement dated 3 July 2013 between, among others, Ammeraal Beltech Holding B.V. as the company, original guarantor and original borrower and Coöperatieve Rabobank U.A. (formerly known as Coöperatieve Centrale Raiffeisen – Boerenleenbank b.a. (acting as Rabobank)), as facility agent and security agent.

“Existing Debt Financing” means the Existing Debt Facilities and any other debt financing made available to the Target Group and existing immediately prior to the Closing Date which is to be repaid and/or prepaid on the Closing Date as identified in the Funds Flow Statement.

“Existing Leases” means Finance Leases of the Target Group as at the Closing Date.

“Existing Letter of Credit” means a **“Letter of Credit”** or **“Bank Guarantee”** issued under and as defined in the Existing Debt Facilities.

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

“Facility” means a Term Facility or the Revolving Facility and (as applicable and so designated in an Additional Facility Notice) any Additional Facility.

“Facility B” means the term loan facility made available under this Agreement as described in paragraph (a)(i) of Clause 2.1 (*The Facilities*) and (as applicable and so designated in an Additional Facility Notice) any Additional Facility.

“Facility B Borrower” means the Company and any member of the Group which accedes as an Additional Borrower under Facility B in accordance with Clause 32 (*Changes to the Obligors*) unless it has ceased to be a Facility B Borrower in accordance with Clause 32 (*Changes to the Obligors*).

“Facility B Commitment” means:

- (a) in relation to an Original Lender the amount set out in Part 2 of Schedule 1 (*The Original Parties*) as its Facility B Commitment, 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 (*Additional Facility*) or Clause 2.3 (*Increase*);
- (b) in relation to each Facility B Tranche 3 Original Lender the amount set out in the Facility B Tranche 3 Effective Date Debt Schedule as its Commitments under Facility B Tranche 3, and the amount of any other Commitment under Facility B Tranche 3 transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Additional Facility*) or Clause 2.3 (*Increase*); and
- (c) in relation to any other Lender, the amount of any Facility B Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Additional Facility*) or Clause 2.3 (*Increase*),

to the extent:

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

- (ii) not deemed to be zero pursuant to Clause 31 (*Restriction on Debt Purchase Transactions*).

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

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

“Facility B Tranche 1” means the tranche of Facility B to be applied towards the purpose specified in paragraph (a)(i) of Clause 3.1 (*Purpose*).

“Facility B Tranche 2” means the tranche of Facility B to be applied towards the purpose specified in paragraph (a)(ii) of Clause 3.1 (*Purpose*).

“Facility B Tranche 3” means the tranche of Facility B to be applied towards the purpose specified in paragraph (a)(ii) of Clause 3.1 (*Purpose*).

“Facility B Tranche 3 Effective Date Debt Schedule” has the meaning given to the term “Effective Date Debt Schedule” in the Amendment and Restatement Deed.

“Facility B Tranche 3 Original Lender” means each financial institution or other entity listed in the Facility B Tranche 3 Effective Date Debt Schedule.

“Facility Office” means the office or offices notified by a Lender, Finance Party or the Issuing Bank to the Agent in writing on or before the date it becomes a Lender, Finance Party or the Issuing Bank (or, following that date, by not less than five (5) Business Days’ written notice) as the office or offices through which it will perform its obligations under this Agreement.

“FATCA” means:

- (a) sections 1471 to 1474 of the Internal Revenue 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 Internal Revenue 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 Internal Revenue 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 2017; or
- (c) in relation to a “passthru payment” described in section 1471(d)(7) of the Internal Revenue Code not falling within paragraphs (a) or (b) above, 1 January 2017,

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.

“Fee Letter” means:

- (a) any fee letter between any of the Mandated Lead Arrangers and the Company;
- (b) any letter or letters dated on or about the date of this Agreement between any of (i) the Mandated Lead Arrangers and the Parent and/or the Company, (ii) the Agent and the Parent and/or the Company, (iii) the Issuing Bank and the Parent and/or the Company, or (iv) the Security Agent and the Parent and/or the Company, setting out any of the fees referred to in Clause 17 (*Fees*); and
- (c) any agreement setting out fees payable to a Finance Party referred to in paragraph (n) of Clause 2.2 (*Additional Facility*), paragraph (d) of Clause 2.3 (*Increase*), Clause 17.5 (*Agent and Security Agent fees*), or Clause 17.8 (*Interest, commission and fees on Ancillary Facilities*) of this Agreement or under or in relation to any other Finance Document.

“Finance Document” means this Agreement, the Amendment and Restatement Deed, any Accession Deed, any Ancillary Document, any Compliance Certificate, any Fee Letter, any Hedging Agreement, any Debt Pushdown Certificate, each Increase Confirmation, each Additional Facility Notice and Additional Facility Lender Accession Notice, the Intercreditor Agreement, the Investor Proceeds Letter, any Selection Notice, any Transaction Security Document, the Hedging Letter, the Senior Syndication Letter, any Utilisation Request, any Spanish Public Document granted in relation to this Agreement or any other Finance Document 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, a Hedging Agreement shall be a Finance Document only for the purposes of:

- (a) the definition of **“Material Adverse Effect”**;
- (b) paragraph (a) of the definition of Permitted Transaction;
- (c) the definition of Finance Document;
- (d) the definition of **“Transaction Security Document”** and for the purpose of defining secured obligations in any *Transaction Security Document*;
- (e) paragraph (a)(iv) of Clause 1.2 (*Construction*);
- (f) Clause 23 (*Guarantees and Indemnity*); and
- (g) Clause 29 (*Events of Default*) (other than Clauses 29.5 (*Invalidity and Unlawfulness*) and 29.18 (*Acceleration*)).

“Finance Lease” means any lease or hire purchase contract which would, in accordance with the Original Accounting Principles, be treated as a finance or capital lease.

“Finance Party” means the Agent, each Mandated Lead Arranger, each Underwriter, the Security Agent, a Lender, the Issuing Bank, 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) paragraph (a)(i) of Clause 1.2 (*Construction*);
- (c) paragraph (b) of the definition of Material Adverse Effect;
- (d) Clause 23 (*Guarantees and Indemnity*);
- (e) paragraph (a) of Clause 29.15 (*Intercreditor*); and
- (f) Clause 34 (*Conduct of Business by the Finance Parties*).

“Financial Indebtedness” means any indebtedness for or in respect of (without double counting):

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit or bill discounting facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument (but not Trade Instruments);
- (d) the amount of any liability in respect of Finance Leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold or discounted on a non-recourse basis or where recourse is limited to customary warranties and indemnities);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) required to be accounted for as a borrowing in accordance with the Accounting Principles;
- (g) any Treasury Transaction (and, when calculating the value of any such Treasury Transaction, only the marked to market net value (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);
- (h) amounts raised by any issue of shares which are expressed to be redeemable mandatorily or at the option of the holder prior to the date which is the last Termination Date in respect of the Facilities;
- (i) any counter-indemnity obligation in respect of a guarantee, indemnity bond, standby or documentary letter of credit, joint and several liability (*hoofdelijke aansprakelijkheid*) or any other instrument issued by a bank or financial institution in respect of an underlying liability (excluding any 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;
- (j) the amount of any liability in respect of any credit for goods and services raised in the ordinary course and outstanding for more than one hundred and twenty (120) days after its customary date of payment; and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above,

but excluding, in all cases, for the avoidance of doubt all pension-related or post-employment liabilities; intra-day exposures; indebtedness in respect of any lease, concession or licence treated as an operating lease under the Accounting Principles (as in force at the date of this Agreement);

obligations in respect of any licence, permit or other approval arising in the ordinary course of business; or in respect of Trade Instruments; and so that, where the amount of Financial Indebtedness falls to be calculated or where the existence (or otherwise) of any Financial Indebtedness is to be established:

- (i) Financial Indebtedness in respect of uncashed cheques issued by a member of the Group in the ordinary course of trading shall not be taken into account;
- (ii) no amount due or outstanding in respect of any New Equity or Investor Loans shall be taken into account.

“**Financial Quarter**” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“**Financial Statements**” means Annual Financial Statements, Quarterly Financial Statements or Monthly Financial Statements.

“**Financial Year**” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“**France**” means the Republic of France.

“**French Civil Code**” means the *Code civil*.

“**French Commercial Code**” means the *Code de commerce*.

“**French Consumer Code**” means the *Code de la consommation*.

“**French Guarantor**” means a Guarantor incorporated under the laws of France.

“**French Monetary Code**” means the *Code monétaire et financier*.

“**French Obligor**” means a French Guarantor.

“**French Subsidiaries**” means the subsidiaries of the Parent which are incorporated under French law.

“**French Tax Code**” means the *Code général des impôts*.

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

“**German Guarantor**” has the meaning given to such term in Clause 23.17(a)(i) (*Guarantee Limitations – German Guarantors*).

“**German Obligor**” means an Obligor incorporated under the laws of the Federal Republic of Germany.

“**Governmental Authority**” means the government of any nation, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“**Group**” means Parent and each of its Subsidiaries from time to time including from Completion, the Target Group.

“**Group Initiatives**” has the meaning given to that term in paragraph (g) of Clause 26.4 (*Calculations*).

“Group Structure Chart” means the structure chart of the Group in the agreed form and assuming the Closing Date has occurred.

“Guarantee Limitations” means, in respect of any Obligor and any payments such Obligor is required to make in its capacity as a guarantor or as the provider of an indemnity or as debtor of costs or disbursements under this Agreement or any other Finance Document, the limitations and restrictions applicable to such entity pursuant to Clause 23.11 through 23.23 (*Guarantee Limitations*) and the relevant Accession Deed applicable to such Additional Guarantor.

“Guarantor” means each Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 32 (*Changes to the Obligors*).

“Guarantor Coverage Test” has the meaning given to it in Clause 27.29 (*Guarantees and Security*).

“Hedge Counterparty” means any person which has become a party as a Hedge Counterparty in accordance with Clause 30.16 (*Accession of Hedge Counterparties*) or otherwise receives the benefit of and reliance on the guarantee contained in Clause 23 (*Guarantees and Indemnity*), to such Hedge Counterparty’s satisfaction which in each case is or has become a party to the Intercreditor Agreement as a Hedge Counterparty in accordance with the provisions of the Intercreditor Agreement.

“Hedging Agreement” means any master agreement, confirmation, schedule or other agreement entered into by an Obligor or (prior to its accession as an Obligor) the Target with a Hedge Counterparty:

- (a) for the purpose of hedging interest rate and cross currency risks in relation to the Facilities, the Second Lien Facility, any Ancillary Facility, any Additional Facility, any Second Lien Additional Facility or any Permitted Alternative Debt (including as required pursuant to the Hedging Letter); or
- (b) in respect of (i) interest rate hedging transactions in the ordinary course of business and not for speculative purposes, (ii) spot and forward foreign exchange hedging transactions and (iii) other hedging transactions, in each case to the extent permitted under Clause 27.20 (*Treasury Transactions*),

provided that, in each case, the Hedge Counterparty is a party to the Intercreditor Agreement as a Hedge Counterparty.

“Hedging Costs” means any costs incurred by a member of the Group in connection with the putting in place of any Hedging Agreements entered into pursuant to the Hedging Letter.

“Hedging Letter” means a hedging strategy letter to be entered into between the Mandated Lead Arrangers and the Parent setting out the agreed hedging strategy in relation to Facility B and the Second Lien Facility.

“Holding Company” means, in relation to a company or corporation, any other company or corporation 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.

“Illegality Notice” has the meaning given to that term in paragraph (a) of Clause 11.1 (*Illegality*).

“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) or (b) 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:
 - (A) administrative or technical error; or
 - (B) a Disruption Event; and
 payment is made within three (3) 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 13 (*Form of Increase Confirmation*) or in any other form agreed between the Agent and the Parent (acting reasonably).

“Increase Lender” has the meaning given to that term in Clause 2.3 (*Increase*).

“Industry Competitor” means any person or entity (or any of its Affiliates) which is a trade competitor of a member of the Group and any controlling shareholder of a trade competitor of a member of the Group **provided that**, for the avoidance of doubt, this shall not include any such Affiliate and/or controlling shareholder which is a bank, financial institution or trust, fund or other entity whose principal business is investing in debt.

“Information Memorandum” means the document in the form approved by the Parent concerning the Parent, the Company and the Target Group in relation to the Facilities and distributed by the Mandated Lead Arrangers and the Underwriters on a confidential basis prior to the Syndication Date in connection with the syndication of the Facilities.

“Initial Investors” means (i) Advent International Corporation, any funds or limited partnerships managed or advised by Advent International Corporation or any of their Affiliates or direct or indirect Subsidiaries (but excluding, in each case, any portfolio company which is an obligor (and any of its Subsidiaries) in respect of any third party financing provided to that portfolio company (or any of its Subsidiaries) in which Advent International Corporation or such funds, limited partnerships, Affiliates, Subsidiaries or investors hold an investment), (ii) an Agreed Co-Investor and (iii) any other co-investor approved by the Majority Lenders (acting reasonably).

“Insolvency Event” in relation to a Finance Party means the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that Finance Party or all or substantially all of that Finance Party’s assets or any analogous procedure or step is taken in any jurisdiction with respect to that Finance Party.

“Intellectual Property” means:

- (a) any patents, utility models, trademarks, service marks, designs, business names, copyrights, database rights, design rights, registered designs, domain names, moral rights,

inventions, confidential information, trade secrets, knowhow and all other intellectual property rights throughout the world and interests (which may now or in the future subsist), whether registered or unregistered; and

- (b) the benefit of all applications (and all goodwill associated with such applications) and rights to use such assets of each member of the Group, including all rights under any agreements relating to the use or exploitation of any such rights, which may now or in the future subsist.

“Intercreditor Agreement” means the intercreditor agreement dated on or about the date hereof and made between, among others, the Parent, the Original Debtors (as defined therein), the Agent, the Security Agent and the Original Lenders.

“Intercreditor Class” means, in respect of an Additional Facility, a Second Lien Additional Facility or any Permitted Alternative Debt which has been designated in the relevant Additional Facility Notice as being subject to the Intercreditor Agreement, the intercreditor status thereof as specified in such Additional Facility Notice, including as a Senior Facility, a Second Lien Facility, Senior Secured Notes, Second Lien Notes, Senior Subordinated Notes or a Senior Subordinated Facility (each as defined in the Intercreditor Agreement).

“Internal Revenue Code” means the US Internal Revenue Code of 1986, as amended, and the regulations promulgated and ruling issued thereunder.

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

“Interpolated Screen Rate” means, in relation to CIBOR, EURIBOR or LIBOR 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 on the Quotation Day for the currency of that Loan.

“Investor Loan” means any instrument or agreement evidencing an unsecured loan (as the case may be) made to the Parent by any direct or indirect shareholder of Parent (or any Subsidiary of such shareholder other than a member of the Group) constituting part of the Original Equity Commitment and Closing Overfunding (as contemplated by the Funds Flow Statement) and which is subordinated as Investor Liabilities pursuant to the terms of the Intercreditor Agreement or otherwise on terms satisfactory to the Majority Lenders (acting reasonably).

“Investor Proceeds Letter” means a letter to be entered into between, among others, those Investors who are an addressee or beneficiary of any Report.

“Investors” means the Initial Investors and any other person holding (directly or indirectly) any issued share capital of the Parent from time to time.

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

the terms of this Agreement, the Issuing Bank shall be the Issuing Bank which has issued or agreed to issue that Letter of Credit.

“Italian Banking Law” means the Italian Legislative Decree No. 385 of 1 September 1993 and the relevant implementing regulations, each as amended, integrated and supplemented from time to time.

“Italian Civil Code” means the Italian civil code, enacted by Royal Decree No. 262 of 16 March 1942, as subsequently amended and supplemented from time to time.

“Italian Guarantor” means a Guarantor incorporated under the laws of Italy or having its registered office in Italy.

“Italian Obligor” means an Obligor incorporated under the laws of Italy or having its registered office in Italy.

“Joint Venture” means any joint venture entity or minority interest, whether in or relating to a company, unincorporated firm, undertaking, association, joint venture or partnership or any other person in which a member of the Group directly or indirectly holds (or, upon making an initial investment will hold) shares or other applicable ownership interests.

“Joint Venture Basket” means an amount not exceeding the greater of EUR 7,500,000 and an amount equal to seven point five per cent. (7.5%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time; (**provided that** any amount in respect of a Permitted Joint Venture which is taken into account when calculating whether the Joint Venture Basket is exceeded shall be restored to the Joint Venture Basket if that Permitted Joint Venture becomes a member of the Group and ceases to be a Joint Venture).

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

“Legal Opinion” means any legal opinion delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) or under Clause 32 (*Changes to the Obligors*).

“Legal Reservations” means:

- (a) the principle that certain remedies may be granted or refused at the discretion of the court, the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting the rights of creditors and secured creditors;
- (b) the time barring of claims under applicable limitation laws (including the Limitation Acts) and defences of acquiescence, set-off or counterclaim and the possibility that an undertaking to assume liability for or to indemnify a person against non-payment of stamp duty may be void;
- (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 as an assignment may be recharacterised as a charge;
- (d) the principle that 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 a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant;
- (f) the principle that the creation or purported creation of Security over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which Security has purportedly been created;
- (g) the principle that a court may not give effect to any parallel debt provisions, covenants to pay the Security Agent or other similar provisions;
- (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 (however described) as to matters of law in the Legal Opinions.

“**Lender**” means:

- (a) an Original Lender;
- (b) a Facility B Tranche 3 Original Lender; or
- (c) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 2.2 (*Additional Facility*), Clause 2.3 (*Increase*) or Clause 30 (*Changes to the Lenders*),

which in each case has not ceased to be a Lender in accordance with the terms of this Agreement and **provided that** (among other things as provided by this Agreement) upon (i) termination in full of all Commitments of any Lender in relation to any Facility; and (ii) payment in full of all amounts which then are due and payable to such Lender under that Facility, such Lender shall not be regarded as a Lender for that Facility for the purpose of determining whether any provision which requires consultation, consent, agreement or vote with any Lender (or any class thereof) has been complied with.

“**Letter of Credit**” means:

- (a) a letter of credit, substantially in the agreed form set out in Schedule 10 (*Form of Letters of Credit*) or in any other form requested by the Parent and agreed by the Issuing Bank; or
- (b) any guarantee, indemnity or other instrument in a form requested by a Borrower (or the Parent on its behalf) and agreed by the Issuing Bank.

“**Leverage Ratio**” has the meaning given to that term in Clause 26.3 (*Leverage financial covenant*).

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

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

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

and in either case, if that rate is less than zero, LIBOR shall be deemed to be zero.

“**Limitation Acts**” means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.

“Listing” means the listing or the admission to trading of all or any part of the share capital of any member of the Group or any Holding Company (the only material assets of which are shares or other investments (directly or indirectly in the Group)) of a member of the Group (other than the Initial Investors) on any recognised investment exchange (as that term is used in the Financial Services and Markets Act 2000) or in or on any other exchange or market in any jurisdiction or country or any other sale or issue by way of listing, flotation or public offering or any equivalent circumstances in relation to any member of the Group or any such Holding Company of any member of the Group (other than the Initial Investors) in any jurisdiction or country.

“LMA” means the Loan Market Association.

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

“LTM” means last twelve (12) Months.

“Major Default” means an Event of Default that is continuing with respect to:

- (a) in the case of the Acquisition, the Parent and the Company only (and excluding any procurement obligations on the part of the Parent and the Company with respect to any other member of the Group); and
- (b) in the case of any other Permitted Acquisition, the Agreed Certain Funds Obligor (and excluding any procurement obligations on the part of the Agreed Certain Funds Obligor with respect to any other member of the Group),

in each case under any of Clause 29.1 (*Payment Default*), Clause 29.3 (*Other obligations*) insofar as it relates to a breach of any Major Undertaking, Clause 29.4 (*Misrepresentation*) insofar as it relates to any Major Representation in any material respect (or, to the extent a materiality test applies to that Major Representation, in any respect), Clause 29.5 (*Invalidity and Unlawfulness*) and Clauses 29.7 (*Insolvency*) to 29.10 (*Similar events elsewhere*) (each inclusive).

“Major Representation” means a representation or warranty with respect to:

- (a) in case of the Acquisition, the Parent and the Company only (and excluding any procurement obligations on the part of the Parent and the Company with respect to any other member of the Group); and
- (b) in the case of any other Permitted Acquisition, the Agreed Certain Funds Obligor (and excluding any procurement obligations on the part of the Agreed Certain Funds Obligor with respect to any other member of the Group),

in each case, under any of Clauses 24.1 (*Status*) to 24.5 (*Validity and admissibility in evidence*) (each inclusive).

“Major Undertaking” means an undertaking with respect to:

- (a) in the case of the Acquisition, the Parent and the Company (and excluding any procurement obligations on the part of the Parent and the Company with respect to any other member of the Group); and
- (b) in the case of any other Permitted Acquisition, the Agreed Certain Funds Obligor (and excluding any procurement obligations on the part of the Agreed Certain Funds Obligor with respect to any other member of the Group),

in each case under Clause 27.10 (*Amalgamations and Change of Business*), Clause 27.11 (*Disposals*), Clause 27.13 (*Negative Pledge*), Clause 27.15 (*Indebtedness*), Clause 27.16

(*Guarantees*), Clause 27.17 (*Loans*), Clause 27.22 (*Acquisitions and Investments*) and Clauses 27.25 (*Restriction on Redemption of Capital Contribution*) to 27.28 (*Holding Company*) (each inclusive).

“Majority Lenders” means:

- (a) in the context of a proposed amendment or waiver in relation to a proposed Utilisation of the Revolving Facility (other than a Utilisation on the Closing Date) of any of the conditions to funding set out in Clause 4.2 (*Further conditions precedent*), the Majority Revolving Facility Lenders;
- (b) in the context of a proposed amendment or waiver in relation to a proposed Utilisation of an Additional Facility of any of the conditions to funding set out in Clause 4.2 (*Further conditions precedent*), a Lender or Lenders whose Additional Facility Commitments in that Additional Facility aggregate $66\frac{2}{3}$ per cent. or more of those Additional Facility Commitment in that Additional Facility; and
- (c) otherwise a Lender or Lenders whose Commitments 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 that reduction) (and for this purpose the amount of an Ancillary Lender’s Revolving Facility Commitment shall not be reduced by the amount of its Ancillary Commitment).

“Majority Revolving Facility Lenders” means a Revolving Facility Lender or Revolving Facility 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. or more of the Total Revolving Facility Commitments immediately prior to that reduction).

“Management Investors” means (a) members of the management team of the Target Group investing, or committing to invest, directly or indirectly, in the Parent as at the Closing Date and any subsequent members of the management team of the Target Group who invest directly or indirectly in the Parent from time to time and, in each case, any trust set up for the benefit of any member of management or their spouses or their descendants and (b) such entity as may hold shares transferred by departing members of the management team of the Target Group for future redistribution to the management team of the Target Group.

“Management Share Buy Back Basket” means EUR 2,000,000 in any Financial Year, and in aggregate EUR 6,000,000 over the life of the Facilities.

“Margin” means:

- (a) in relation to any Facility B Loan, four point two-five per cent. (4.25%) per annum;
- (b) in relation to any Revolving Facility Loan, four per cent. (4.00%) per annum;
- (c) in relation to any Additional Facility Loan, the percentage rate per annum specified by the Parent in the relevant Additional Facility Notice;
- (d) in relation to any Unpaid Sum relating or referable to a Facility, the rate per annum specified above for that Facility; and
- (e) in relation to any other Unpaid Sum, the highest rate specified above,
but if:
 - (i) no Event of Default has occurred and is continuing;

- (ii) a period of at least twelve (12) Months has expired since the Closing Date; and
- (iii) the Senior Secured Leverage Ratio in respect of the most recently completed Relevant Period is within a range set out below,

then the Margin for each Loan under an Additional Facility will be the percentage per annum agreed with the Additional Facilities Lenders and as indicated for that range in the Additional Facility Notice for those Additional Facility Commitments, and the Margin for each Loan under each of Facility B and the Revolving Facility will be the percentage per annum set out below in the column in the relevant table for that Facility opposite that range:

Ratio Consolidated Senior Secured Net Debt to Consolidated Pro Forma EBITDA	Term Loan Facility B	Revolving Facility
Greater than 4.00:1	4.50%	4.25%
Equal to or less than 4.00:1 but greater than 3.50:1	4.25%	4.00%
Equal to or less than 3.50:1 but greater than 3.00:1	4.00%	3.75%
Equal to or less than 3.00:1	4.00%	3.50%

However:

- (A) any increase or decrease in the Margin for a Loan shall take effect on the date which is five (5) Business Days after receipt by the Agent of the Compliance Certificate for that Relevant Period pursuant to Clause 25.5 (*Compliance Certificates*);
- (B) if, following receipt by the Agent of the Annual Financial Statements and related Compliance Certificate, those statements and Compliance Certificate demonstrate (after taking into account the Margin levels that applied prior to the Amendment Effective Date, to the extent applicable) that (1) the Margin should have been reduced in accordance with the above table or (2) the Margin should not have been reduced or should have been increased in accordance with the above table, the next payment of interest under the relevant Facility following receipt of the relevant Annual Financial Statements by the Agent shall be increased or reduced (as the case may be) by such amount as is necessary to put the Agent and the Lenders in the position they should have been in had the appropriate rate of Margin been applied at the time (**provided that** any such reduction shall only apply to the extent the Lender which received the overpayment of interest remains a Lender as at the date of such adjustment and, with respect to payments to Lenders, such payments shall only apply to Lenders who were participating in the relevant Facility both at the time to which the adjustments relate and the time when the adjustments are actually made). The Agent's determination of the adjustments payable shall be prima facie evidence of such adjustments and the Agent shall, if so requested by the Parent, provide the Parent with reasonable details of the calculation of such adjustments;

- (C) while an Event of Default is continuing, the Margin for each Loan under each of Facility B and the Revolving Facility shall be the highest percentage per annum set out above for a Utilisation under that Facility (or, in respect of any Additional Facility Loan, the highest percentage rate per annum set out in the notice delivered by the Parent in accordance with Clause 2.2 (*Additional Facility*) in respect of the relevant Additional Facility Commitments). Once that Event of Default has been remedied or waived, the Margin for each Loan will be re-calculated on the basis of the most recently delivered Compliance Certificate and the terms of this definition “Margin” shall apply (on the assumption that on the date of the most recently delivered Compliance Certificate, no Event of Default had occurred or was continuing) with any reduction in Margin resulting from such recalculation taking effect from the date of such remedy or waiver and the terms of this definition “Margin” shall apply (on the assumption that no Event of Default had occurred or was continuing) with any reduction in Margin resulting from such recalculation taking effect from the date of such remedy or waiver; and
- (D) for the purpose of determining the Margin, the Senior Secured Leverage Ratio and Relevant Period shall be determined in accordance with Clause 26.1 (*Financial definitions*) **provided that** no amounts to the extent contemplated in paragraph (b) of Clause 29.2 (*Financial Covenant*) shall be taken in account for this purpose.

“**Material Adverse Effect**” means any event or circumstance which in each case after taking into account all mitigating factors or circumstances including, any warranty, indemnity or other resources available to the Group or right of recourse against any third party with respect to the relevant event or circumstance and any obligation of any person in force to provide any additional equity investment:

- (a) has a material adverse effect on:
 - (i) the consolidated business, assets or financial condition of the Group (taken as a whole); or
 - (ii) the ability of the Group (taken as whole) to perform its payment obligations under the Finance Documents; or
- (b) subject to the Legal Reservations and any Perfection Requirements, affects the validity or the enforceability of any of the Finance Documents to an extent which is materially adverse to the interests of the Finance Parties under the Finance Documents taken as a whole and, if capable of remedy, is not remedied within twenty (20) Business Days of the earlier of (i) the Parent becoming aware of the issue and (ii) the giving of written notice of the issue by the Agent.

“**Material Subsidiary**” means, at any time:

- (a) the Parent and the Company;
- (b) each Subsidiary of the Company which is listed in Schedule 11 (*Material Subsidiaries*) **provided that**, after the Closing Date, each such Subsidiary will only continue to be a Material Subsidiary to the extent it meets the conditions in (c) below;
- (c) each member of the Group that has earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA) (calculated on an unconsolidated basis and excluding goodwill, intra-Group items and investments in subsidiaries (to the extent applicable)) representing five per cent. (5%) or more (except in

the case of any member of the Group incorporated in Thailand, in which case the relevant threshold shall be seven point five per cent. (7.5%)) of the Consolidated Pro Forma EBITDA) of the Group as determined by reference to the most recent Compliance Certificate supplied by the Parent in respect of the latest Annual Financial Statements delivered to the Agent. A report by the Auditors of the Parent that a Subsidiary is or is not a Material Subsidiary shall, in the absence of manifest error, be conclusive and binding on all Parties; and

- (d) any direct or indirect Holding Company of a Subsidiary which itself is a Material Subsidiary pursuant to paragraph (a), (b) or (c) above or a Borrower, provided such Holding Company is also a member of the Group,

provided further that in all cases, any Excluded Entity will not be considered a Material Subsidiary.

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

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

The above rules will only apply to the last month of any period.

“Monthly Financial Statements” has the meaning given to it in paragraph (a)(iii) of Clause 25.4 (*Financial Statements*).

“Multiemployer Plan” means any employee benefit plan which is a “multiemployer plan” as defined in Section 3(37) of ERISA that is subject to the provisions of Title IV of ERISA, and in respect of which any U.S. Obligor, or any of their respective ERISA Affiliates, makes or is obligated to make contributions or with respect to which any of them has any ongoing obligation or liability, contingent or otherwise.

“New Investor Loan” means any unsecured loan, or any instrument or agreement evidencing a loan (as the case may be) made to the Parent by any direct or indirect shareholder of the Parent (or any Subsidiary of such a shareholder not being a member of the Group) after the Closing Date and which is contributed, lent or made available to the Original Borrower and which is subordinated as Investor Liabilities under and as defined in the Intercreditor Agreement or otherwise on terms satisfactory to the Majority Lenders (acting reasonably) and which is in any case subject to Transaction Security on terms substantially the same as any other Transaction Security governing the assignment of rights over shareholder loans governed by the same law or, otherwise, on terms satisfactory to the Majority Lenders (acting reasonably).

“New Lender” has the meaning given to that term in Clause 30.2 (*Assignments and Transfers by Lenders*).

“New Shareholder Injection” means any amount subscribed for in the Parent after the Closing Date for any Permitted Share Issue of the Parent or made available by way of New Investor Loan (to the extent not included in the Funds Flow Statement and excluding the Original Equity

Commitment) and which is contributed, lent or made available by the Parent to the Original Borrower.

“Non-Acceptable L/C Lender” means a Lender under the Revolving Facility which:

- (a) is not an Acceptable Bank within the meaning of paragraph (a) of the definition of “Acceptable Bank” (other than (i) a Mandated Lead Arranger or (ii) a Lender which the relevant Issuing Bank (acting reasonably) has agreed is acceptable to it notwithstanding that fact);
- (b) is a Defaulting Lender; or
- (c) has failed to make (or has notified the Agent that it will not make) a payment to be made by it under Clause 7.3 (*Indemnities*) or Clause 33.10 (*Lenders’ indemnity to the Agent*) or any other payment to be made by it under the Finance Documents to or for the account of any other Finance Party in its capacity as Lender by the due date for payment unless the failure to pay falls within the description of any of those items set out at (i) to (iii) of the definition of Defaulting Lender.

“Non-Consenting Lender” has the meaning given to that term in Clause 42.5 (*Replacement of Lender*).

“Non-Cooperative Jurisdiction” means, a “non-cooperative state or territory” (*Etat ou territoire non coopératif*) as set out in the list referred to in Article 238-0 A of the French Tax Code, as such list may be amended from time to time.

“Non-Obligor” means a member of the Group that is not an Obligor.

“Notifiable Debt Purchase Transaction” has the meaning given to that term in paragraph (j) of Clause 31.1 (*Permitted Debt Purchase Transactions*).

“Obligor” means a Borrower or a Guarantor.

“Obligor Gross Amount” means, at any time the aggregate amount of:

- (a) the market value (determined by reference to the date of such disposal and any application of the Agent’s prevailing rate of exchange as at such date) of all assets disposed of by Obligors to Non-Obligors during the life of the Facilities less the aggregate of cash consideration paid to the Obligors by the Non-Obligors in respect of such assets;
- (b) any outstanding loans made during the life of the Facilities by an Obligor to a Non-Obligor;
- (c) any outstanding guarantees given during the life of the Facilities by Obligors in respect of Non-Obligors; and
- (d) the cash paid during the life of the Facilities by Obligors for shares issued to them by any members of the Group that are Non-Obligors,

ignoring, for the purposes of this definition, (i) any Permitted Disposal falling under paragraphs (a), (b), (c), (f), (i), (l), (m) and (t) of the definition of Permitted Disposal, (ii) any Permitted Loan (and related Permitted Financial Indebtedness) falling under paragraphs (a), (b), (g), (k) and (t) of the definition of Permitted Loan, (iii) any Permitted Guarantee falling under paragraphs (c), (e), (f), (g), (k), (n) and (u) of the definition of Permitted Guarantee, and (iv) any subsequent issue of shares as a result of a disposal permitted pursuant to paragraph (m) of the definition of Permitted Disposal, and **provided that**:

- (i) if any Non-Obligor subsequently accedes to this Agreement as an Obligor, any items which would, prior to such accession, have fallen within paragraphs (a) to (d) above in respect of or in connection with that Non-Obligor shall be ignored for the purposes of this definition; and
- (ii) if any relevant Obligor subsequently resigns as an Obligor, any items which would not, prior to such resignation, have fallen within paragraphs (a) to (d) above in respect of or in connection with that member of the Group as an Obligor shall be included for the purposes of this definition.

“Obligor Net Amount” means, at any time, the amount (if any, and without double counting) at such time by which the Obligor Gross Amount exceeds the aggregate of:

- (a) the market value (determined by reference to the date of such disposal and any application of the Agent’s prevailing rate of exchange as at such date) of all assets disposed of by Non-Obligors to Obligors during the life of the Facilities less the aggregate of cash consideration paid to the Non-Obligors by the Obligors in respect of such assets;
- (b) any outstanding loans made during the life of the Facilities by a Non-Obligor to an Obligor;
- (c) any outstanding guarantees given during the life of the Facilities by a Non-Obligor in support of liabilities or obligations of Obligors; and
- (d) any amount paid during the life of the Facilities to an Obligor by a Non-Obligor by way of redemption, purchase, defeasance, retirement or repayment any of its shares, or as a dividend, distribution or capital return in respect of its shares,

ignoring, for the purposes of this definition, (i) any Permitted Disposal falling under paragraphs (a), (b), (c), (f), (i), (l), (m) and (t) of the definition of Permitted Disposal, (ii) any Permitted Loan (and related Permitted Financial Indebtedness) falling under paragraphs (a), (b), (g), (k) and (t) of the definition of Permitted Loan, (iii) any Permitted Guarantee falling under paragraphs (c), (e), (f), (g), (k), (n) and (u) of the definition of Permitted Guarantee, and (iv) any subsequent issue of shares as a result of a disposal permitted pursuant to paragraph (m) of the definition of Permitted Disposal, and **provided that**:

- (i) if any Non-Obligor subsequently accedes to this Agreement as an Obligor, any items which would, prior to such accession, have fallen within paragraphs (a) to (d) above in respect of or in connection with that Non-Obligor shall be ignored for the purposes of this definition; and
- (ii) if any relevant Obligor subsequently resigns as an Obligor, any items which would not, prior to such resignation, have fallen within paragraphs (a) to (d) above in respect of or in connection with that member of the Group as an Obligor shall be included for the purposes of this definition.

“Obligor/Non-Obligor Basket” means at any time an amount equal to the greater of EUR 5,000,000 and an amount equal to ten per cent. (10%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time.

“Obligors’ Agent” means the Parent or such other person appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.6 (*Obligors’ Agent*).

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

“Original Accounting Principles” means the accounting principles and related accounting practices and financial reference periods consistent with those applied in the Original Financial Statements and the Base Case Model.

“Original Equity Commitment” has the meaning given to it in in Schedule 2 (*Conditions Precedent*).

“Original Financial Statements” means the audited consolidated financial statements of the Target for its Financial Year ended 31 December 2014.

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

“Parent Liabilities” has the meaning given to that term in the Intercreditor Agreement.

“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.

“PBGC” means the Pension Benefit Guaranty Corporation, or any entity succeeding to all or any of its functions under ERISA.

“Pending Acquisition Amount” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Pension Items” has the meaning given to it in Clause 26.1 (*Financial definitions*).

“Pension Plan” means any employee pension benefit plan, as defined in Section 3(2) of ERISA (other than a Multiemployer Plan), that is subject to the provisions of Title IV of ERISA or Section 412 of the Internal Revenue Code or Section 302 of ERISA, which any U.S. Obligor, or any of their respective ERISA Affiliates, maintains or contributes to or has an obligation to contribute to, or otherwise has any liability, contingent or otherwise.

“Perfection Requirements” means the making or the procuring of the appropriate registrations, filing, endorsements, notarisation, stampings and/or notifications of the Transaction Security Documents and/or the Security created thereunder.

“Permitted Acquisition” means:

- (a) the Acquisition;
- (b) any acquisition of any shares or securities owned by minority shareholders in members of the Group;
- (c) any acquisition by a member of the Group pursuant to a Permitted Disposal by another member of the Group;
- (d) any acquisition of Cash Equivalent Investments for treasury management purposes;
- (e) an acquisition of interests in a Permitted Joint Venture to the extent permitted under Clause 27.21 (*Joint Ventures*);
- (f) an acquisition by a member of the Group such that following that acquisition, the relevant target becomes a member of the Group, or such acquisition is of a business or undertaking by an entity with limited liability, in each case carrying on a similar, related or complementary business to the Group, in each case provided that:

- (i) by reference to the financial statements most recently delivered under this Agreement prior to the date of the Group's entry into a legally binding commitment to make the relevant acquisition, but pro forma for such acquisition, the ratio of Consolidated Total Net Debt to Consolidated Pro Forma EBITDA is less than or equal to 6.00:1; and
 - (ii) the target is incorporated in a country which is not a Sanctioned Country on the date of the Group's entry into a legally binding commitment to make the acquisition;
- (g) any acquisition pursuant to a Permitted Reorganisation or Permitted Transaction;
- (h) an acquisition constituting a Permitted Share Issue;
- (i) an acquisition or redemption of shares (directly or indirectly) of directors and employees whose appointment and/or contract is terminated up to an aggregate principal amount (except to the extent those previously acquired shares or an equivalent number of shares have been acquired from a member of the Group by, or issued to, a new member of management of the Group for cash and only to the extent of the lower of (1) that cash and (2) the original consideration paid for such shares by the relevant member of the Group) which does not exceed the Management Share Buy Back Basket unless such acquisition is funded from amounts which would otherwise be capable of being paid as a dividend or other payment by the Parent pursuant to paragraph (i) or (l) of the definition of Permitted Payment;
- (j) any acquisition of shares following the conversion of an intra-Group loan into equity;
- (k) an acquisition of the share capital or analogous ownership interests in a limited liability entity (including by way of formation) which has not traded prior to the close of the acquisition; and
- (l) any acquisition to which the Agent (acting on the instructions of the Majority Lenders) shall have given prior written consent.

“Permitted Alternative Debt” means one or more facilities which are not documented under this Agreement or the Second Lien Facility Agreement, notes or other financing or debt arrangements, including as new or existing facility commitments or note issuance and/or as an additional tranche or class of, or an increase of, or an extension of, any facilities which are not documented under this Agreement or the Second Lien Facility Agreement, notes or other financing or debt arrangements (in each case, including arrangements existing at the time a person becomes a member of the Group (whether by acquisition, merger, consolidation or combination) or is assumed in connection with the acquisition of assets, merger, consolidation or combination or otherwise); including by way of any loan, note (including senior or second lien secured, senior unsecured, senior subordinated or subordinated notes, whether in each case in a public or private offering, Rule 144A or other offering), bond or otherwise (including, in each case, term or revolving); issued or incurred, guaranteed or secured by any member of the Group or by a Holding Company thereof or any person which becomes a member of the Group; and with such ranking, recourse and security as specified by the Parent and agreed with any person providing such Permitted Alternative Debt (including unsecured, senior, second lien, mezzanine or junior to other indebtedness of the Group) **provided that** (unless otherwise agreed by the Majority Lenders) each of the following applicable conditions are met:

- (a) the repayment profile for such Permitted Alternative Debt shall be, at the option of the Parent, a bullet repayment or an amortising repayment, **provided that** the following conditions shall apply, as applicable:

- (i) if a bullet repayment in relation to a term facility or any other Permitted Alternative Debt which is not amortising or a revolving facility, the maturity date for such Permitted Alternative Debt falls on or after the Termination Date for Facility B as at the date of this Agreement (or, if at such time Facility B has been repaid in full or would be paid in full after giving effect to the application of proceeds from the Permitted Alternative Debt, any termination date); or
 - (ii) if amortising in relation to term facility or any other Permitted Alternative Debt, the maturity date for such Permitted Alternative Debt falls on or after the Termination Date for Facility B as at the date of this Agreement and such Permitted Alternative Debt may only amortise at a rate of one per cent. per annum or less prior to such date (or, if at such time Facility B has been repaid in full or would be paid in full after giving effect to the application of proceeds from the Permitted Alternative Debt, any termination date and any amortisation profile); or
 - (iii) if a revolving credit facility or any other Permitted Alternative Debt, the maturity date for such Permitted Alternative Debt falls on or after the Termination Date for the Revolving Facility as at the date of this Agreement (or, if at such time the Revolving Facility has been repaid in full or would be paid in full after giving effect to the application of proceeds from the Permitted Alternative Debt, any termination date);
- (b) after giving *pro forma* effect to the borrowing, issuance or incurrence (and application) in full of the principal or equivalent amount of the proposed Permitted Alternative Debt, such amount when aggregated with the principal or equivalent amount of any other Additional Facility, Second Lien Additional Facility or Permitted Alternative Debt (or any combination of the foregoing) which have been incurred on or prior to the Additional Facility Commencement Date applicable to the proposed Permitted Alternative Debt does not exceed the Permitted Indebtedness Cap (excluding, for this purpose, the amount specified in paragraph (a) of that definition) as at the applicable Additional Facility Commencement Date;
- (c) subject to the Agreed Security Principles, the Finance Parties will be offered the benefit of any guarantees and security granted to the creditors of the proposed Permitted Alternative Debt on the same terms as have been made available to such creditors;
- (d) the Permitted Alternative Debt, excluding any unsecured Permitted Alternative Debt which when aggregated with any other such unsecured Permitted Alternative Debt does not exceed EUR 7,500,000 (or its equivalent in any other currency or currencies) at any time, shall be subject to either:
 - (i) the Intercreditor Agreement, in which case, if the person providing such Permitted Alternative Debt is not already a party to the Intercreditor Agreement in the relevant capacity as a “Creditor” under (and as defined) therein for the relevant Intercreditor Class which the applies to the Permitted Alternative Debt, such person has (or will) become a party to the Intercreditor Agreement as a “Creditor” in accordance with and pursuant to the terms of the Intercreditor Agreement by the Additional Facility Commencement Date; or
 - (ii) a customary intercreditor agreement, the terms of which shall be reasonably satisfactory to the Agent and the Parent;
- (e) any Permitted Alternative Debt that is subordinated to the Facilities in right of payment and/or with respect to Transaction Security is issued or borrowed by the Company or any Holding Company of the Company; and

- (f) the Parent has delivered to the Agent a duly completed Additional Facility Notice, within ten (10) Business Days of the Additional Facility Commencement Date, specifying the following matters in respect of such Permitted Alternative Debt:
- (i) the proposed borrower(s) and guarantor(s) in respect of the Permitted Alternative Debt;
 - (ii) the aggregate amount of the commitments of the Permitted Alternative Debt and the currency being made available and any other or optional currency or currencies which are available for utilisation under such Permitted Alternative Debt;
 - (iii) the Additional Facility Commencement Date and (if applicable) the availability period; and
 - (iv) the maturity date, amortisation schedule, any mandatory prepayment provisions, security (if any), ranking and intercreditor position which may be pari passu or junior to the Facilities (and whether it is governed by the Intercreditor Agreement, and if applicable, the Intercreditor Class or other position) for the Permitted Alternative Debt,

and such Additional Facility Notice shall be deemed to have been duly completed for the purposes of this paragraph (f) if it is signed by the Parent and specifies the matters in paragraphs (f)(i) to (f)(iv) above in respect of such Permitted Alternative Debt,

provided that (I) the terms applicable to any Permitted Alternative Debt (including ranking, security (if any) and intercreditor rights) will be those agreed between the Parent and the person(s) providing the Permitted Alternative Debt (subject to the conditions in paragraphs (a) to (d) above); (II) (subject to Clause 1.14 (*Intercreditor Agreement*)), if there is any inconsistency between any such term agreed in respect of any Permitted Alternative Debt and any term of a Finance Document, the term agreed in respect of the Permitted Alternative Debt shall prevail with respect to such Permitted Alternative Debt (subject to the conditions in paragraphs (a) to (d) above) and (III) notwithstanding any provision of a Finance Document to the contrary, there shall be no obligation or requirement to enter into any hedging arrangement or other derivative transaction in relation to any Permitted Alternative Debt.

“Permitted Alternative Finance Documents” means each document which relates to or evidences the terms of any Permitted Alternative Debt including any credit or loan agreement, indenture, notes, fee letter, syndication letter, engagement letter, hedging letter, guarantee, security document and any other instrument or document designated as a Permitted Alternative Finance Document by the Parent and the person providing the Permitted Alternative Debt, including, as applicable, the Intercreditor Agreement and the Transaction Security Documents.

“Permitted Debt” has the meaning given to that term in the Intercreditor Agreement.

“Permitted Disposals” means:

- (a) disposals of assets made by a member of the Group in the ordinary course of trading;
- (b) any disposal of cash and cash equivalent investments in a manner not prohibited by the Finance Documents;
- (c) any disposal of assets (other than shares, businesses and undertakings) in exchange or replacement for other assets (other than cash or Cash Equivalent Investments) which are, in the reasonable opinion of the entity effecting the acquisition, comparable or superior as to type, quality and value, **provided that** if the asset disposed of is subject to Transaction

Security the replacement asset shall also become subject to equivalent Security under a Transaction Security Document (subject to the Agreed Security Principles and ignoring, where relevant for the purpose of assessing such equivalency, any hardening periods or guarantee limitations), unless the relevant asset is disposed of or transferred subject to the Transaction Security;

- (d) any disposal (i) by a member of the Group to an Obligor or (ii) by a non-Obligor to another member of the Group **provided that** if the asset disposed of is subject to Transaction Security at the time of disposal it shall be disposed of on the basis that it shall remain subject to, or otherwise become subject to, equivalent Security under a Transaction Security Document following disposal (subject to the Agreed Security Principles and ignoring, where relevant for the purpose of assessing such equivalency, any hardening periods or guarantee limitations), unless the relevant asset is disposed of or transferred subject to the Transaction Security;
- (e) any disposal of assets which are obsolete for the purpose for which such assets are normally utilised or which are no longer required for the purpose of the relevant person's business or operations;
- (f) any disposal of any business, assets or shares permitted by paragraph (a) of Clause 27.10 (*Amalgamations and Change of Business*);
- (g) disposals of assets which are seized, expropriated, or acquired by compulsory purchase by or by the order of any central or local governmental agency or authority which individually or together would not result in a breach of Clause 29.12 (*Compulsory Acquisition*);
- (h) disposals pursuant to the grant of leasehold interests in, or licences of, property in the ordinary course of business;
- (i) any disposal made pursuant to a contractual arrangement already in existence on the Closing Date;
- (j) any disposal of assets subject to Permitted Factoring, Permitted Finance Lease or a Permitted Sale and Leaseback;
- (k) any disposal of assets arising as a result of a Permitted Share Issue or Permitted Security;
- (l) any disposal of assets arising as a result of a Permitted Transaction;
- (m) any disposal of an intra-Group loan as a result of the conversion of such intra-Group loan into equity pursuant to paragraph (j) of Permitted Acquisition;
- (n) disposals of assets to a Permitted Joint Venture permitted under Clause 27.21 (*Joint Ventures*) or of an interest in a Joint Venture to the extent required by the terms of the arrangements in relation to that Joint Venture between the Joint Venture parties;
- (o) any disposal of Treasury Transactions to the extent in excess of the required hedging under the Hedging Letter;
- (p) any disposal to which the Majority Lenders shall have given their prior written consent;
- (q) any disposal of assets by an Obligor to a Non-Obligor **provided that** the aggregate market value of all such assets disposed of does not give rise to the Obligor Net Amount exceeding the Obligor/Non-Obligor Basket at any time;

- (r) disposals of fixed or long term assets other than shares (or the disposal of shares in a company whose material assets are limited to fixed or long term assets);
- (s) any disposal of assets (including, any shares in or business, undertakings or divisions of any member of the Group) **provided that** (i) no Event of Default has occurred and is continuing at the time the relevant member of the Group legally commits to the disposal of such asset and (ii) the Parent confirms to the Agent that immediately prior to the disposal, the *pro forma* Leverage Ratio adjusted for the sale of such asset(s) and the use and/or the retention of such proceeds by the Group including any repayment, prepayment or acquisition of any Permitted Financial Indebtedness will not be higher than 3.75:1;
- (t) any disposal of assets (including, any shares in or business, undertakings or divisions of any member of the Group) provided that:
 - (i) no Event of Default has occurred and is continuing at the time the relevant member of the Group legally commits to the disposal of such asset;
 - (ii) any such disposal with a purchase price in excess of €10,000,000 is for fair market value (as reasonably determined by the Parent) with at least 75% of the consideration for such Disposal consisting of cash or Cash Equivalent Investments at the time of such Disposal and provided that for the purposes of the 75% cash consideration requirement the following items shall be deemed to be cash:
 - (A) the amount of any indebtedness or other liabilities (other than indebtedness or other liabilities that are subordinated to the Facilities (or that are owed to any member of the Group) of the Parent or any other member of the Group (as shown on such person's most recent balance sheet or statement of financial position (or in the notes thereto)) that are assumed by the transferee of any such assets and for which the Parent and/or any other member of the Group have been validly released by all relevant creditors in writing;
 - (B) the amount of any trade-in value applied to the purchase price of any replacement assets acquired in connection with such disposal;
 - (C) any shares or securities received by the Parent or any other member of the Group from such transferee that are converted by such person into cash or Cash Equivalent Investments (to the extent of the cash or Cash Equivalent Investments received) within 180 days following the closing of the applicable disposal; and
 - (D) the fair market value (as determined by the Parent in good faith) of non-cash consideration received by the Parent or any other member of the Group in connection with any disposal that is designated as such in a certificate from the Parent (signed by an authorised signatory), setting out the basis of such valuation (which will be reduced by the amount of cash and Cash Equivalent Investments received in connection with a subsequent sale or conversion of such designated non-cash consideration into cash or Cash Equivalent Investments) (the “**Designated Non-Cash Consideration**”) having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this sub-paragraph that is at that time outstanding does not exceed €10,000,000;

- (u) disposals of assets where the aggregate net cash consideration for the assets so disposed of (ignoring any earn out which may become payable) does not in any Financial Year in aggregate exceed the Permitted Disposals Basket; and
- (v) disposals of assets which are otherwise permitted as a Permitted Disposal to a special purpose vehicle and the subsequent disposal of that special purpose vehicle where the assets transferred to the special purpose vehicle are the only material assets thereof shall also be permitted **provided that** such other assets are similarly able to be disposed of in accordance with paragraphs (a) to (u) above.

“**Permitted Disposals Basket**” means the greater of EUR 3,500,000 and an amount equal to seven point five per cent. (7.5%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time.

“**Permitted Factoring**” has the meaning given to it in Clause 27.14 (*Sale and Leasebacks / Factoring*).

“**Permitted Finance Lease**” has the meaning given to it in Clause 27.18 (*Leasing Arrangements*).

“**Permitted Financial Indebtedness**” means:

- (a) Financial Indebtedness arising under the Finance Documents or any Second Lien Finance Documents, or under or in connection with any Additional Facility, any Second Lien Additional Facility or any Permitted Alternative Debt;
- (b) Financial Indebtedness arising under (or issued pursuant to) an Ancillary Facility, a Permitted Guarantee, Permitted Loan, a Permitted Factoring, a Permitted Sale and Leaseback, a Permitted Finance Lease or as permitted under Clause 27.20 (*Treasury Transactions*);
- (c) the Existing Debt provided it is refinanced or, in the case of an Existing Ancillary Facility or an Existing Letter of Credit, is adopted as an Ancillary Facility and a Letter of Credit or Bank Guarantee (as applicable) under this Agreement, on the Closing Date;
- (d) facilities to the extent a Letter of Credit has been issued or a guarantee or letter of credit has been issued under the Ancillary Facilities in respect of the Financial Indebtedness under such facilities;
- (e) Financial Indebtedness to which the Majority Lenders have given their prior written consent;
- (f) Financial Indebtedness of any person that becomes a member of the Group after the Closing Date as a result of a Permitted Acquisition (other than the Acquisition), **provided that**:
 - (i) such Financial Indebtedness was not incurred or increased (other than capitalisation of interest), or the maturity of such Financial Indebtedness was not extended, at the time such person became a member of the Group and was not incurred or increased in anticipation thereof; and
 - (ii) such Financial Indebtedness is discharged within three (3) Months of the date on which such person becomes a Subsidiary;
- (g) Financial Indebtedness arising as a result of daylight exposures of any member of the Group in respect of banking arrangements entered into in the ordinary course of its treasury activities;

- (h) local working capital and overdraft facilities provided to members of the Group in an aggregate amount of up to the greater of EUR 5,000,000 and an amount equal to ten per cent. (10%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time;
- (i) Financial Indebtedness which constitutes Investor Loans;
- (j) in respect of any deferred consideration or any earn out arrangement payable to the relevant vendor in connection with any Permitted Acquisition (to the extent that the deferred consideration or earn out arrangement itself constitutes Financial Indebtedness);
- (k) incurred within two hundred and seventy (270) days of the acquisition, construction or improvement of fixed or capital assets to finance the acquisition, construction or improvement thereof which in aggregate does not exceed the greater of EUR 5,000,000 and an amount equal to ten per cent. (10%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time for the Group in each Financial Year; and
- (l) any other Financial Indebtedness not otherwise permitted by the preceding paragraphs the principal outstanding amount of which does not in aggregate exceed the greater of EUR 10,000,000 and an amount equal to twenty per cent. (20%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time.

“Permitted Guarantee” means:

- (a) any guarantee under the Finance Documents or any Second Lien Finance Documents or under or in connection with any Additional Facility, any Second Lien Additional Facility or any Permitted Alternative Debt;
- (b) any guarantee which, if it were a loan, would be a Permitted Loan to the extent the issuer of the relevant guarantee would have been entitled and remains entitled to make a Loan in an equivalent amount under the definition of Permitted Loan to the person whose obligations are being guaranteed;
- (c) guarantees granted by any person that becomes a member of the Group after the Closing Date as a result of an acquisition permitted under Clause 27.22 (*Acquisitions and Investments*), **provided that**:
 - (i) such guarantee existed at the time such person became a member of the Group and was not incurred or increased in anticipation thereof and not amended to increase the guaranteed liabilities; and
 - (ii) the Financial Indebtedness guaranteed thereby is discharged within three (3) Months of the date on which such person becomes a member of the Group;
- (d) guarantees of Treasury Transactions which are permitted under this Agreement;
- (e) guarantees to landlords and counter-indemnities in favour of financial institutions which have guaranteed rent obligations of a member of the Group;
- (f) the endorsement of negotiable instruments in the ordinary course of trading;
- (g) guarantees (other than a guarantee by the Parent unless such guarantee is customary and required by trade counterparties due to the financial statements of the Group being

consolidated at the Parent) guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of business;

- (h) any guarantee arising by operation of law as a result of the existence of a fiscal unity for Dutch tax purposes (*fiscale eenheid*) or any analogous arrangement in any other jurisdiction, in each case, of which an Obligor is a member;
- (i) any liability arising under a declaration of joint and several liability (*hoofdelijke aansprakelijkheid*) as referred to in Article 2:403 of the Dutch Civil Code;
- (j) guarantees and indemnities given in favour of directors and officers of any member of the Group in respect of their function as such;
- (k) any guarantee given in respect of cash pooling, netting or set-off arrangements permitted pursuant to paragraphs (c), (d) and/or (x) of Permitted Security;
- (l) indemnities given to professional advisers and consultants in the ordinary course of business;
- (m) guarantees (other than a guarantee by the Parent) given to creditors pursuant to Permitted Reorganisations and capital reductions;
- (n) guarantees and indemnities given pursuant to or in connection with the Acquisition Documents;
- (o) guarantees (other than a guarantee by the Parent) given in connection with Permitted Disposals and Permitted Acquisitions up to a maximum amount equal to the consideration for that disposal or acquisition (as the case may be) and/or guarantees given by a member of the Group in respect of a former Subsidiary (at the time it was a Subsidiary and not in contemplation of it ceasing to be a Subsidiary) of that member of the Group where such member of the Group has received an indemnity in respect of the maximum aggregate amount of the liabilities under such guarantee;
- (p) guarantees by:
 - (i) any Non-Obligor in respect of obligations or Financial Indebtedness of another Non-Obligor;
 - (ii) any member of the Group in respect of obligations or Financial Indebtedness of an Obligor; and
 - (iii) an Obligor in respect of obligations or Financial Indebtedness of a member of the Group who is not an Obligor **provided that** the aggregate amount outstanding of all such guarantees does not give rise to an Obligor Net Amount exceeding the Obligor/Non-Obligor Basket at any time;
- (q) guarantees to which the Agent (on the instructions of the Majority Lenders) has given prior written consent;
- (r) customary indemnities contained in mandate, engagement and commitment letters, facility agreements, purchase agreements and indentures, in each case entered into in respect of or in contemplation of Permitted Financial Indebtedness;
- (s) any guarantee or indemnity made in connection with a Permitted Joint Venture which is permitted under Clause 27.21 (*Joint Ventures*);

- (t) any guarantee or indemnity provided by a member of the Group for the obligations of another member of the Group in connection with a member of the Group claiming exemption from audit, the preparation and filing of its accounts or other similar exemptions (including under section 394C, 448C or 479C of the Companies Act 2006 or other similar or equivalent provisions); and
- (u) guarantees not otherwise permitted by the preceding paragraphs, the aggregate principal outstanding amount guaranteed by which (when aggregated with all such other guarantees) does not exceed the greater of EUR 10,000,000 and an amount equal to fifteen per cent. (15%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time.

“Permitted Holding Company Activity” means:

- (a) (in the case of the Parent) holding shares in the Company; (in the case of the Company), holding shares in its Subsidiaries, Joint Ventures and in each case to the extent that such shares are (subject to the Agreed Security Principles) subject to Transaction Security or become subject to Transaction Security within the time frames prescribed by this Agreement;
- (b) (in the case of the Parent) making Permitted Loans to the Company and (in the case of the Company) making Permitted Loans (in each case) to the extent that such loans are (subject to the Agreed Security Principles) subject to Transaction Security and,
- (c) loans by the Parent permitted under paragraphs (i) and/or (r) of the definition of Permitted Loan;
- (d) granting Permitted Security and providing Permitted Guarantees to the extent consistent with the activities of a holding company in the ordinary course of its business as a holding company as contemplated by paragraphs (e) to (m) below;
- (e) the entry into and performance of its obligations under the Transaction Documents and any documents entered into pursuant to or in connection with the issuance or incurrence of any Additional Facility, any Second Lien Additional Facility or any Permitted Alternative Debt (including any Finance Documents, Second Lien Finance Documents, Permitted Alternative Finance Documents or otherwise);
- (f) the granting of any Security permitted under paragraphs (c), (l), (o), (q), (r), (t), (u), (v), (w) and (z) of Permitted Security and the granting of Transaction Security to the Finance Parties in accordance with the terms of this Agreement, any Second Lien Finance Documents or any Permitted Alternative Finance Documents and (to the extent permitted by the Intercreditor Agreement or otherwise contemplated by this Agreement) under or in connection with any Additional Facility, any Second Lien Additional Facility or any Permitted Alternative Debt (including any Finance Documents, Second Lien Finance Documents, Permitted Alternative Finance Documents or otherwise);
- (g) the incurrence of any liability by operation of law as a result of the existence of a fiscal unity for Dutch tax purposes (*fiscal eenheid*) or any analogous arrangement in any other jurisdiction, in each case, of which an Obligor is a member;
- (h) the provision of administrative, managerial, legal, treasury and accounting services and the secondment of employees to other members of the Group of a type customarily provided by a holding company to its Subsidiaries;
- (i) the incurrence of Financial Indebtedness (including without limitation under Investor Loans; New Investor Loans) permitted to be outstanding under the terms of this

Agreement (and where borrowed, issued or incurred by the Parent for the benefit of the Group, such proceeds are on-lent, contributed or made available to the Group (via the Company));

- (j) the making of or receipt of (x) any Permitted Payment, (y) (in the case of the Company), a Permitted Disposal; and in the case of the Parent, a Permitted Disposal to the Company or under paragraphs (b), (k), (m) or (p) of the definition thereof; or (z) Permitted Share Issue **provided that**, in the case of the Company only, such Permitted Share Issue shall be to the Parent only;
- (k) general administration activities including without limitation those relating to overhead costs and paying filing fees and other ordinary course expenses (such as audit fees and Taxes), to include the fulfilment of any periodic reporting requirements;
- (l) the incurrence of any other costs that relate to services provided or duties of the Group; and
- (m) acting in the manner specifically contemplated in the Tax Structure Report.

“Permitted Indebtedness Cap” means at any time (without double counting):

- (a) an amount equal to the aggregate of:
 - (i) EUR 50,000,000 less the aggregate principal amount of Financial Indebtedness raised and/or incurred under one or more Additional Facilities pursuant to this paragraph (a) or one or more Second Lien Additional Facilities pursuant to the Second Lien Cash Capped Incremental; plus
 - (ii) the principal or equivalent amount of the proposed Additional Facility, Second Lien Additional Facility or Permitted Alternative Debt as at its Additional Facility Commencement Date to the extent that the proceeds constitute and are (or are to be) Refinancing Debt; and, the proposed Additional Facility, Second Lien Additional Facility or Permitted Alternative Debt is applied for such purpose;
- (b) an unlimited amount so long as *pro forma* the utilisation of the principal or equivalent amount of the proposed Additional Facility, Second Lien Additional Facility or Permitted Alternative Debt in full and the proposed use of proceeds thereof (including any acquisition, acquired Consolidated Pro Forma EBITDA (*pro forma* for the LTM period) or refinancing of indebtedness):
 - (i) if such proposed Additional Facility or Permitted Alternative Debt constitutes Consolidated Senior Secured Net Debt, the Senior Secured Leverage Ratio as at the last Quarter Date for which Quarterly Financial Statements have been delivered pursuant to the terms of this Agreement or, if any of the proceeds thereof are to be used to fund an acquisition on a **“certain funds basis”**, as at the last Quarter Date for which Quarterly Financial Statements have been delivered pursuant to the terms of this Agreement before the date of signing of the relevant acquisition agreement (or, if no Financial Statements have yet been delivered since the Closing Date, by reference to Consolidated Senior Secured Net Debt at the Closing Date and Consolidated Pro Forma EBITDA as set out in the Base Case Model as at the Closing Date) does not exceed 4.2:1; and
 - (ii) if such proposed Additional Facility, Second Lien Additional Facility or Permitted Alternative Debt does not constitute Consolidated Senior Secured Net Debt, the Leverage Ratio as at the last Quarter Date for which Quarterly Financial Statements have been delivered pursuant to the terms of this Agreement or, if any

of the proceeds thereof are to be used to fund an acquisition on a “**certain funds basis**”, as at the last Quarter Date for which Quarterly Financial Statements have been delivered pursuant to the terms of this Agreement before the date of signing of the relevant acquisition agreement (or, if no Financial Statements have yet been delivered since the Closing Date, by reference to Consolidated Total Net Debt at the Closing Date and Consolidated Pro Forma EBITDA as set out in the Base Case Model as at the Closing Date) does not exceed 5.5:1,

other than to the extent such Additional Facility, Second Lien Additional Facility or Permitted Alternative Debt (or any combination of the foregoing) is incurred pursuant to this paragraph concurrently with the incurrence of such Additional Facility, Second Lien Additional Facility or Permitted Alternative Debt (or any combination of the foregoing) in reliance on paragraph (a) above, in which case the Senior Secured Leverage Ratio and the Leverage Ratio shall be permitted to exceed the levels referred to above to the extent of such Additional Facility, Second Lien Additional Facility or Permitted Alternative Debt (or any combination of the foregoing) incurred in reliance on paragraph (a) above **provided that** (for the avoidance of doubt) any Additional Facility, Second Lien Additional Facility or Permitted Alternative Debt (or any combination of the foregoing) may be incurred pursuant to this paragraph (b) prior to the incurrence of the amount set out in paragraph (a) above and for the purposes of calculating the Consolidated Senior Secured Net Debt and/or Consolidated Total Net Debt, any cash proceeds from an Additional Facility, Second Lien Additional Facility or Permitted Alternative Debt (or any combination of the foregoing) being incurred at the relevant test date, shall be excluded (together with any Cash Equivalent Investments resulting therefrom).

“**Permitted Joint Venture**” means any investment in a joint venture where the aggregate of:

- (a) all amounts subscribed for shares in, lent to or invested in all such Joint Ventures by any member of the Group;
- (b) the contingent liabilities of any member of the Group under any guarantee given in respect of the liabilities of any Joint Venture; and
- (c) the market value of any assets transferred by any member of the Group to any Joint Venture (other than assets provided on arm’s length terms),

net of profit distributions and returns on Investments in cash (in each case after the Closing Date) and after deducting investments designated at any time as having been funded with Acceptable Funding Sources, does not exceed in any Financial Year the Joint Venture Basket.

“**Permitted Junior Debt Payments**” means any repayment, prepayment, purchase, defeasance, redemption, repurchase or retirement for value of the Second Lien Liabilities (as defined in the Intercreditor Agreement) and/or the Senior Subordinated Liabilities (as defined in the Intercreditor Agreement):

- (a) as permitted by the Intercreditor Agreement;
- (b) utilising the proceeds of any Additional Facility Loan, any Second Lien Additional Facility Loan or any Permitted Alternative Debt;
- (c) to the extent that:
 - (i) no Event of Default has occurred and is continuing when the repayment, prepayment, purchase, defeasance, redemption, repurchase or retirement for value is made or would arise as a result of such repayment, prepayment, purchase, defeasance, redemption, repurchase or retirement for value; and

- (ii) the Leverage Ratio as at the immediately preceding Quarter Date (pro forma taking into account such repayment, prepayment, purchase, defeasance, redemption, repurchase or retirement for value) is:
 - (A) equal to or less than 4.25:1 but greater than 3.25:1 and such payment is funded from Acceptable Funding Sources; or
 - (B) equal to or less than 3.25:1; and
- (d) any other payment so long as the aggregate amount of all such payments under this paragraph does not exceed, when aggregated with any payment made, or designated as made, under paragraph (l) of the definition of Permitted Payment, in each case in any Financial Year, EUR 1,500,000.

“Permitted Loan” means:

- (a) loans and trade credit in the ordinary course of its trading activities;
- (b) advance payments made in the ordinary course of business;
- (c) loans and the granting of credit by Obligors to Obligors, **provided that**, in the case of loans by the Parent to the Company, only to the extent that such loans by the Parent are (subject to the Agreed Security Principles) subject to Transaction Security;
- (d) loans by a Non-Obligor to an Obligor;
- (e) a loan or grant of credit by an Obligor to a Non-Obligor **provided that** the aggregate amount outstanding of all such loans does not give rise to an Obligor Net Amount exceeding the Obligor/Non-Obligor Basket at any time;
- (f) loans by Non-Obligors to other Non-Obligors;
- (g) loans made in the ordinary course of intra-Group cash pooling arrangements subject to a limit on such loans from Obligors to members of the Group who are Non-Obligors of up to an aggregate principal amount at any time of the greater of EUR 5,000,000 and an amount equal to ten per cent. (10%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time;
- (h) loans by an Obligor to an entity or business acquired pursuant to a Permitted Acquisition for working capital needs of that entity or business provided such entity shall accede as a Guarantor within sixty (60) days of a loan being made to it by an Obligor;
- (i) loans by the Parent in lieu of a distribution to its shareholders to the extent the same would be permitted as a Permitted Payment and to the extent that the amount of such loan does not exceed the amount which it could have made by way of such distribution;
- (j) loans comprising deferred consideration in respect of a Permitted Disposal, up to a maximum amount not exceeding twenty per cent. (20%) of the consideration received in respect of such Permitted Disposal;
- (k) loans required to be made by mandatory provisions of law;
- (l) loans to Permitted Joint Ventures to the extent permitted by Clause 27.21 (*Joint Ventures*);

- (m) loans to employees of the Group or employee share option or unit or benefit trust schemes, **provided that** the principal amount outstanding of any such loans outstanding shall not exceed the Employee Loan Basket unless such loan is funded from amounts which would otherwise be capable of being paid as a dividend or other payment by the Parent pursuant to paragraph (i) or (l) of the definition of Permitted Payment;
- (n) loans by the Company to the Parent to fund a Permitted Payment by the Parent (including the costs of the Parent referred to in paragraph (a) of the definition thereof) or to fund any payment required to be made by the Parent to enable or assist the Parent to pay its establishment costs or to pay Taxes or administration fees required to maintain its existence incurred by it solely in respect of it being a Holding Company of its Subsidiaries;
- (o) loans made with the consent of the Majority Lenders;
- (p) a loan made by a member of the Group in order to fund a payment to be made under a Finance Document;
- (q) a loan contemplated in the Tax Structure Report;
- (r) a loan made to a Holding Company of the Parent for the purposes of an acquisition referred to in paragraph (b) of the definition of Permitted Payment, **provided that** the aggregate principal amount of any such loans made under this paragraph shall not exceed the Management Share Buy Back Basket unless such loan is funded from amounts which would otherwise be capable of being paid as a dividend or other payment by the Parent pursuant to paragraph (i) or (l) of the definition of Permitted Payment;
- (s) any loan made by a member of the Target Group and outstanding on the Closing Date; and
- (t) loans not otherwise permitted pursuant to the preceding paragraphs so long as the aggregate principal amount outstanding of all such loans does not exceed the greater of EUR 10,000,000 and an amount equal to twenty per cent. (20%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time.

“Permitted Payment” means a payment including the cash payment of a dividend, repayment of equity, reduction of capital, loan, fee, charge or the cash payment of interest on, or repayment or prepayment of principal in respect of, Investor Loans or Parent Liabilities, redemption, set-off, acquisition of liabilities or other discharge, or the making of any loan in each case to fund:

- (a) administrative costs, directors’ and employees’ remuneration, Taxes, professional fees, regulatory costs and the like reasonably incurred by the Parent or any Holding Company of the Parent (other than the Initial Investors), in each case to the extent referable to acting as a Holding Company of the Parent or the Parent’s Subsidiaries;
- (b) an acquisition or redemption of shares (directly or indirectly) by a Holding Company of the Parent of directors and employees of members of the Group whose appointment and/or contract is terminated to an aggregate principal amount (except to the extent those previously acquired shares or an equivalent number of shares have been acquired from a member of the Group by, or issued to, a new member of management of the Group for cash and only to the extent of the lower of (1) that cash and (2) the original consideration paid for such shares by the relevant member of the Group) which does not exceed the Management Share Buy Back Basket unless such acquisition or redemption is funded from amounts which would otherwise be capable of being paid as a dividend by the Parent pursuant to paragraph (i) or (l) of this definition of Permitted Payment;

- (c) Investor front end fees as reflected in the Base Case Model and the Funds Flow Statement and an annual monitoring, management or advisory fee to the Investors in each Financial Year of the Parent not exceeding the amount which is the greater of (i) EUR 1,000,000 (or its equivalent in any other currency or currencies) with such amount increasing each year in line with RPI and (ii) an amount equal to one per cent. (1%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time plus, in each case, VAT (**provided that** no Event of Default has occurred and is continuing in which case such fee shall continue to accrue and will be payable once such Event of Default has been remedied or waived);
- (d) any payment to enable or assist the Parent or any Holding Company of the Parent to pay its establishment costs or to pay Taxes or administration fees required to maintain its existence incurred by the Parent or such Holding Company solely in respect of it being a Holding Company of the Group and/or to refinance, or enable or assist the Parent, any Holding Company of the Parent or any Investor to pay, any Acquisition Costs;
- (e) any payment of a dividend to a Holding Company if that Holding Company is the head of the corporate income tax fiscal unit in which the Company is joint or a subsidiary of the head of the corporate income tax fiscal unit, **provided that** prior written consent is given by the Majority Lenders;
- (f) any repayment of Investor Loans or Parent Liabilities, the consideration for which is a Permitted Share Issue;
- (g) so long as no Event of Default is continuing, payments to any of the Investors or any Affiliate of or advisor to the Investors for ad hoc corporate finance advice, mergers and acquisitions advice and transaction advice actually provided to the Group on arms' length commercial terms;
- (h) (i) to the extent permitted under the Intercreditor Agreement, any payment to the extent required to make payments required under any documents constituting or entered into in connection with the issuance or hedging of any Additional Facility, any Second Lien Additional Facility or any Permitted Alternative Debt (including any Finance Documents, Second Lien Finance Documents, Permitted Alternative Finance Documents or otherwise); and (ii) any payment made to facilitate a Permitted Junior Debt Payment;
- (i) any payment of a dividend, repayment of equity or payment of interest on or (without prejudice to the terms of the Transaction Security Documents) repayment of principal of Investor Loans or parent Liabilities by the Company or the Parent to the extent that:
 - (i) no Event of Default has occurred and is continuing when the payment is made or would arise as a result of such payment; and
 - (ii) the Leverage Ratio as at the immediately preceding Quarter Date (*pro forma* taking into account such payment) is:
 - (A) equal to or less than 4.00:1 but greater than 3.00:1 and such payment is funded from Acceptable Funding Sources; or
 - (B) equal to or less than 3.00:1;
- (j) any payment contemplated by the Tax Structure Report;
- (k) any payment made to the Parent or a Holding Company of the Parent to enable the Parent or the relevant Holding Company to make payment of any underwriting, commitment, arrangement or other fees, costs or expenses incurred in connection with a Listing;

- (l) one or more payments to any member of the Group or Holding Company or Affiliate thereof in an aggregate amount of up to EUR 95,000,000 from the proceeds of any Loan under Facility B Tranche 3 and cash on the balance sheet of the Group **provided that** any such payment is made on or before 31st January 2017; and
- (m) any other payment so long as the aggregate amount of all such payments under this paragraph does not exceed, when aggregated with (i) any payment under paragraph (d) of the definition of Permitted Junior Debt Payment and, (ii) to the extent this paragraph (l) is utilized for the purpose, any payment under paragraph (i) of Permitted Acquisition, paragraphs (m) or (r) of the definition of Permitted Loan and/or paragraph (b) of this definition, in each case, in any Financial Year EUR 1,500,000.

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

“**Permitted Reorganisation**” means:

- (a) a solvent reorganisation (including, without limitation, pursuant to a liquidation or winding up) involving the business or assets of, or shares of (or other interests in), any member of the Group (other than the Parent and, in the case of the Company, **provided that** the Company is the surviving entity of any Permitted Reorganisation involving the Company and continues to be a wholly-owned direct Subsidiary of the Parent) where:
 - (i) all of the business, assets and shares of (or other interests in) the relevant member of the Group continue to be owned directly or indirectly by the Parent in the same or a greater percentage as prior to such reorganisation, save for:
 - (A) the shares of (or other interests in) any member of the Group which has been merged or amalgamated into another member of the Group or which has otherwise ceased to exist (including, for example, by way of the collapse of a solvent partnership or solvent winding up of a corporate entity) as a result of a such Permitted Reorganisation; or
 - (B) the business, assets and shares of (or other interests in) relevant members of the Group which cease to be owned:
 - (1) as a result of a disposal, merger or amalgamation permitted under, but subject always to the terms of, this Agreement; or
 - (2) as a result of a cessation of business or solvent winding-up of a member of the Group in conjunction with a distribution of all or substantially all of its assets remaining after settlement of its liabilities to its immediate shareholder(s) or other persons directly holding partnership or other ownership interests in it; or
 - (3) as a result of a disposal of shares (or partnership or other ownership interests) in a member of the Group required to comply with applicable laws, **provided that** any such disposal is limited to the minimum amount required to comply with such applicable laws; and
 - (ii) the Finance Parties (or the Security Agent on their behalf) will continue to have the same or substantially equivalent guarantees and security (subject to the Agreed Security Principles and ignoring, where relevant for the purpose of assessing such equivalency, any hardening periods or guarantee limitations and any guarantees and security from any entity which has ceased to exist as contemplated in paragraph (i) above) over the same or substantially equivalent assets and over the shares (or other interests) in the transferee other than over any

shares (or other interests) which have ceased to exist as contemplated in paragraph (i) above, in each case to the extent such assets, shares or other interests are not disposed of as permitted under, but subject always to, the terms of this Agreement;

- (b) any reorganisation arising as a consequence of a specific undertaking relating to a reorganisation in this Agreement;
- (c) any reorganisation expressly contemplated by the Tax Structure Report **provided that** in the case of any merger contemplated therein the requirements of paragraph (a) above and any applicable requirements in the Transaction Security Documents are complied with;
- (d) any reorganisation involving the business or assets of, or shares of (or other interests in) any member of the Group which is implemented to comply with any applicable law or regulation (including all intermediate steps or actions necessary to implement such reorganisation); and
- (e) any other reorganisation involving one or more members of the Group approved by the Majority Lenders.

“Permitted Sale and Leaseback” has the meaning given to it in Clause 27.14 (*Sale and Leasebacks / Factoring*).

“Permitted Security” means:

- (a) charges or liens in each case arising solely by operation of law and in the ordinary course of business;
- (b) rights of set-off existing in the ordinary course of business between any member of the Group and its respective suppliers or customers;
- (c) any (i) netting or set-off rights or arrangements; or (ii) charges, in each case arising by operation of law or by contract (including on the basis of general terms and conditions of an account bank) by virtue of the provision to any member of the Group of banking arrangements in the ordinary course of business (including, but not limited to, clearing bank or similar facilities or overdraft facilities entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Group); or (iii) any encumbrances over credit balances on bank accounts to facilitate operation of such bank accounts on a cash-pooled net balance basis;
- (d) any Security arising under clause 24 or 25 of the general terms and conditions (*algemene bankvoorwaarden*) of any member of the Dutch Bankers' Association (*Nederlandse Vereniging van Banken*) or any similar term applied by a financial institution in the Netherlands pursuant to its general terms and conditions;
- (e) any Security arising under clause 24 or 25 of the general terms and conditions of any member of the German Federal Bankers' Association (*Bundesverband Deutscher Banken*) or of the general terms and conditions of any member of the German Sparkassen Association (*Deutscher Sparkassen - und Giroverband e.V.*) or any similar term applied by a financial institution pursuant to its general terms and conditions;
- (f) any retention of title to goods supplied to any member of the Group where such retention is required by the supplier in the ordinary course of its trading activities and on customary terms;

- (g) Security arising under or in connection with a Permitted Sale and Leaseback, a Permitted Finance Lease, Permitted Factoring, hire purchase, conditional sale agreements or other agreements for the acquisition of assets on deferred payment terms in the ordinary course of business, to the extent such Security is granted by the relevant member of the Group over assets comprised within or constituted by such arrangements;
- (h) Transaction Security and Security arising under the Transaction Security Documents or other Security or Quasi Security arising under or in connection with the Finance Documents, the Second Lien Finance Documents, the Permitted Alternative Finance Documents, an Additional Facility, a Second Lien Additional Facility, any Permitted Alternative Debt or other Secured Obligations (as defined in the Intercreditor Agreement) including any Security or Quasi Security existing prior to the Additional Facility Commencement Date;
- (i) Security over goods and documents of title to goods arising in the ordinary course of letter of credit transactions entered into in the ordinary course of business;
- (j) any Security over or affecting any asset acquired by any member of the Group on or after the Closing Date and subject to which such asset is acquired, **provided that**:
 - (i) such Security was not created in contemplation of the acquisition of such asset by a member of the Group;
 - (ii) the amount thereby secured has not been increased in contemplation of, or since the date of, the acquisition of such asset by a member of the Group (other than as a result of capitalisation of interest); and
 - (iii) such Security is released within three (3) Months of such acquisition;
- (k) any Security over or affecting any asset of any entity which becomes a member of the Group after the Closing Date (other than as a result of the Acquisition), where such Security is created prior to the date on which such entity becomes a member of the Group, **provided that**:
 - (i) such Security was not created in contemplation of the acquisition of such entity;
 - (ii) the amount thereby secured has not been increased in contemplation of, or since the date of, the acquisition of such entity (other than as a result of capitalisation of interest); and
 - (iii) such Security is released within three (3) Months of such acquisition;
- (l) any Security, including any netting or set-off, arising by operation of law as a result of the existence of a fiscal unity for Dutch tax purposes (*fiscale eenheid*) or any analogous arrangement in any other jurisdiction, in each case, of which an Obligor is a member;
- (m) any Security over shares in a Permitted Joint Venture to secure obligations to other joint venture partners to the extent required to be provided by the terms of the relevant joint venture agreement;
- (n) Security which does not secure any outstanding actual or contingent liability **provided that** all reasonable endeavours are used to procure the release or discharge of such Security (including, for the avoidance of doubt, any security in respect of the Existing Debt Financing);
- (o) Security over cash paid into an escrow account by any third party or any member of the Group pursuant to any customary deposit or retention of purchase price arrangements

entered into pursuant to any disposal or acquisition made by a member of the Group and which is permitted pursuant to Clauses 27.11 (*Disposals*) or 27.22 (*Acquisitions and Investments*);

- (p) Security over rental deposits placed by a member of the Group with a lessor pursuant to a property lease entered into in the ordinary course of business;
- (q) any Security arising pursuant to an order of attachment or injunction restraining disposal of assets or similar legal process arising in connection with court proceedings which are contested by any member of the Group in good faith by appropriate proceedings;
- (r) Security arising automatically by operation of law in favour of any taxation or any government authority or organisation in respect of taxes, assessments or governmental charges which are not yet due or the liability in respect of which is being contested by the relevant member of the Group in good faith by appropriate proceedings;
- (s) Security created pursuant to a court order or judgment or as security for costs arising pursuant to court proceedings being contested by the relevant member of the Group in good faith by appropriate proceedings;
- (t) any payment or close out netting or set-off arrangement pursuant to any Treasury Transaction or foreign exchange transaction entered into by a member of the Group (and, for the avoidance of doubt, any credit support annex or similar supporting security document provided in relation to such Treasury Transaction shall not constitute Permitted Security under this paragraph (t));
- (u) Security constituting an escrow arrangement to which the proceeds from any issue of any Additional Facility, a Second Lien Additional Facility or any Permitted Alternative Debt are subject to;
- (v) Security to which the Majority Lenders shall have given their prior written consent;
- (w) Security granted in favour of creditors directly in relation to a Permitted Reorganisation or capital reduction of a member of the Group, to the extent necessary to ensure that the Permitted Reorganisation or capital reduction occurs;
- (x) any lien arising under the general terms and conditions of banks with whom any member of the Group maintains a banking relationship in the ordinary course of business;
- (y) any Security in respect of Permitted Financial Indebtedness under paragraph (h) of that definition;
- (z) any Security or Quasi Security arising under or in connection with any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to, or receivables of, a member of the Group in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any member of the Group; and
- (aa) Security not otherwise permitted pursuant to the preceding paragraphs securing indebtedness in an aggregate principal amount outstanding not exceeding the greater of EUR 7,000,000 and an amount equal to fifteen per cent. (15%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time.

“Permitted Share Issue” means:

- (a) an issue of shares by the Parent not constituting a Change of Control;

- (b) an issue of shares by the Company to the Parent, **provided that** such shares are (or immediately become) subject to Transaction Security;
- (c) an issue of shares by a Subsidiary of the Company to its shareholders or to another member of the Group, **provided that** ownership interest of the Company in such Subsidiary prior to such issue is not diluted as a result and provided further that (in any such case) in the event that the shares of such Subsidiary are subject to Transaction Security prior to such issue, then the percentage of shares in such Subsidiary subject to Transaction Security is not diluted; and
- (d) an issue of shares pursuant to a management or employee share scheme of the Group; or an issue of shares permitted pursuant to a Permitted Acquisition, or as permitted under paragraph (a) of Clause 27.10 (*Amalgamations and Change of Business*) or Clause 27.21 (*Joint Ventures*),

provided that, in each case, the aggregate amount subscribed by Obligors for shares in a Non-Obligor does not give rise to an Obligor Net Amount exceeding the Obligor/Non-Obligor Basket at any time with a corresponding amount being contributed as equity simultaneously therewith.

“Permitted Structural Adjustment” has the meaning given to that term in the Intercreditor Agreement and for the avoidance of doubt excluding any Structural Adjustment (as defined in the Second Lien Facility Agreement) that would result in any Second Lien Facility or Second Lien Additional Debt ranking pari passu with or senior to the Senior Facilities.

“Permitted Transaction” means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity, Security or Quasi Security given, or other transaction arising, under or in accordance with the Finance Documents;
- (b) a Permitted Reorganisation;
- (c) any payments or other transactions specifically described in the Acquisition Documents or the Tax Structure Report (**provided that** any intermediate steps or actions necessary to implement the transactions described in the Tax Structure Report shall be regarded as a Permitted Transaction provided they could not reasonably be expected to be materially adverse to the interests of the Lenders and **provided further** that any payments or other transactions (including any intermediate steps or actions necessary to implement such payments or other transactions) described in the section titled “Exit Considerations” of the Tax Structure Report shall not constitute or be treated as a Permitted Transaction));
- (d) any transaction arising under or in accordance with the entry into or assumption of an obligation in any Transaction Document or in respect of any Additional Facility, any Second Lien Additional Facility or any Permitted Alternative Debt (under a Finance Document, Second Lien Finance Document, Permitted Alternative Finance Document or any other document in connection therewith including if entered into prior to the Additional Facility Commencement Date) or any Permitted Structural Adjustment or taken to comply with an undertaking therein;
- (e) any conversion of a loan, credit or any other indebtedness outstanding which is permitted under any Finance Document into distributable reserves or share capital of any member of the Group or any other capitalisation, forgiveness, waiver, release or other discharge of that loan, credit or indebtedness;
- (f) any transaction permitted by the Majority Lenders; and

- (g) any termination, cancellation, disposal or other transaction in respect of a loan made pursuant to paragraph (l) of the definition of “Permitted Payment”.

“**Person**” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“**Plan**” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) maintained by any U.S. Obligor or, with respect to any such plan that is subject to Section 412 of the Internal Revenue Code or Title IV of ERISA, any of its ERISA Affiliates, other than any Multiemployer Plan.

“**Pro Forma Acquisition Cost Savings**” means synergies and cost savings reasonably anticipated by the CEO or CFO to be achievable within twelve (12) months of a relevant acquisition as a result of that acquisition.

“**Pro Forma Disposal Cost Savings**” means synergies and cost savings reasonably anticipated by the CEO or CFO to be achievable within twelve (12) months of a Disposal as a result of that Disposal.

“**Pro Forma Group Initiative Cost Savings**” means synergies and cost savings reasonably anticipated by the CEO or CFO to be achievable within twelve (12) months of a Group Initiative as a result of that Group Initiative.

“**Quarter Date**” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“**Quarterly Compliance Certificate**” means a compliance certificate substantially in the agreed form set out in Part 1 of Schedule 8 (*Form of Quarterly Compliance Certificate*) or such other form as may be agreed by the Parent and the Agent and delivered by the Parent to the Agent under Clause 25.5 (*Compliance Certificates*).

“**Quarterly Financial Statements**” has the meaning given to that term in paragraph (a)(ii) of Clause 25.4 (*Financial Statements*).

“**Quasi Security**” means a transaction or arrangement to:

- (a) sell, transfer or otherwise dispose of to any person who is not a member of the Group any of its assets on terms whereby they are or may be leased to or re-acquired by any other member of the Group;
- (b) sell, transfer or otherwise dispose of any of its receivables to any person who is not a member of the Group on recourse terms;
- (c) 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
- (d) 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.

“**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 (2) Business Days before the first day of that period,

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

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

“Refinancing Debt” means any indebtedness to the extent incurred for the purpose of any refinancing, exchange or replacement of all or any part of any indebtedness, including any Facility, Second Lien Facility, Additional Facility, Second Lien Additional Facility or any Permitted Alternative Debt (and of any refinancing, exchange or replacement financing thereof from time to time) and all fees, costs and expenses, and any prepayment premium and discounts incurred in connection with any such refinancing, exchange or replacement, and any related stamp or other taxes, notarial or registration fees.

“Register” has the meaning given to that term in Clause 30.10 (*The Register*).

“Regulation T” means Regulation T of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Regulation U” means Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Regulation X” means Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Related Fund” in relation to a fund or account (the “first fund”), means a fund or account which is managed or advised directly or indirectly 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 Interbank Market” means in relation to euro, the European interbank market and in relation to any other currency, the London interbank market.

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

- (a) its jurisdiction of incorporation; and
- (b) the jurisdiction whose laws govern any of the Transaction Security Documents entered into by it.

“Relevant Period” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

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

“Repeating Representations” has the meaning given to it in paragraph (b) of Clause 24.33 (*Repetition*).

“Replacement Notice” has the meaning given to that term in paragraph (a) of Clause 42.5 (*Replacement of Lender*).

“Reportable Event” means, with respect to any Pension Plan or Multiemployer Plan, any of the events described in Section 4043(c) of ERISA or the regulations issued thereunder, other than

those events as to which the thirty (30) day notice period is waived under PBGC Reg. Section 4043.

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

“Reports” has the meaning given to it in Part 1 of Schedule 2 (*Conditions Precedent to First Utilisation*).

“Requirements of Law” means, with respect to any U.S. Obligor, collectively, the common law and all federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of any Governmental Authority in the US, in each case whether or not having the force of law and that are applicable to or binding upon such U.S. Obligor or any of its property or to which such U.S. Obligor or any of its property is subject.

“Residual Waived Amount” has the meaning given to that term in paragraph (c) of Clause 12.5 (*Right to Refuse Payment*).

“Resignation Letter” means a document substantially in the form set out in Schedule 7 (*Form of Resignation Letter*) or any other form agreed between the Agent and the Parent (each acting reasonably).

“Responsible Officer” of any U.S. Obligor means the chief executive officer, the president, the chief financial officer, the treasurer, any assistant treasurer, any executive vice president, any senior vice president, any vice president or the chief operating officer of such U.S. Obligor and any other individual or similar official thereof responsible for the administration of the obligations of such U.S. Obligor in respect of this Agreement, and, as to any document delivered on the Closing Date, shall include any secretary or assistant secretary or any other individual or similar official thereof with substantially equivalent responsibilities of a U.S. Obligor.

“Restricted Party” means any person that is (a) listed on the Sanctions List, (b) located in or incorporated under the laws of any Sanctioned Country, or (c) to the best knowledge of any Obligor or the Parent (acting with due care and enquiry), otherwise a target of Sanctions.

“Restricted Person” means Parent, any Holding Company of Parent, any Investor, any Sponsor Affiliate, or any other person with an interest (direct or indirect) in the shares of the Parent, except to the extent any such person is acting in its capacity as a Finance Party or as a manager or director of any member of the Group (and not in his/her capacity as a shareholder (directly or indirectly) in the Parent) or, for the purpose of Clause 27.27 (*Permitted Payments*), is a portfolio company of an Investor or Sponsor Affiliate.

“Retained Cash” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Retained Cash Flow” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Retained Excess Cash” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Revolving Facility” means the revolving credit facility made available under this Agreement as described in paragraph (a) of Clause 2.1 (*The Facilities*) and (as applicable and so designated in an Additional Facility Notice) any Additional Facility.

“Revolving Facility Borrower” means the Company or any member of the Group which accedes as an Additional Borrower under the Revolving Facility in accordance with Clause 32 (*Changes to*

the Obligors), unless it has ceased to be a Revolving Facility Borrower in accordance with Clause 32 (*Changes to the Obligors*).

“Revolving Facility Commitment” means:

- (a) in relation to an Original Lender, the amount in the Base Currency set out in Part 2 of Schedule 1 (*The Original Parties*) as its Revolving Facility Commitment 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 (*Additional Facility*) or Clause 2.3 (*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 (*Additional Facility*) or Clause 2.3 (*Increase*),

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

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

“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.

“Revolving Facility Utilisation” means a Revolving Facility Loan or a Letter of Credit.

“Rollover Proceeds” means the proceeds received by a Rollover Investor pursuant to the Acquisition and which are reinvested, directly or indirectly, in the Parent.

“Rollover Investor” means any (direct or indirect) shareholder in the Target prior to the Closing Date which reinvest any proceeds received pursuant to the Acquisition (directly or indirectly) in the Parent.

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

- (a) made or to be made on the same day that:
 - (i) a maturing Revolving Facility Loan is due to be repaid; or
 - (ii) a demand by the Agent pursuant to a drawing in respect of a Letter of Credit or payment of outstandings under an Ancillary Facility is due to be met;
- (b) the aggregate amount of which is equal to or less than the amount of the maturing Revolving Facility Loan or Ancillary Facility Utilisation or the relevant claim in respect of that Letter of Credit;
- (c) in the same currency as the maturing Revolving Facility Loan (unless it arose as a result of the operation of Clause 8.2 (*Unavailability of a currency*)) or the relevant claim in respect of that Letter of Credit or an Ancillary Facility Utilisation; and
- (d) made or to be made to the same Borrower (or, if applicable in the case of an Ancillary Facility Utilisation, that Borrower’s Affiliate) for the purpose of:
 - (i) refinancing that maturing Revolving Facility Loan or Ancillary Facility Utilisation; or
 - (ii) satisfying the relevant claim in respect of that Letter of Credit.

“Sale” means a sale of all or substantially all of the businesses and assets of the Group to persons who are not members of the Group (whether in a single transaction or a series of related transactions).

“Sanctioned Country” means a country or territory which is subject to Sanctions.

“Sanctions Authority” means (a) the United States, (b) the United Nations Security Council, (c) the European Union, (d) the United Kingdom and (e) the respective governmental institutions of any of the foregoing which administer Sanctions, including OFAC, the US State Department, the US Department of Commerce and the US Department of the Treasury.

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by any Sanctions Authority.

“Sanctions List” means at any time, any of the publicly available lists of specifically designated nationals or designated persons or entities in relation to Sanctions, issued by a Sanctions Authority.

“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 Reuters screen (or any replacement Reuters page which displays that rate);
- (b) in relation to EURIBOR, the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Reuters screen (or any replacement Reuters page which displays that rate); and
- (c) in relation to CIBOR, the Copenhagen interbank offered rate per annum for Danish Kroner and the relevant period displayed on the appropriate page on the Reuters screen,

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

“Second Lien Additional Facility” has the meaning given to the term “Additional Facility” in the Second Lien Facility Agreement.

“Second Lien Additional Facility Loans” has the meaning given to the term “Additional Facility Loans” in the Second Lien Facility Agreement.

“Second Lien Agent” has the meaning given to the term “Agent” in the Second Lien Facility Agreement.

“Second Lien Arranger” means Jefferies Finance LLC.

“Second Lien Cash Capped Incremental” means one or more Second Lien Additional Facilities raised and/or incurred pursuant to paragraph (a)(i) of the definition of Permitted Indebtedness Cap under the Second Lien Facility Agreement.

“Second Lien Facility” has the meaning given to the term “Second Lien Facility” in the Second Lien Facility Agreement.

“Second Lien Facility Agreement” means the second lien facility agreement dated on or about the date of this Agreement between, among others, the Parent, the Mandated Lead Arrangers, the Agent and the Security Agent.

“Second Lien Finance Documents” has the meaning given to the term “Finance Documents” in the Second Lien Facility Agreement.

“Second Lien Syndication Letter” means the syndication letter dated 11 May 2015 between the Second Lien Arranger and the Company.

“Secured Obligations” has the meaning given to that term in the Intercreditor Agreement.

“Secured Parties” means each Finance Party from time to time party to this Agreement and any Receiver or Delegate to the extent permitted by applicable law.

“Security” means a mortgage, charge, pledge, lien, security assignment, security transfer of title or other security interest having a similar effect.

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

“Senior Secured Leverage Ratio” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

“Senior Syndication Letter” means the syndication letter dated 12 June 2015 between the Mandated Lead Arrangers and the Company.

“Separate Loan” has the meaning given to that term in Clause 10.3 (*Repayment of Revolving Facility Loans*).

“Signing Protocol” means the signing protocol referred to in the Acquisition Agreement.

“Spanish Capital Companies Law” means *Real Decreto Legislativo 1/2010, de 2 de Julio, por el que se aprueba el texto refundido de la Ley de Sociedades de Capital*, as amended from time to time.

“Spanish Civil Code” means the Spanish *Código Civil*, as amended from time to time.

“Spanish Civil Procedural Act” means *Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil*, as amended from time to time.

“Spanish Commercial Code” means the Spanish *Código de Comercio*, as amended from time to time.

“Spanish Guarantor” means a Guarantor incorporated under the laws of Spain.

“Spanish Insolvency Law” means *Ley 22/2003, de 9 de julio, Concursal*, as amended from time to time.

“Spanish Public Document” means any Spanish *documento público*, being either any *escritura pública* granted or any *póliza intervenida* by a Spanish notary public.

“Specified Time” means a time determined in accordance with Schedule 9 (*Timetables*).

“Sponsor Affiliate” means (i) any Investor and each of its Affiliates and direct and indirect Subsidiaries, (ii) any sponsor, limited partnerships or entities managed or advised by an Investor or any of its Affiliates or any of its direct or indirect Subsidiaries, (iii) any trust of an Investor or

any of its Affiliates or any of its direct or indirect Subsidiaries, (iv) any partnership of an Investor or any of its Affiliates or any of its direct or indirect Subsidiaries or in respect of which any such persons are a partner, and (v) any trust, fund or other entity which is managed by, or is under the control of, an Investor or any of its Affiliates or any of its direct or indirect Subsidiaries, but excluding (in each case) (A) any fund or entity that is affiliated with or managed and/or advised by any Investor where the principal business of such affiliated fund or entity is investing in debt and (B) any member of the Group. For the avoidance of doubt, Sponsor Affiliate shall include all parties acting in concert with the Investors (and their Affiliates and direct and indirect Subsidiaries) and all shareholders (direct or indirect) in the Parent from time to time.

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

“Super Majority Lenders” means, at any time:

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

“Swiss Guarantor” means any Guarantor incorporated in Switzerland and/or having its registered office in Switzerland and/or qualifying as a Swiss resident pursuant to article 9 of the Swiss Withholding Tax Act.

“Swiss Federal Tax Administration” means the tax authorities referred to in article 34 of the Swiss Withholding Tax Act.

“Swiss Withholding Tax” means a tax imposed under the Swiss Federal Act on the Withholding Tax.

“Swiss Federal Act on the Withholding Tax” means the Swiss Federal Act on the Withholding Tax of 13 October 1965 (*Bundesgesetz vom 13. Oktober 1965 über die Verrechnungssteuer*) together with the related ordinances, regulations and guidelines, all as amended and applicable from time to time.

“Syndication Date” has the meaning given to that term in the Senior Syndication Letter.

“Syndication Letter” means, as the case may be, the Senior Syndication Letter or Second Lien Syndication Letter.

“Target” means Ammeraal Beltech Holding B.V., a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands, with its registered office at Comeniusstraat 8, 1817 MS Alkmaar and having its corporate seat (*statutaire zetel*) in Heerhugowaard, The Netherlands under the registration number 37051009.

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

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

“Target Group” means the Target and any of its Subsidiaries from time to time.

“Target Shares” means the entire issued share 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), either payable directly to the authorities, or payable intra-group in the context of a tax consolidation regime.

“Tax Structure Report” means the memorandum on structure prepared by KPMG dated prior to the Closing Date and in the form approved by each Mandated Lead Arranger on or prior to the date of this Agreement.

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

“Term Facility” means Facility B and (as applicable and so designated in an Additional Facility Notice) any Additional Facility.

“Term Facility Borrower” means a Facility B Borrower or an Additional Facility Borrower.

“Term Loan” means a Facility B Loan and (as the case may be) an Additional Facility Loan.

“Termination Date” means:

- (a) in respect of Facility B, the seventh anniversary of the Closing Date;
- (b) in respect of the Revolving Facility, the sixth anniversary of the Closing Date; and
- (c) in respect of any Additional Facility Commitments, the date specified in the relevant Additional Facility Notice.

“Total Additional Facility Commitments” means the aggregate amount of the applicable and designated Additional Facility Commitments under any applicable Additional Facility Notice, being zero at the date of this Agreement.

“Total Commitments” means the aggregate of the Total Facility B Commitments, the Total Additional Facility Commitments and the Total Revolving Facility Commitments.

“Total Facility B Commitments” means the aggregate of the Facility B Commitments, being EUR 290,000,000 at the Amendment Effective Date.

“Total Revolving Facility Commitments” means the aggregate of the Revolving Facility Commitments, being EUR 40,000,000 at the date of this Agreement.

“Trade Instruments” means any performance bonds, advance payment bonds or documentary letters of credit issued in respect of the obligations of any member of the Group arising in the ordinary course of trading of that member of the Group.

“Transaction Documents” means the Finance Documents, the Second Lien Finance Documents, the Permitted Alternative Finance Documents, the Constitutional Documents and any document evidencing an Investor Loan.

“Transaction Security” means the Security created or expressed to be created in favour of the Secured Parties (represented by the Security Agent, as the case may be) pursuant to the Transaction Security Documents.

“Transaction Security Documents” means each of the security documents listed as being a Transaction Security Document in Part 1 of Schedule 2 (*Conditions Precedent to First Utilisation*), the Annex of Part 2 of Schedule 2 (*Conditions Precedent to be delivered by an Additional Obligor*) and any security document entered into by the Parent and/or any member of the Group required to be delivered to the Agent in accordance with this Agreement together with any other document entered into by the Parent and/or any member of the Group creating or expressed to create any Security over all or any part of its assets in respect of the obligations of the Parent and/or any member of the Group under any of the Finance Documents or as designated by the Parent to the Agent in writing any documents constituting or in relation to the Second Lien Facility, an Additional Facility, Second Lien Additional Facility, Permitted Alternative Debt or other Secured Obligations (as defined in the Intercreditor Agreement).

“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.

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

“US” and **“United States”** means the United States of America (including the District of Columbia).

“U.S. Obligor” means an Obligor that is incorporated or organized under the laws of the United States or any State of the United States.

“USA PATRIOT Act” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)).

“Utilisation” means a Loan or a Letter of Credit.

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

“Utilisation Request” means a notice substantially in the relevant form set out in 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 as amended (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

“Vendor” means each of the “Sellers” under (and as defined in) the Acquisition Agreement.

“Waived Amount” has the meaning given to that term in paragraph (c) of Clause 12.5 (*Right to Refuse Prepayment*).

“Withdrawal Liability” means the liability to any Multiemployer Plan as the result of a “complete” or “partial” withdrawal by any U.S. Obligor (or any ERISA Affiliate of any Borrower) from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Working Capital” has the meaning given to that term in Clause 26.1 (*Financial definitions*).

1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:
 - (i) the Agent, the Mandated Lead Arranger, any Finance Party, any Hedge Counterparty, any Issuing Bank, any Lender, the Parent, 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 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 Agent and the Parent;
 - (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, novated, supplemented, extended or restated;
 - (v) “guarantee” means (other than in Clause 23 (*Guarantees and Indemnity*)) any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
 - (vi) “indebtedness” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (vii) a Default or an Event of Default is “continuing” if it has not been remedied or waived. A Declared Default is continuing unless the relevant demand or notice has been revoked by the Agent (acting on the instructions of the Majority

Lenders). In addition, (i) if a Default occurs for a failure to deliver a required certificate in connection with another default (an “**Initial Default**”) then at the time such Initial Default is remedied or waived, such Default for a failure to report or deliver a required certificate in connection with the Initial Default will also be cured without any further action and (ii) any Default for the failure to comply with the time periods prescribed in Clause 25 (*Information and Accounting Undertakings*), or otherwise to deliver any notice or certificate, as applicable, even though such delivery is not within the prescribed period specified in this Agreement or any other Finance Document shall be deemed to be cured upon the delivery of any such report required by such covenant or notice or certificate, as applicable, even though such delivery is not within the prescribed period specified in this Agreement or any other Finance Document;

- (viii) a Lender’s “**participation**” in relation to a Letter of Credit, shall be construed as a reference to the relevant amount that is or may be payable by a Lender in relation to that Letter of Credit;
- (ix) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (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 force of law which are binding or customarily complied with) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (xi) on a “**certain funds basis**” means on the same or substantially the same basis as the certain funds provisions applicable to Facility B as set out in Clause 4.5 (*Utilisations during the Certain Funds Period*).
- (xii) a “**transaction**” includes the making of acquisitions, reorganisations, disposals, incurring Financial Indebtedness, granting loans and granting guarantees, the granting of Security or Quasi Security, the making of payments and taking any other action contemplated by the restrictions and otherwise in Clause 27 (*General Undertakings*);
- (xiii) a “**provision of law**” is a reference to that provision as amended or re-enacted; and
- (xiv) 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 provides cash cover for a Letter of Credit or Ancillary Facility if it pays an amount in the currency of the Letter of Credit or Ancillary Facility (as the case may be) to an interest-bearing account in the name of the Borrower and the following conditions are met:
 - (i) the account is with the Security Agent, the Agent, or the relevant Issuing Bank (if the cash cover is to be provided in respect of a Letter of Credit), or with the relevant Ancillary Lender (if the cash cover is to be provided in respect of an Ancillary Facility);

- (ii) subject to Clause 7.5 (*Cash cover by Borrower*), until no amount is or may be outstanding under that Letter of Credit or Ancillary Facility (as the case may be), withdrawals from the account (other than in respect of accrued interest) may only be made to pay a Finance Party amounts due and payable to it under the Finance Documents in respect of that Letter of Credit or Ancillary Facility as the case may be **provided that** (i) if the Security Agent, Agent, Issuing Bank, Ancillary Lender or Lender (as the case may be) determines that the amount standing to the credit of that account exceeds the amount outstanding under that Letter of Credit, the relevant Ancillary Outstandings or Loan; and (ii) to the extent such cash cover is provided as a consequence of the operation of paragraph (b) of Clause 6.8 (*Revaluation of Letters of Credit*), paragraph (b)(iii) of Clause 9.3 (*Terms of Ancillary Facilities*) or Clause 9.10 (*Revolving Facility Commitment amounts*), such conditions in such Clauses would be satisfied at such time without such cash cover (or part thereof) being in place, then in each of (i) and (ii) above amounts equal to that excess may be withdrawn from that account (and the applicable Party shall promptly release from any Security and allow the withdrawal of such amounts); and
 - (iii) if requested by the relevant Issuing Bank or Ancillary Lender (as the case may be), the Borrower has executed and delivered a security document (in accordance with the Agreed Security Principles and in substantially the same form as an existing Transaction Security Document) over that account, which creates a first ranking Security over that account.
- (e) In the event that any amount or transaction meets the criteria of more than one of the baskets or exceptions set out in this Agreement, the Parent, in its sole discretion, will classify and may from time to time reclassify that amount or transaction to a particular basket or exception and will only be required to include that amount or transaction in one of those baskets or exceptions (and, for the avoidance of doubt, an amount or transaction may at the option of the Parent be split between different baskets or exceptions).
- (f) Notwithstanding anything to the contrary in any Finance Document, nothing in the Finance Documents shall prohibit a non-cash contribution of any asset (including any participation, claim, commitment, rights, benefits and/or obligations in respect of the Facilities, Additional Facility, Second Lien Facility, Second Lien Additional Facility, any Permitted Alternative Debt, and/or any other indebtedness borrowed or issued by any member of the Group from time to time) by a person that is not a member of the Group to the Parent **provided that**:
 - (i) to the extent such transaction results in any indebtedness or claim being outstanding from the Parent to an of its direct or indirect shareholders, such indebtedness or claim is subordinated as “**Investor Liabilities**” pursuant to the Intercreditor Agreement or otherwise in a manner satisfactory to the Agent acting reasonably; and
 - (ii) such transaction is not prohibited by Clause 27.12 (*Arm’s Length Transactions*).
- (g) A Letter of Credit or Ancillary Outstandings are “repaid” or “prepaid” (or any derivative form thereof) to the extent that:
 - (i) a Borrower or any other Obligor provides cash cover for that Letter of Credit or in respect of the Ancillary Outstandings;
 - (ii) in the case of a Letter of Credit, a Borrower has made a payment under paragraph (b) of Clause 7.2 (*Claims under a Letter of Credit*) in respect of that Letter of Credit or a Borrower has made a reimbursement in respect of that Letter of Credit under Clause 7.3 (*Indemnities*);

- (iii) the maximum amount payable under the Letter of Credit or Ancillary Facility (as the case may be) is reduced or cancelled in accordance with its terms or otherwise reduced or cancelled in a manner satisfactory to the Issuing Bank in respect of such Letter of Credit or Ancillary Lender in respect of such Ancillary Facility (as the case may be), in each case, acting reasonably;
- (iv) the Letter of Credit or relevant Ancillary Facility (as the case may be) expires in accordance with its terms or is otherwise returned by the beneficiary with its written confirmation that it is released and cancelled;
- (v) the Issuing Bank or Ancillary Lender (as the case may be) (acting reasonably) is satisfied that it has no further or a reduced liability under that Letter of Credit or Ancillary Facility (as the case may be) and accordingly all of (or such proportion of) the obligations are released or reduced; or
- (vi) a bank or financial institution having a long term credit rating from any of Moody's, S&P or Fitch at least equal to Baa3/BBB- (as applicable or its equivalent or such other rating as the Agent and the applicable Issuing Bank, Ancillary Lender (as the case may be) may agree), or by any other institution satisfactory to the applicable Issuing Bank (acting reasonably), having issued an unconditional and irrevocable guarantee, indemnity, counter-indemnity or similar assurance against financial loss in respect of amounts due under that Letter of Credit or Ancillary Facility,

in each case, unless it is otherwise agreed between the Parent and: (I) the Issuing Bank that such Letters of Credit will remain outstanding on a bilateral basis and, in each case, such Letters of Credit will be treated as repaid for the purpose of the Finance Documents and no Lender will be required to provide any counter-indemnity in respect thereof; or (II) the Ancillary Lender that such Ancillary Facility will remain outstanding on a bilateral basis and, in each case, such Ancillary Facility will be treated as repaid for the purpose of the Finance Documents and no Lender will be required to provide any counter-indemnity in respect thereof.

- (h) The amount by which a Letter of Credit is, or Ancillary Outstandings are, repaid or prepaid under paragraphs (g)(i) to (g)(vi) above is the amount of the relevant cash cover, payment, release, cancellation, reduction or assurance.
- (i) On or prior to Closing Date, none of the (i) Existing Facilities of the Target Group or Security relating thereto; and (ii) no breach of representation, warranty, undertaking or other term of (or default or event of default under) the Existing Facilities arising as a direct or indirect result of the entry into or performance of obligations under the Finance Documents shall constitute a breach of (or Default or Event of Default) under any Finance Document.
- (j) Where a non-Obligor becomes an Obligor, the amount of loans to, guarantees of, assets transferred to, and contributions, investments or subscriptions in the equity of, such member of the Group will cease to be included in calculations for the purposes of any restrictions or limitations on loans, guarantees, disposals, dividends, share redemptions, other restricted payments, investments, or transactions, in each case, in connection with non-Obligors in Clause 27 (*General Undertakings*).
- (k) An amount borrowed includes any amount utilised by way of Letter of Credit or under an Ancillary Facility.
- (l) A Lender funding its participation in a Utilisation includes a Lender participating in a Letter of Credit.

- (m) An outstanding amount of a Letter of Credit at any time is the maximum amount that is or may be payable by the relevant Borrower in respect of that Letter of Credit at that time.
- (n) References to the equivalent of an amount specified in a particular currency (the “**specified currency amount**”) shall be construed as a reference to the amount of any other relevant currency which can be purchased with the specified currency amount to the Agent’s Spot Rate of Exchange on the date on which the calculation falls to be made for spot delivery, as determined by the Agent.
- (o) Unless a contrary indication appears, a reference to a basket amount, threshold or limit expressed in euros includes the equivalent of such amount, threshold or limit in other currencies.
- (p) In ascertaining the Majority Lenders or the Super Majority Lenders or whether any given percentage of the Total Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents or for the purpose of the allocation of any repayment or prepayment or for the purposes of taking any step, decision, direction or exercise of discretion which is calculated by reference to drawn amounts any Commitments not denominated in euro (“**Non-euro Commitments**”) shall in the case of any Non-euro Commitment (including any Additional Facility Loans and any Additional Facility Commitments that are undrawn) be deemed to be converted into euro at the rate for the conversion of euro into the relevant currency of the Non-euro Commitment which the Parent (acting reasonably and in good faith) has used and has notified to the Agent for the purposes of calculating the Permitted Indebtedness Cap as at the Additional Facility Commencement Date for the relevant Additional Facility, or if the Parent has not notified the Agent of such conversion rate, the Agent's Spot Rate of Exchange on the date on which that Commitment was provided under this Agreement or, if earlier, the date the aggregate amount of the Non-euro Commitment of the Additional Facility was determined.
- (q) For the purposes of the permitted definitions in Clause 1.1 (*Definitions*), until the date by which such entities are required to accede as Guarantors pursuant to Clause 27.29 (*Guarantees and Security*), such Material Subsidiaries under paragraph (a)(i) of the definition thereof shall be deemed to be Obligors.

1.3 Currency Symbols and Definitions

- (a) “€”, “euro” and “EUR” mean the single currency unit of the Participating Member States.
- (b) “£”, “GBP” and “Sterling” means the lawful currency for the time being of the United Kingdom.
- (c) “\$”, “USD” and “US Dollars” mean the lawful currency for the time being of the United States.
- (d) “Swiss Francs” and “CHF” mean the lawful currency for the time being of Switzerland.
- (e) “Danish Kroner” and “DKK” mean the lawful currency for the time being of Denmark.

1.4 Belgian terms

- (a) In this Agreement, where it relates to a Belgian entity, or Belgian security a reference to:
 - (i) a “liquidator”, “receiver”, “administrator”, “administrative receiver”, “conservator”, “custodian”, “trustee” or “similar officer” includes a *curator/curateur, vereffenaar/liquidateur, voorlopig bewindvoerder/administrateur provisoire, commissaris inzake*

opschorting/commissaire au sursis, mandataris ad hoc/mandataire ad hoc, ondernemingsbemiddelaar/médiateur d'entreprise, and sekwestre/séquestre;

- (ii) a “Security” includes a mortgage (*hypotheek/hypothèque*), a pledge (*pand/nantissement*), a privilege (*voorrecht/privilège*), a retention of title (*eigendomsvoorbehoud/réserve de propriété*), a real surety (*zakelijke zekerheid/sûreté réelle*), a transfer by way of security (*overdracht ten titel van zekerheid/transfert à titre de garantie*) and a promise or mandate to create any of the security interest mentioned above;
- (iii) a “suspension of payments” or “moratorium of any indebtedness” includes any *moratorium/moratoire* and any procedure under the Belgian law of 31 January 2009 on *de continuïteit van de ondernemingen/la continuité des entreprises*;
- (iv) a person being “unable to pay its debts” is that person being in a state of cessation of payments (*staking van betaling/cessation de paiements*);
- (v) a “composition”, “assignment” or “similar arrangement with any creditor” includes *gerechtelijke reorganisatie/réorganisation judiciaire*, and *minnelijk akkoord met schuldeisers/accord amiable avec des créanciers* as applicable;
- (vi) “commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness” includes any negotiations conducted with a view to reaching a settlement agreement (*minnelijk akkoord/accord amiable*) with one or more of its creditors pursuant to the Belgian Act of 31 January 2009 on *de continuïteit van de ondernemingen/la continuité des entreprises*;
- (vii) an “insolvency” includes *gerechtelijk akkoord/concordat judiciaire, faillissement/faillite, gerechtelijke reorganisatie/réorganisation judiciaire* and any other concurrence between creditors (*samenloop van schuldeisers/concours des créanciers*);
- (viii) a “winding up”, “liquidation”, “administration” or “dissolution” includes *vereffening/liquidation, ontbinding/dissolution, faillissement/faillite* and *sluiting van een onderneming/fermeture d'entreprise*;
- (ix) an “attachment”, “sequestration”, “distress”, “execution” or “analogous events” includes *uitvoerend beslag/saisie exécutoire* and *bewarend beslag/saisie conservatoire*;
- (x) an “amalgamation”, “demerger”, “merger”, “consolidation” or “corporate reconstruction” includes a *overdracht van algemeenheid/transfert d'universalité, overdracht van bedrijfstak/transfert de branche d'activité, splitsing/scission* and *fusie/fusion* and assimilated transaction in accordance with article 676 and 677 of the Belgian Companies Code (*gelijkgestelde verrichting/opération assimilée*);
- (xi) the “Belgian Companies Code” means the Belgian *Wetboek van Vennootschappen/Code des Sociétés* dated 7 May 1999, as amended from time to time;
- (xii) the “Belgian Civil Code” means the Belgian *Burgerlijk Wetboek/Code civil*;
- (xiii) “guarantee” means, only for the purpose of the guarantee granted by a Belgian Guarantor pursuant to Clause 23 (*Guarantees and Indemnity*), an independent guarantee and not a surety (*borg/cautionnement*);
- (xiv) “gross negligence” means *zware fout/faute lourde*;

- (xv) “wilful misconduct” or “wilful breach” means *bedrog/dol*;
- (xvi) an Obligor being incorporated in Belgium or of which its jurisdiction of incorporation is Belgium, means that such Obligor has its principal place of business (*voornaamste vestiging/établissement principal* (within the meaning of the Belgian Law of 16 July 2004 on the conflicts of law code)) in Belgium; and
- (xvii) a “group for VAT purposes” refers to a *BTW-eenheid/unité TVA* and a reference to the “representative member” of such group has the same meaning as the term *vertegenwoordiger/représentant* in the Belgian Royal Decree No. 55 of 9 March 2007.

1.5 Danish terms

In this Agreement, where it relates to a Danish entity, or Danish security, a reference to:

- (a) a “winding-up”, “administration” or “dissolution” includes *rekonstruktion* and *konkurs*;
- (b) a “compulsory manager”, “receiver” or “administrator” includes a *rekonstruktør* and a *kurator*;
- (c) “negligence” means *uagtsomhed*;
- (d) “gross negligence” means *grov uagtsomhed*;
- (e) “wilful misconduct” means *forsæt*;
- (f) an “attachment” includes an *udlæg*;
- (g) a “merger” includes a *fusion*; and
- (h) a “demerger” includes a *spaltning*.

1.6 Dutch terms

- (a) In this Agreement, where it relates to a Dutch entity, or Dutch security, a reference to:
 - (i) a “necessary action to authorise” where applicable, includes without limitation:
 - (A) any action required to comply with the Works Councils Act of The Netherlands (*Wet op de ondernemingsraden*); and
 - (B) obtaining a positive advice (*advies*) from the competent works council(s) if a positive advice is required pursuant to the Dutch Works Councils Act (*Wet op de ondernemingsraden*);
 - (ii) a “security interest” includes any mortgage (*hypotheek*), pledge (*pandrecht*), retention of title arrangement (*eigendomsvoorbehoud*), privilege (*voorrecht*), right of retention (*recht van retentie*), right to reclaim goods (*recht van reclame*), and, in general, any right in rem (*beperkt recht*), created for the purpose of granting security (*goederenrechtelijk zekerheidsrecht*);
 - (iii) a “winding-up”, “administration” or “dissolution” (and any of those terms) includes a Dutch entity being declared bankrupt (*failliet verklaard*) or dissolved (*ontbonden*);

- (iv) a “moratorium” includes *surseance van betaling* and a moratorium is declared or occurs includes *surseance verleend*;
- (v) any “step or procedure taken in connection with insolvency proceedings” includes a Dutch entity having filed a notice under Section 36 of the Dutch Tax Collection Act (*Invorderingswet 1990*);
- (vi) an “administrative receiver” or “receiver” includes a *curator*;
- (vii) an “administrator” includes a *bewindvoerder*;
- (viii) an “attachment” includes a *beslag*;
- (ix) a “merger” includes a *juridische fusie*;
- (x) a “demerger” includes a *juridische splitsing*; and
- (xi) “financial assistance” means any act not permitted by section 2:98(c) of the Dutch Civil Code.

1.7 French terms

- (a) In this Agreement, where it relates to a French entity, or French security a reference to:
 - (i) a “winding-up”, “administration” or “dissolution” includes a *redressement judiciaire*, a *cession totale de l'entreprise*, a *liquidation judiciaire*, a *sauvegarde*, a *sauvegarde accélérée* or a *sauvegarde financière accélérée* under the *Livre VI* of the French Commercial Code;
 - (ii) a “composition”, “assignment” or similar arrangement with any creditor includes a *conciliation* or a *mandat ad hoc* under the *Livre VI* of the French Commercial Code;
 - (iii) a “compulsory manager”, “receiver” or “administrator” includes an *administrateur judiciaire*, a *mandataire ad hoc*, a *conciliateur*, a *mandataire liquidateur* or any other person appointed as a result of any proceedings described in paragraphs (i) and (ii) above;
 - (iv) “gross negligence” means “*faute lourde*”;
 - (v) a “guarantee” includes any *cautionnement*, *aval* or any *garantie* which is independent from the debt to which it relates;
 - (vi) a “grant”, “creation” or “transfer” of a “security interest” or a “collateral” includes a *sûreté réelle* and any transfer by way of security;
 - (vii) a “lease” includes an *opération de crédit-bail*;
 - (viii) a “merger” includes any fusion implemented in accordance with articles L.236-1 to L.236-24 of the French Commercial Code;
 - (ix) a “security” includes any titre financier within the meaning of article L.211-1 of the French Monetary Code;
 - (x) a person being “unable to pay its debts” includes that person being in a state of *'cessation des paiements'* as defined in article L. 631-1 of the French Commercial Code;

- (xi) a “corporate reconstruction” includes in relation to any company any contribution of part of its business in consideration of shares (*apport partiel d’actifs*), any merger (*fusion*) or demerger (*scission*) implemented in accordance with articles L.236-1 to L.236-24 of the French Commercial Code;
- (xii) “trustee”, “fiduciary” and “fiduciary duty” has in each case the meaning given to such term under any applicable law; and
- (xiii) “wilful misconduct” means *dol*.

1.8 Italian terms

Unless a contrary indication appears, for the purpose of any Italian entity, or Italian security, in this Agreement each reference to:

- (a) a “matured obligation” includes, without limitation, any *credito liquido ed esigibile and credito scaduto*;
- (b) a “lease” includes, without limitations, a *contratto di locazione* and a *contratto di locazione finanziaria*;
- (c) a “receiver” includes a receiver, administrative receiver, administrator or the like includes, without limitation, a *curatore, commissario giudiziale, commissario straordinario, commissario liquidatore*, or any other person performing the same function of each of the foregoing;
- (d) a “step” or “procedure” taken in connection with insolvency proceedings for any person includes, without limitation, that person formally making a proposal to assign its assets pursuant to Article 1977 of the Italian Civil Code (*cessione dei beni ai creditori*), implementing a *piano di risanamento*, entering into an *accordo di ristrutturazione dei debiti*, filing a petition for a *concordato preventivo* or entering into a similar arrangement for a substantial part of its creditors;
- (e) an “assignment”, “*arrangement*” or “composition with or for the benefit of its creditors” or the like, includes, without limitation, an arrangement pursuant to Article 1977 of the Italian Civil Code (*cessione dei beni ai creditori*), a *piano di risanamento*, an *accordo di ristrutturazione dei debiti*, a *concordato preventivo* or a similar arrangement for the a substantial part of creditors;
- (f) a “security interest” includes, without limitation, any *pegno, ipoteca, privilegio special* (including the *privilegio speciale* created pursuant to Article 46 of the Italian Banking Law, *cessione del credito in garanzia, diritto reale di garanzia* and any other *garanzia reale* or other transactions having the same effect as each of the foregoing; and
- (g) a “winding-up”, “administration” or “dissolution” includes, without limitation, any *liquidazione, procedura concorsuale (fallimento, concordato preventivo, liquidazione coatta amministrativa, amministrazione straordinaria o ristrutturazione industriale delle grandi imprese in stato d’insolvenza)* or any other similar proceedings.

1.9 German terms

In this Agreement, where it relates to a German entity, or German security, a reference to:

- (a) a “liquidator”, “receiver”, “administrative”, “compulsory manager” or other similar officer includes an insolvency administrator (*Insolvenzverwalter*), interim insolvency administrator (*vorläufiger Insolvenzverwalter*) or custodian (*Sachwalter*) or preliminary custodian (*vorläufiger Sachwalter*);

- (b) an “order for winding up”, “administration” or “dissolution” includes an order for liquidation, the opening of insolvency proceedings (*Insolvenzeröffnungsbeschluss*), for admissibility of the application for the opening of insolvency proceedings (*Entscheidung über Zulässigkeit des Insolvenzantrags*) or for rejection of insolvency proceedings due to lack of funds (*Abweisungsbeschluss mangels Masse*); and
- (c) a “step” or “procedure” taken in connection with insolvency proceedings for a German entity includes it being subject to a filing for insolvency (*Antrag auf Eröffnung eines Insolvenzverfahrens*) for any of the reasons set out in section 17 to 19 (inclusive) of the German Insolvency Code (*Insolvenzordnung*), including, for the avoidance of doubt, a filing for preliminary proceedings according to section 270a and 270b of the German Insolvency Code (*Insolvenzordnung*).

1.10 Spanish terms

- (a) In this Agreement, where it relates to a Spanish entity, or Spanish security a reference to:
 - (i) an “insolvency proceeding” includes a *declaración de concurso* (either a *declaración de concurso necesario* or a *declaración de concurso voluntario*) and any step or proceeding related to a *concurso* under the Spanish Insolvency Act (including, without limitation, any petition filed under article 5 *bis* or article 231 of the Spanish Insolvency Law);
 - (ii) a “winding-up”, “administration” or “dissolution” includes a *liquidación*, *disolución*, *procedimiento concursal* or any similar situation under the Spanish corporate, commercial and civil law regulation;
 - (iii) a “composition”, “assignment” or “similar arrangement” with any creditor includes a *convenio* or *acuerdo extrajudicial de refinanciación* for the purposes of Spanish Insolvency Law;
 - (iv) a “compulsory manager”, “receiver” or “administrator” includes an *administrador concursal*, *liquidador* or any other person performing a similar function appointed as a result of any proceedings described in paragraphs (i), (ii) and (iii) above;
 - (v) a “guarantee” includes any *garantía (real o personal)*, *aval* or security or guarantee which is independent from the debt to which it relates;
 - (vi) a grant, creation or transfer of a “security interest” or a collateral includes any in *rem* or *garantía real*, *derecho de retención*, *crédito privilegiado*, *preminencia en el orden de prelación de créditos* and any transfer by way of security or other transaction having the same effect as each of the foregoing;
 - (vii) a “security” includes any financial collateral or guarantee under Spanish law including Royal Decree 5/2005;
 - (viii) a person being “unable to pay its debts” includes that person being in a state of *concurso* or *insolencia* as defined in Spanish Insolvency Law;
 - (ix) “trustee”, “fiduciary” and “fiduciary duty” has in each case the meaning given to such term under any applicable law;
 - (x) “set-off rights” would include to the extent legally possible the rights to *compensar* under Spanish Royal Decree 5/2005 of 11 March, on urgent reforms to encourage, among others, productivity and improve public procurement (*Real*

Decreto Ley 5/2005, de 11 de marzo, de reformas urgentes para el impulso a la productividad y para la mejora de la contratación pública); and

(xi) “wilful misconduct” means *dolo*.

1.11 Exchange rate fluctuations

- (a) When applying any monetary limits, thresholds and other exceptions to the representations and warranties, undertakings and Events of Defaults under the Finance Documents, the equivalent to an amount in the Base Currency shall be calculated at the rate for the conversion of euro into the relevant currency of the non-euro monetary limit, threshold and other exception which the Parent (acting reasonably and in good faith) has used and has notified to the Agent or at the option of the Parent at the Agent's Spot Rate of Exchange, in each case, as at the date of the Group incurring or making the relevant disposal, acquisition, investment, lease, loan, debt or guarantee or taking any other relevant action. For the avoidance of doubt, this paragraph (a) shall not apply to either Clause 26.3 (*Leverage financial covenant*) or paragraphs (e) and (f) of Clause 26.4 (*Calculations*).
- (b) No Event of Default or breach of any representation and warranty or undertaking under the Finance Documents (other than an Event of Default under Clause 29.2 (*Financial covenant*) and/or any breach of the undertaking set out in Clause 26.3 (*Leverage financial covenant*)) shall arise merely as a result of a subsequent change in the Base Currency equivalent of any relevant amount due to fluctuations in exchange rates.

1.12 Basket Increases / Basket Testing

- (a) If in any Financial Year of the Group the aggregate amount spent under each of the baskets specified in the definitions of paragraph (t) of Permitted Disposal, paragraphs (c) and (l) of Permitted Payment and the definition of Permitted Joint Venture (each a “**Relevant Basket**”) is less than the basket originally available for that Financial Year (as set out in the relevant paragraph and without any carry forward (the difference being referred to as the “**Available Amount**”)), then the maximum Relevant Basket for the immediately following Financial Year shall be increased by an amount equal to the relevant Available Amount and such Available Amount shall be deemed to be used first before any amounts under the Relevant Basket for the immediately following Financial Year are used **provided that** no Available Amount that has been carried over may be carried forward into the next Financial Year.
- (b) In any Financial Year the Group shall be permitted to carry back up to fifty per cent. (50%) of any Relevant Basket from the immediately following Financial Year.
- (c) Any basket, test or permission where an element is set by reference to a percentage of Consolidated Pro Forma EBITDA (“**EBITDA based basket**”) shall operate on an incurrence basis and be tested by reference to the applicable level of Consolidated Pro Forma EBITDA at the time of incurrence. Accordingly, any amounts incurred on the basis of such EBITDA based basket shall be treated as having been duly and properly incurred without the incurrence of an Event of Default even in the event that such EBITDA based basket subsequently decreases by virtue of operation of that calculation.
- (d) Notwithstanding any other provisions to the contrary, any financial definition or incurrence based permission, test or basket (including an EBITDA based basket or the calculation of the Leverage Ratio) prior to the first Quarter Date after the Closing Date shall be calculated in accordance with levels as at the Closing Date as set out in the Base Case Model and thereafter as provided for and calculated in accordance with the provisions in this Agreement for the period from the first Quarter Date.

1.13 Third Party Rights

- (a) A person who is not a Party (other than the Hedge Counterparties notwithstanding that the consent of the Hedge Counterparties shall not be required under this Agreement except to the extent otherwise required pursuant to the Intercreditor Agreement) 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 unless expressly provided to the contrary in this Agreement or any other Finance Document.
- (b) Subject to paragraph (e) of Clause 42.3 (*Exceptions*) but otherwise 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.

1.14 Intercreditor Agreement

This Agreement is subject to the Intercreditor Agreement, in the event of any inconsistency between this Agreement and the Intercreditor Agreement, the Intercreditor Agreement shall prevail.

1.15 No Investor Recourse

No Finance Party will have any recourse to any Investor that is not party to a Finance Document (and to the extent an Investor is a party to a Finance Document there shall only be recourse to the extent of its liability under the terms of such Finance Document) in respect of any term of any Finance Document, any statements by Investors, or otherwise.

1.16 Personal Liability

Where any natural person gives a certificate or other document or otherwise gives a representation or statement on behalf of any of the parties to the Finance Documents pursuant to any provision thereof and such certificate or other document, representation or statement proves to be incorrect, the individual shall incur no personal liability in consequence of such certificate, other document, representation or statement being incorrect save where such individual acted fraudulently in giving such certificate, other document, representation or statement (in which case any liability of such individual shall be determined in accordance with applicable law).

2 THE FACILITIES

2.1 The Facilities

- (a) Subject to the terms of this Agreement:
 - (i) the Facility B Lenders make available to the Facility B Borrowers a term loan facility in the Base Currency in an aggregate amount equal to the Total Facility B Commitments (“**Facility B**”), divided between Facility B Tranche 1, Facility B Tranche 2 and Facility B Tranche 3 as specified in the relevant Utilisation Request; and
 - (ii) the Revolving Facility Lenders make available to the Revolving Facility Borrowers a multicurrency revolving credit facility in an aggregate amount the Base Currency Amount of which is equal to the Total Revolving Facility Commitments (the “**Revolving Facility**”).
- (b) Facility B will be available to the Facility B Borrowers and, subject to Clause 32.7 (*Debt Pushdown*), the Debt Pushdown Borrower, as contemplated in the Tax Structure Report, and pursuant to any Debt Pushdown.

- (c) Subject to the terms of this Agreement and the Ancillary Documents, an Ancillary Lender may make available an Ancillary Facility to any of the Revolving Facility Borrowers in place of all or part of its Commitment under the Revolving Facility.

2.2 Additional Facility

- (a) Subject to this Clause 2.2 the Parent may, at any time and from time to time following the Closing Date by delivering to the Agent a duly completed Additional Facility Notice complying with paragraphs (b) and (c) below establish an Additional Facility. Any document recording the terms of or related to an Additional Facility may be designated by the Agent and the Parent as a “**Finance Document**” or a “**Transaction Document**”.
- (b) No consent of any Finance Party is required to establish an Additional Facility at any time (other than, in relation to an Additional Facility, the relevant Additional Facility Lenders) **provided that** (unless otherwise agreed by the Majority Lenders) each of the following applicable conditions are met:
 - (i) if committed within the first twelve (12) Months after the Closing Date, the yield in respect of any Additional Facility that comprises a Term Facility under this Agreement (as certified to the Agent by the Parent) does not exceed the yield applicable to Facility B on the Closing Date by more than one per cent. (1.00%) per annum (calculated on a fully drawn basis) (the “**MFN Rate**”) unless the Margin on the applicable Facility B is increased (at each level of the applicable Margin ratchet) by an amount equal to the amount by which the *yield* for such Additional Facility exceeds the MFN Rate (and for these purposes, *yield* shall be calculated as the sum of the margin and the aggregate market participation, original issue discount or similar fees payable (as applicable) to the Lenders or other persons participating in Facility B or such Additional Facility (as the case may be)) (assuming each such facility is fully drawn and with market participation, original issue discount and other similar fees being equated to interest based on an assumed three-year life to maturity) but excluding, in all cases, (A) any yield funded or to be funded directly or indirectly from Acceptable Funding Sources and (B) all arrangement, underwriting, structuring, commitment, ticking, amendment or other fees payable to any arranger, bookrunner or underwriter (or any of their Affiliates) under or in connection with each such facility that are not generally shared with the Lenders;
 - (ii) the repayment profile for an Additional Facility shall be, at the option of the Parent, a bullet repayment or an amortising repayment, **provided that** the following conditions shall apply, as applicable:
 - (A) if a bullet repayment in relation to a Term Facility, the Termination Date for an Additional Facility (as set out in the Additional Facility Notice relating to that Additional Facility or as otherwise agreed by the relevant Borrower(s) and the Additional Facility Lender(s) under that Additional Facility from time to time) falls on or after the Termination Date for Facility B as at the date of this Agreement (or, if at such time Facility B has been repaid in full or would be paid in full after giving effect to the application of proceeds from the Additional Facility, any termination date); or
 - (B) if amortising in relation to a Term Facility, the Termination Date for an Additional Facility (as set out in the Additional Facility Notice relating to that Additional Facility or as otherwise agreed by the relevant Borrower(s) and the Additional Facility Lender(s) under that Additional Facility from time to time) falls on or after the Termination Date for Facility B as at the date of this Agreement and such Additional Facility

may only amortise at a rate of one per cent. per annum (1.0%) or less; prior to such date (or, if at such time Facility B has been repaid in full or would be paid in full after giving effect to the application of proceeds from the Additional Facility, any termination date and any amortisation profile); or

- (C) if a revolving credit facility, the Termination Date for an Additional Facility (as set out in the Additional Facility Notice relating to that Additional Facility or as otherwise agreed by the relevant Borrower(s) and the Additional Facility Lender(s) under that Additional Facility from time to time) falls on or after the Termination Date for the Revolving Facility as at the date of this Agreement (or, if at such time the Revolving Facility has been repaid in full or would be paid in full after giving effect to the application of proceeds from the Additional Facility, any termination date); and
 - (iii) an Additional Facility may share rateably (or less than rateably) in any mandatory prepayments; and
 - (iv) after giving *pro forma* effect to the borrowing, issuance or incurrence (and application) in full of the principal or equivalent amount of the proposed Additional Facility, such amount when aggregated with the principal or equivalent amount of any other Additional Facility, Second Lien Additional Facility or Permitted Alternative Debt (or any combination of the foregoing) which have been incurred on prior to the Additional Facility Commencement Date applicable to the proposed Additional Facility does not exceed the Permitted Indebtedness Cap as at the applicable Additional Facility Commencement Date.
- (c) Any Financial Indebtedness raised or incurred under the Permitted Indebtedness Cap after the date of this Agreement which is in loan form and has (i) the same ranking in right of payment and security as the Term Loan B Facility shall be made available under this Agreement or (ii) the same ranking in right of payment and/or security as the Second Lien Facility shall be made available under the Second Lien Facility Agreement and, for the avoidance of doubt, the requirements under sub-paragraph (b)(i) above in relation to the MFN Rate shall apply to the raising of any such Financial Indebtedness under this Agreement.
- (d) The Additional Facility Notice shall not be regarded as having been duly completed unless it is signed by each party thereto and specifies the following matters in respect of such Additional Facility:
- (i) the proposed borrower(s) and guarantor(s) in respect of the Additional Facility;
 - (ii) the person(s) to become Additional Facility Lenders in respect of the Additional Facility and the amount of the commitments of such Additional Facility allocated to each Additional Facility Lender;
 - (iii) the aggregate amount of the commitments of the Additional Facility and the currency being made available and any other or optional currency or currencies which are available for utilisation under such Additional Facility;
 - (iv) the rate of interest applicable to the Additional Facility (including any applicable margin, basis and/or margin ratchet);
 - (v) the Additional Facility Commencement Date and Availability Period for the Additional Facility; and

- (vi) the Termination Date, amortisation schedule, any mandatory prepayment provisions (including whether the Additional Facility will share rateably or less than rateably in mandatory prepayments),

and such Additional Facility Notice shall be deemed to have been duly completed if it is signed by each party thereto and specifies the matters in sub-paragraphs (i) to (vi) of this paragraph (d) in respect of such Additional Facility, and prior to the applicable Additional Facility Commencement Date, without prejudice to the rights of the Agent to request any other information which the Agent may reasonably request in relation to such Additional Facility.

- (e) Subject to the conditions set out in paragraph (b) of this Clause 2.2 being satisfied, following receipt by the Agent of a duly completed Additional Facility Notice and with effect from the relevant Additional Facility Commencement Date (or any later date on which the conditions set out in paragraph (f) below are satisfied) the relevant Additional Facility shall come into effect and be established in accordance with its terms and:
 - (i) the Additional Facility Lenders participating in the relevant Additional Facility shall make available that Additional Facility in the aggregate amount set out in the Additional Facility Notice;
 - (ii) each of the Obligors and each Additional Facility Lender shall assume such obligations towards one another and/or acquire such rights against one another as the Obligors and such Additional Facility Lenders would have assumed and/or acquired had the Additional Facility Lenders been Original Lenders;
 - (iii) in relation to an Additional Facility Lender which is not already a Lender, each Additional Facility Lender under the relevant Additional Facility shall become a Party to this Agreement as a Lender;
 - (iv) each Additional Facility Lender under the relevant Additional Facility and each of the other Finance Parties shall assume such obligations towards one another and acquire such rights against one another as those Additional Facility Lenders and those Finance Parties would have assumed and/or acquired had the Additional Facility Lenders been Original Lenders in respect of the relevant Additional Facility; and
 - (v) the Commitments of the other Lenders shall continue in full force and effect.
- (f) The establishment of an Additional Facility will only be effective on:
 - (i) the execution of the Additional Facility Notice relating to such Additional Facility by the Parent, the relevant Borrower(s) and the relevant Additional Facility Lender(s) and delivery of such executed notice to the Agent;
 - (ii) in relation to an Additional Facility Lender which is not already a Lender, receipt by the Agent of an Additional Facility Lender Accession Notice from each person referred to in the relevant Additional Facility Notice as an Additional Facility Lender and, to the extent not provided for in the Additional Facility Lender Accession Notice, receipt by the Agent from each such person of the documentation required for such person to accede as a party to the Intercreditor Agreement in the capacity of a Senior Lender; and
 - (iii) in relation to an Additional Facility Lender which is not already a Lender, the performance by the Agent of all necessary “*know your customer*” or other similar identification checks under all applicable laws and regulations in relation to that

Additional Facility Lender making available an Additional Facility, the completion of which the Agent shall promptly notify to the Parent, and

no utilisation request for an Additional Facility Loan shall be valid unless prior to (or simultaneously with) the making of such Additional Facility Loan, the requirements of this Clause 2.2 have been satisfied.

- (g) Each Obligor irrevocably authorises the Parent to sign each Additional Facility Notice on its behalf and each Finance Party irrevocably authorises and instructs:
 - (i) the Agent to acknowledge, execute and confirm acceptance of each Additional Facility Notice; and
 - (ii) the Agent and the Security Agent to acknowledge, execute and confirm acceptance of each Additional Facility Lender Accession Notice and if applicable, the documentation required for the Additional Facility Lender to accede to the Intercreditor Agreement.
- (h) The Agent and/or the Security Agent shall as soon as reasonably practicable send to the Parent a copy of each executed Additional Facility Notice and, if applicable, Additional Facility Lender Accession Notice and if applicable, the documentation required for the Additional Facility Lender to accede to the Intercreditor Agreement.
- (i) Except to the extent as provided in paragraph (b) above, the terms applicable to any Additional Facility (including ranking, security and intercreditor rights) will be those agreed by the Additional Facility Lenders in respect of that Additional Facility and the Parent. If there is any inconsistency between any such term agreed in respect of an Additional Facility and any term of a Finance Document, the term agreed in respect of the Additional Facility shall prevail with respect to such Additional Facility (subject to the conditions in paragraph (b) above). Notwithstanding any provision of a Finance Document to the contrary, there shall be no obligation or requirement to enter into any hedging arrangement or other derivative transaction in relation to any Additional Facility.
- (j) Each Additional Facility Lender, by executing the relevant Additional Facility Notice confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any consent, release, waiver or amendment 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 relevant Additional Facility becomes effective and that it is bound by that decision and by the operations of any other provisions of this Agreement in relation to such consent, release, waiver or amendment.
- (k) No Lender will have any obligation to participate in an Additional Facility (unless it has executed and delivered an Additional Facility Lender Accession Notice or otherwise become an Additional Facility Lender in respect of that Additional Facility). By signing an Additional Facility Notice as an Additional Facility Lender, each such entity agrees to commit the Additional Facility Commitments set out against its name in that Additional Facility Notice.
- (l) The Agent may (after consultation with the Parent) disclose the terms of any Additional Facility Notice to any of the other Finance Parties.
- (m) Clause 30.6 (*Limitation of responsibility of Existing Lenders*) shall apply *mutatis mutandis* in this Clause 2.2 in relation to an Additional Facility Lender as if references in that Clause to:
 - (i) an Existing Lender were references to all the Lenders immediately prior to the establishment of the relevant Additional Facility;

- (ii) the New Lender were references to that Additional Facility Lender; and
 - (iii) a re-transfer and re-assignment were references to respectively a transfer and assignment.
- (n) The Parent may pay to an Additional Facility Lender a fee in the amount and at the times agreed between the Parent and the Additional Facility Lender in a Fee Letter.
- (o) The establishment, terms or conditions or use of proceeds of any Additional Facility shall be governed by this Clause 2.2 (*Additional Facility*) which shall apply irrespective and notwithstanding any other provision of this Agreement (including Clause 11 (*Illegality, Voluntary Prepayment and Cancellation*), Clause 36.6 (*Partial payments*) and Clause 42 (*Amendments and Waivers*) and Schedule 11 (*Agreed Security Principles*)) and whether such Additional Facility is in place prior to the Additional Facility Commencement Date for the purposes of this Agreement.

2.3 Increase

- (a) The Parent may by giving prior notice to the Agent by no later than the date falling thirty (30) Business Days after the effective date of a cancellation of:
- (i) the Available Commitments of a Defaulting Lender in accordance with Clause 11.7 (*Right of cancellation in relation to a Defaulting Lender*); or
 - (ii) the Commitments of a Lender in accordance with Clause 11.6 (*Right of cancellation and repayment in relation to a single Lender or Issuing Bank*); or
 - (iii) the Commitments of a Lender in accordance with Clause 11.1 (*Illegality*),

request that the Total Commitments be increased (and the Total Commitments under 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 so cancelled as follows:

- (i) 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 which satisfies all the Agent’s “*know your customer*” or similar checks referred to in paragraph (b)(ii)(B) below, and each of which confirms its willingness to assume and does assume all the obligations of a Lender corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Lender (for the avoidance of doubt, no Party shall be obliged to assume the obligations of a Lender pursuant to this Clause 2.3 (*Increase*) without the prior consent of that Party));
- (ii) each of the Parent and the Obligors and any Increase Lender shall assume obligations towards one another and/or acquire rights against one another as the Parent and the Obligors and the Increase Lender would have assumed and/or acquired had the Increase Lender been an Original Lender;
- (iii) 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;
- (iv) the Commitments of the other Lenders shall continue in full force and effect; and

- (v) any increase in the Total Commitments 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 Total Commitments will only be effective on:
 - (i) the execution by the Agent of an Increase Confirmation from the relevant Increase Lender;
 - (ii) in relation to an Increase Lender which is not a Lender immediately prior to the relevant increase:
 - (A) the Increase Lender entering into the documentation required for it to accede as a party to the Intercreditor Agreement; and
 - (B) the performance by the Agent of all necessary “*know your customer*” or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Lender, the completion of which the Agent shall promptly notify to the Parent, the Increase Lender and the Issuing Bank; and
 - (iii) in the case of an increase in the Total Revolving Facility Commitments, the Issuing Bank consenting to that increase.
- (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) Unless the Agent otherwise agrees or the increased Commitment is assumed by an existing Lender, the Parent shall, on the date upon which the increase takes effect, pay to the Agent (for its own account) a fee of EUR 3,000 and the Parent shall within five (5) Business Days of demand pay to the Agent and the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by either of them (and/or any Receiver or Delegate) in connection with any increase in Commitments under this Clause 2.3 (*Increase*).
- (e) 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.
- (f) Clause 30.6 (*Limitation of responsibility of Existing Lenders*) shall apply mutatis mutandis in this Clause 2.3 (*Increase*) 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 the Parent or an Obligor shall be a separate and independent debt.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

2.5 Lender Affiliates

- (a) A Revolving Facility Lender may nominate (by written notice to the Agent and the Parent) a branch or Affiliate (a “**Designated Affiliate**”) to discharge its obligations to participate in one or more Revolving Facility Loans (a “**Designated Revolving Facility Loan**”):
 - (i) as set out in paragraph (g) below; or
 - (ii) in the Transfer Certificate or Assignment Agreement pursuant to which such Revolving Facility Lender becomes a party.
- (b) Any branch or Affiliate nominated by a Revolving Facility Lender to participate in a Revolving Facility Loan shall:
 - (i) participate therein in compliance with the terms of this Agreement;
 - (ii) be entitled, to the extent of its participation, to all the rights and benefits of a Lender under the Finance Documents **provided that** such rights and benefits shall be exercised on its behalf by its nominating Lender save where law or regulation requires the branch or Affiliate to do so; and
 - (iii) in the case of an Affiliate, become party to the Intercreditor Deed as a Senior Lender by delivery of a duly completed Creditor/Agent Accession Undertaking (as defined in the “**Intercreditor Agreement**”).
- (c) Each Revolving Facility Lender shall remain liable and responsible for the performance of all obligations assumed by a Designated Affiliate on its behalf under this Clause 2.5 and non-performance of a Revolving Facility Lender’s obligations by its Designated Affiliate following a nomination under this Clause 2.5 shall not relieve such Revolving Facility Lender from its obligations under this Agreement (but without prejudice to a Revolving Facility Lender’s rights under Clause 30 (*Changes to the Lenders*)).
- (d) Neither the Parent nor any Obligor shall be liable to pay any amount otherwise required to be paid by the Parent or an Obligor under Clause 18 (*Taxes*) or Clause 19.1 (*Increased costs*) (arising as a result of laws or regulations in force or known to be coming into force on the date the relevant branch or Affiliate was nominated) in excess of the amount it would have been obliged to pay if that Revolving Facility Lender had not nominated its branch or Affiliate to participate in the Revolving Facility or, to the extent that such Revolving Facility Lender nominated such branch or Affiliate for particular Revolving Facility Loans in the Transfer Certificate pursuant to which such Revolving Facility Lender became a Party, in excess of the amount which it would have been obliged to pay had that Revolving Facility Lender continued to make only those particular Revolving Facility Loans through that branch or Affiliate. Each Revolving Facility Lender shall promptly notify the Agent and the Parent of the Tax jurisdiction from which its branch or Affiliate will participate in the relevant Revolving Facility Loans and such other information regarding that branch or Affiliate as the Parent may reasonably request.

- (e) Any notice or communication to be made to a branch or an Affiliate of a Revolving Facility Lender pursuant to Clause 38 (*Notices*):
 - (i) may be served directly upon the branch or Affiliate, at the address supplied to the Agent by the nominating Revolving Facility Lender pursuant to its nomination of such branch or Affiliate, where the Revolving Facility Lender or the relevant branch or Affiliate requests this in order to mitigate any legal obligation to deduct Tax from any payment to such branch or Affiliate or any payment obligation which might otherwise arise pursuant to Clause 19 (*Increased costs*); or
 - (ii) in any other circumstance, may be delivered to the Facility Office of the Revolving Facility Lender.
- (f) If a Revolving Facility Lender nominates an Affiliate, that Revolving Facility Lender and that Affiliate:
 - (i) will be treated as having a single Revolving Facility Commitment (being the Revolving Facility Commitment of that Revolving Facility Lender) but for all other purposes (other than those referred to in paragraphs (c) and (e)(ii) above and paragraph (ii) below) will be treated as separate Revolving Facility Lenders; and
 - (ii) will be regarded as a single Revolving Facility Lender for the purpose of:
 - (A) voting in relation to any matter in connection with a Finance Document; and
 - (B) compliance with Clause 30.2 (*Assignments and Transfers by Lenders*).
- (g) All payments of principal, interest, fees, costs and commissions in connection with a Designated Revolving Facility Loan shall be for the account of the relevant Designated Affiliate. For the avoidance of doubt, this shall not apply to any commitment fee which shall be for the account of the relevant Revolving Facility Lender.
- (h) A Revolving Facility Lender that has made a nomination in accordance with paragraph (a) or (g) above may revoke such nomination in relation to any future Revolving Facility Loans by giving the Agent at least five (5) Business Days' written notice.
- (i) This Clause 2.5 is without prejudice to a Revolving Facility Lender's right to transfer its Revolving Facility Commitments to an Affiliate under Clause 30 (*Changes to the Lenders*).

2.6 Obligors' Agent

- (a) Each Obligor (other than the Parent), by its execution of this Agreement or an Accession Deed, irrevocably (to the extent permitted by law) appoints the Parent, and releases the Parent from the restrictions imposed to it by Section 181 German Civil Code (*Bürgerliches Gesetzbuch*) and similar restrictions applicable to it pursuant to any other applicable law (with right of sub-delegation and the right to release the sub-delegates from the restrictions imposed to it by Section 181 German Civil Code (*Bürgerliches Gesetzbuch*) and similar restrictions applicable to it pursuant to any other applicable law), to act severally on its behalf as its agent (and, as to each Italian Obligor, as its *mandatario con rappresentanza* for the purposes of Italian law) in relation to the Finance Documents and irrevocably (to the extent permitted by law) 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 execute on its behalf any Accession Deed, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor and, as to each Italian Obligor, with specific power and authorisation to execute any contract with itself (*contratto con sè stesso*) for the purposes of Article 1395 of the Italian Civil Code and notwithstanding any possible conflict of interest in accordance with Article 1394 of the Italian Civil Code; 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 effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

- (b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligor's Agent or given to the Obligor's 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 (to the extent permitted by law)). In the event of any conflict between any notices or other communications of the Obligor's Agent and any other Obligor, those of the Obligor's Agent shall prevail.
- (c) For the purpose of this Clause 2.6 (*Obligor's Agent*) the Obligor (to the extent necessary under applicable law) shall grant a specific power of attorney (notarized and apostilled) to the Parent and comply with any necessary formalities in connection therewith.

3 PURPOSE

3.1 Purpose

- (a) Each Facility B Borrower shall apply all amounts borrowed by it under:
 - (i) Facility B Tranche 1 towards:
 - (A) satisfaction of the considerations payable for the Acquisition; and/or
 - (B) financing the payment of Acquisition Costs;
 - (ii) Facility B Tranche 2 towards, directly or indirectly refinancing Existing Debt and paying any breakage costs redemption premium and other fees, costs, and expenses payable in connection with such refinancing and/or acquisition and financing the payment of any make-whole costs and other costs in relation thereto,
- in each case, in accordance with the Funds Flow Statement; and
- (iii) Facility B Tranche 3 towards financing and/or refinancing (directly or indirectly):
 - (A) the payment of one or more dividends, repayments of capital (including share premium), repayments of any existing Investor Loan, making loans

to any Holding Companies or the Investors or other distributions to the Investors, including in accordance with the 2016 Funds Flow Statement;

- (B) the payment of all fees (including any consent fees), commissions, costs, taxes and expenses incurred in connection with the consent letters dated 20 September 2016 and the Amendment and Restatement Deed (the “**Amendment Costs**”); and
 - (C) the general corporate purposes of the Group to the extent not applied towards the purposes described above, including any purpose specified in paragraph (b) below in relation to the Revolving Facility.
- (b) Each Revolving Facility Borrower shall apply all amounts borrowed by it under the Revolving Facility, towards directly or indirectly financing or refinancing the general corporate purposes or working capital requirements of the Group including, without limitation:
 - (i) directly or indirectly financing or refinancing the consideration payable for any Permitted Acquisition (other than the Acquisition) or Permitted Joint Venture (including any purchase price adjustments or earn out payments or);
 - (ii) directly or indirectly financing or refinancing Capital Expenditure requirements of the Group and all related fees, costs and expenses;
 - (iii) directly or indirectly financing or refinancing any fees, costs and expenses related to restructuring and reorganisation requirements of the Group (including, without limitation, any separation costs, Restructuring Costs, carve outs and corporate reorganisations related to or arising in connection with a Permitted Acquisition or Permitted Joint Venture (as the case may be));
 - (iv) directly or indirectly refinancing Existing Debt; and/or
 - (v) financing the payment of:
 - (A) funding VAT on fees, any fees arising from the exercise of flex rights under the Syndication Letters and working capital related purchase price adjustments; and
 - (B) pre-funding of working capital requirements or the refinancing of existing Financial Indebtedness of the Target Group,

each as specified in the Funds Flow Statement.
- (c) Each Additional Facility Borrower shall apply all amounts borrowed by it under an Additional Facility towards the purposes specified in the Additional Facility Notice relating to the relevant Additional Facility Commitments.

3.2 No use of proceeds in Switzerland

Each Obligor shall (and shall ensure that each member of the Group will) ensure that no proceeds of any Loan shall be on-lent, directly or indirectly, to any member of the Group incorporated in Switzerland and/or having its registered office in Switzerland and/or qualifying as a Swiss resident pursuant to article 9 of the Swiss Withholding Tax Act or will otherwise be used, directly or indirectly, in a manner which would constitute a “use of proceeds in Switzerland” (*Mittelverwendung in der Schweiz*) as interpreted by the Swiss Federal Tax Administration for purposes of Swiss Withholding Tax, unless and until such time as a written confirmation or countersigned tax ruling application from the Swiss Federal Tax Administration has been obtained

(in form and substance satisfactory to the Agent) confirming that such use of proceeds is permitted without payments under the Finance Documents becoming subject to Swiss Withholding Tax.

3.3 Monitoring

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

4 CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to any Utilisation if on or before the Utilisation Date for that Utilisation the Agent has received all of the documents and other evidence listed in Part 1 of Schedule 2 of (Conditions Precedent to First Utilisation) in form and substance satisfactory to the Agent (acting reasonably) or receipt of such documents and evidence has been waived by the Original Lenders. The Agent shall notify the Company and the Lenders promptly upon being so satisfied.

4.2 Further conditions precedent

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

- (a) in the case of a Rollover Loan no notice of a Declared Default has been given; and
- (b) in the case of any other Utilisation:
 - (i) no Default is continuing or would result from the proposed Utilisation; and
 - (ii) in relation to such a Utilisation on the Closing Date, all the representations and warranties in Clause 24 (*Representations and Warranties*) which are made or deemed to be made or repeated on such date are true, and in relation to any other Utilisation, the Repeating Representations are true in all material respects (or, to the extent a materiality test applies to any such Repeating Representation, all respects) and will remain true in all material respects (or, to the extent a materiality test applies, all respects) immediately after such utilisation.

4.3 Conditions relating to Optional Currencies

- (a) A currency will constitute an Optional Currency if it is:
 - (i) in the case of the Revolving Facility, USD, GBP, CHF or DKK;
 - (ii) in the case of an Additional Facility, any currencies specified in the Additional Facility Notice relating to those Additional Facility Commitments; or
 - (iii) with the consent of all of the Lenders under the Facility concerned (each acting reasonably), any other currency readily available in the amount required and freely convertible into the Base Currency in the Relevant Interbank Market on the Quotation Day and the Utilisation Date for that Utilisation.
- (b) If by the Specified Time the Agent has received a written request from the Parent for a currency to be approved under paragraph (a) above, the Agent will confirm to the Parent by the Specified Time:

- (i) whether or not the Lenders under the relevant Facility have granted their approval; and
- (ii) if approval has been granted, the minimum amount for any subsequent Utilisation in that currency.

4.4 Maximum number of Utilisations

- (a) A Borrower (or the Parent) may not deliver a Utilisation Request in respect of the Revolving Facility if as a result of the proposed Utilisation more than fifteen (15) Revolving Facility Utilisations would be outstanding.
- (b) A Borrower (or the Parent) may not request that a Facility B Loan be divided if, as a result of the proposed division, more than twelve (12) Facility B Loans respectively would be outstanding.
- (c) Any Loan made by a single Lender under Clause 8.2 (*Unavailability of a currency*) shall not be taken into account in this Clause 4.4.
- (d) Any Separate Loan shall not be taken into account in this Clause 4.4.

4.5 Utilisations during the Certain Funds Period

- (a) Subject to Clause 4.1 (*Initial conditions precedent*), during the Certain Funds Period, a Lender 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:
 - (i) the Agent has made the notification contemplated by Clause 4.1 (*Initial conditions precedent*);
 - (ii) no Change of Control has occurred;
 - (iii) it is not unlawful in any applicable jurisdiction for that Lender to perform any of its obligations to lend or participate or maintain its participation in any Utilisation;
 - (iv) all the Major Representations are true in all material respects (or, to the extent a materiality test applies to any such Major Representation, all respects); and
 - (v) no Major Default is continuing or would result from the proposed Certain Funds Utilisation.
- (b) During the Certain Funds Period (save in respect of a Lender in circumstances where, pursuant to paragraph (a) above, that Lender is not obliged to comply with Clause 5.4 (*Lenders' participation*)), none of the Finance Parties shall be entitled to:
 - (i) cancel any of its Commitments;
 - (ii) rescind, terminate or cancel this Agreement or any of the Facilities 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 Utilisation to the extent to do so would prevent or limit the making of a Certain Funds Utilisation;

- (v) cancel, accelerate or cause repayment or prepayment of any amounts owing under this Agreement or under any other Finance Document or exercise any enforcement rights under any Transaction Security Document to the extent to do so would prevent or limit the making of a Certain Funds Utilisation; or
- (vi) take any other action or make or enforce any claim (in its capacity as a Lender) to the extent that such action, claim or enforcement would directly or indirectly 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.

4.6 Utilisations of Revolving Facility/Additional Facility during the Agreed Certain Funds Period

- (a) Subject to Clause 4.1 (*Initial conditions precedent*), during the relevant Agreed Certain Funds Period, a Revolving Facility Lender or Additional Facility Lender (as the case may be) will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to the relevant Agreed Certain Funds Utilisation if:
 - (i) the Revolving Facility Lenders or relevant Additional Facility Lenders (as the case may be) have agreed that the Revolving Facility or relevant Additional Facility shall be made available on a "certain funds basis" in connection with a Permitted Acquisition or such other agreed purpose, for such period and on such terms or conditions (if any) as the Parent and those Revolving Facility Lenders or relevant Additional Facility Lenders (as the case may be) shall agree; and
 - (ii) on the proposed Utilisation Date:
 - (A) the Agent has made the notification contemplated by Clause 4.1 (*Initial conditions precedent*);
 - (B) no Change of Control has occurred;
 - (C) it is not unlawful in any applicable jurisdiction for that Lender to perform any of its obligations to lend or participate or maintain its participation in any Utilisation;
 - (D) all the Major Representations are true in all material respects (or, to the extent a materiality test applies to any such Major Representation, all respects); and
 - (E) no Major Default is continuing or would result from the proposed Agreed Certain Funds Utilisation.
- (b) During the Agreed Certain Funds Period (save in respect of a Revolving Facility Lender or relevant Additional Facility Lender (as the case may be) in circumstances where, pursuant to paragraph (a) above, that Revolving Facility Lender or Additional Facility Lender (as the case may be) is not obliged to comply with Clause 5.4 (*Lenders' participation*)), none of the Revolving Facility Lenders or relevant Additional Facility Lenders (as the case may be) shall be entitled to:
 - (i) cancel any of its Revolving Facility Commitments or Additional Facility Commitments (as the case may be) to the extent to do so would prevent or limit the making of an Agreed Certain Funds Utilisation;

- (ii) rescind, terminate or cancel the applicable Revolving Facility or Additional Facility or exercise any similar right or remedy to the extent to do so would prevent or limit the making of an Agreed Certain Funds Utilisation;
- (iii) refuse to participate in the making of an Agreed Certain Funds Utilisation to the extent to do so would prevent or limit the making of an Agreed Certain Funds Utilisation; or
- (iv) exercise any right of set-off or counterclaim in respect of an Agreed Certain Funds Utilisation to the extent to do so would prevent or limit the making of an Agreed Certain Funds Utilisation,

provided that immediately upon the expiry of the relevant Agreed 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 applicable Agreed Certain Funds Period.

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.

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 and (if applicable) the tranche thereof to be utilised;
 - (ii) it identifies the relevant Borrower;
 - (iii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility and (if applicable) the tranche thereof;
 - (iv) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*); and
 - (v) the proposed Interest Period complies with Clause 15 (*Interest Periods*).
- (b) Multiple Utilisations may be requested in a Utilisation Request where the proposed Utilisation Date is the Closing Date. Only one Utilisation may be requested in each subsequent Utilisation Request.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be:
 - (i) in relation to Facility B, the Base Currency;
 - (ii) in relation to the Revolving Facility, the Base Currency or an Optional Currency; and
 - (iii) in relation to the Additional Facility, in the Base Currency or an Optional Currency or other currencies specified in the applicable Additional Facility Notice.

- (b) The amount of a proposed Utilisation of Facility B must be in a minimum amount of EUR 10,000,000 and an integral multiple of EUR 1,000,000 or, if less, the Available Facility.
- (c) The amount of a proposed Revolving Facility Utilisation which is to be a Revolving Facility Loan must be in a minimum amount of EUR 500,000 (or its equivalent in an Optional Currency) and an integral multiple of EUR 100,000 (or its equivalent in an Optional Currency) or, if less, the Available Facility.

5.4 Lenders' participation

- (a) If the conditions set out in this Agreement have been met, and subject to Clause 10.3 (*Repayment of Revolving Facility Loans*), each Lender shall make its participation in each Loan available on the Utilisation Date through its Facility Office.
- (b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility in each case in relation to the relevant Facility immediately prior to making the Loan.
- (c) The Agent shall determine the Base Currency Amount of each Revolving Facility 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 cash by the Specified Time.

5.5 Limitations on Utilisations

- (a) Facility B (other than Facility B Tranche 3) must be drawn in full on the Closing Date.
- (b) Subject to Clause 32.7 (*Debt Pushdown*), Facility B (other than Facility B Tranche 3) may only be utilised on the Closing Date.
- (c) Only one Utilisation Request may be delivered in respect of Facility B Tranche 3.
- (d) The Revolving Facility may not be utilised unless Facility B (other than Facility B Tranche 3) has been utilised (but, for the avoidance of doubt the Revolving Facility may be utilised contemporaneously with Facility B).
- (e) On the Closing Date, the Revolving Facility shall only be applied for the purposes set out in sub-paragraph (v) of Clause 3.1(b) (*Purpose*).

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 applicable to the relevant tranche of Facility B.
- (b) 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 or if the Closing Date has not occurred prior to the end of the Certain Funds Period.
- (c) The Additional Facility Commitments which are unutilised at the end of the Availability Period for those Additional Facility Commitments shall be immediately cancelled at the end of the Availability Period for those Additional Facility Commitments or if the Closing Date has not occurred prior to the end of the Certain Funds Period.

6 UTILISATION – LETTERS OF CREDIT

6.1 The Revolving Facility

- (a) The Revolving Facility may be utilised by a Revolving Facility Borrower by way of Letters of Credit.
- (b) Other than Clauses 5.5 (*Limitations on Utilisations*), 5.6 (*Cancellation of Commitment*), Clause 5 (*Utilisation – Loans*) does not apply to utilisations by way of Letters of Credit,

6.2 Delivery of a Utilisation Request for Letters of Credit

A Revolving Facility Borrower (or the Parent on its behalf) may request a Letter of Credit to be issued by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

6.3 Completion of a Utilisation Request for Letters of Credit

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

- (a) it specifies that it is for a Letter of Credit;
- (b) it identifies the Borrower of the Letter of Credit;
- (c) it identifies the relevant Issuing Bank which has agreed to issue the Letter of Credit;
- (d) the proposed Utilisation Date is a Business Day within the Availability Period applicable to the Revolving Facility;
- (e) the currency and amount of the Letter of Credit comply with Clause 6.4 (*Currency and amount*);
- (f) the form of Letter of Credit is attached;
- (g) the Expiry Date of the Letter of Credit falls on or before the Termination Date in relation to the Revolving Facility (unless cash cover or back-to-back guarantee support is provided in respect of such Letter of Credit prior to the Termination Date);
- (h) the delivery instructions for the Letter of Credit are specified; and
- (i) subject to paragraph (c) of Clause 6.5 (*Issue of Letters of Credit*), the Issuing Bank is not precluded from issuing a Letter of Credit by law or regulation or its internal policies to the beneficiary of the Letter of Credit.

6.4 Currency and amount

- (a) The currency specified in a Utilisation Request must be the Base Currency or an Optional Currency.
- (b) The amount of the proposed Letter of Credit must be an amount which is not more than the Available Facility.

6.5 Issue of Letters of Credit

- (a) If the conditions set out in this Agreement have been met, the Issuing Bank shall issue the Letter of Credit on the Utilisation Date.

- (b) Subject to Clause 4.1 (*Initial conditions precedent*) the Issuing Bank will only be obliged to comply with paragraph (a) above in relation to a Letter of Credit other than one to which paragraph (c) below applies, if on the date of the Utilisation Request or Renewal Request and on the proposed Utilisation Date:
- (i) in the case of a Letter of Credit to be renewed in accordance with paragraph (a) or (b) of Clause 6.6 (*Renewal of a Letter of Credit*), no notice has been delivered by the Agent in accordance with sub-paragraphs (i) or (ii) of Clause 29.18(a) (*Acceleration*) and no Event of Default under Clause 29.7 (*Insolvency*) (other than insolvency proceedings initiated by a Finance Party or its Affiliates) has occurred and is continuing in relation to the Borrower to which such Letter of Credit relates;
 - (ii) in the case of any other Utilisation other than one to which paragraph (c) applies,
 - (A) no Default is continuing or would result from the proposed Utilisation; and
 - (B) in relation to any Utilisation on the Closing Date, all the representations and warranties in Clause 24 (*Representations and Warranties*) or, in relation to any other Utilisation, the Repeating Representations to be made are true.
- (c) Subject to Clause 4.1 (*Initial conditions precedent*) and notwithstanding the conditions of paragraph (b) above:
- (i) during the Certain Funds Period, the Issuing Bank will only be obliged to comply with paragraph (a) above in relation to a Letter of Credit which is a Certain Funds Utilisation if, on the date of the Utilisation Request and on the proposed Utilisation Date:
 - (A) the Agent has made the notification contemplated by Clause 4.1 (*Initial conditions precedent*);
 - (B) no Change of Control has occurred;
 - (C) it is not unlawful in any applicable jurisdiction for the Issuing Bank to issue the Letter of Credit; and
 - (D) no Major Default is continuing or would result from the proposed Certain Funds Utilisation; and
 - (ii) during any Agreed Certain Funds Period, the Issuing Bank will only be obliged to comply with paragraph (a) above in relation to a Letter of Credit which is an Agreed Certain Funds Utilisation if, on the date of the Utilisation Request and on the proposed Utilisation Date:
 - (A) the Agent has made the notification contemplated by Clause 4.1 (*Initial conditions precedent*);
 - (B) no Change of Control has occurred;
 - (C) it is not unlawful in any applicable jurisdiction for the Issuing Bank to issue the Letter of Credit;
 - (D) no Major Default is continuing or would result from the proposed Agreed Certain Funds Utilisation; and

(E) the applicable additional conditions or events (if any) specified in the relevant notice provided by the Parent and the Revolving Facility Lenders to the Agent or Additional Facility Notice are complied with or satisfied.

(d) During the Certain Funds Period (save in circumstances where, pursuant to paragraph (c) above, the Issuing Bank is not obliged to comply with paragraph (a) above), the Issuing Bank shall not be entitled to:

(i) rescind, terminate or cancel this Agreement 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 issuing of a Letter of Credit which is a Certain Funds Utilisation;

(ii) refuse to issue a Letter of Credit which is a Certain Funds Utilisation;

(iii) exercise any right of set-off or counterclaim in respect of Letter of Credit to the extent to do so would prevent or limit the issuing of a Letter of Credit which is a Certain Funds Utilisation; or

(iv) cause repayment or prepayment of any amounts owing under this Agreement or under any other Finance Document or exercise any enforcement rights under any Transaction Security Document to the extent to do so would prevent or limit the issuing of a Letter of Credit which is a Certain Funds Utilisation;

(v) take any other action or make or enforce any claim (in its capacity as Issuing Bank) to the extent that such action, claim or enforcement would directly or indirectly prevent or limit the Issuing of a Letter of Credit which is 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 Issuing Bank notwithstanding that they may not have been used or been available for use during the Certain Funds Period.

(e) During any Agreed Certain Funds Period (save in circumstances where, pursuant to paragraph (c) above, the Issuing Bank is not obliged to comply with paragraph (a) above), the Issuing Bank shall not be entitled to:

(i) rescind, terminate or cancel the Revolving Facility or relevant Additional 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 issuing of a Letter of Credit which is an Agreed Certain Funds Utilisation;

(ii) refuse to issue a Letter of Credit which is an Agreed Certain Funds Utilisation; or

(iii) exercise any right of set-off or counterclaim in respect of Letter of Credit to the extent to do so would prevent or limit the issuing of a Letter of Credit which is an Agreed Certain Funds Utilisation,

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

(f) The amount of each Lender's participation in each Letter of Credit will be equal to the proportion borne by its Available Commitment to the Available Facility (in each case in relation to the Revolving Facility) immediately prior to the issue of the Letter of Credit.

- (g) The Agent shall determine the Base Currency Amount of each Letter of Credit which is to be issued in an Optional Currency and shall notify the Issuing Bank and each Lender of the details of the requested Letter of Credit and its participation in that Letter of Credit by the Specified Time.

6.6 Renewal of a Letter of Credit

- (a) A Borrower (or the Parent on its behalf) may request that any Letter of Credit issued on behalf of that Borrower be renewed by delivery to the Agent of a Renewal Request in substantially similar form to a Utilisation Request for a Letter of Credit by the Specified Time.
- (b) The Finance Parties shall treat any Renewal Request in the same way as a Utilisation Request for a Letter of Credit except that the conditions set out in paragraph (f) of Clause 6.3 (*Completion of a Utilisation Request for Letters of Credit*) shall not apply.
- (c) The terms of each renewed Letter of Credit shall be the same as those of the relevant Letter of Credit immediately prior to its renewal, except that:
 - (i) its amount may be less than the amount of the Letter of Credit immediately prior to its renewal; and
 - (ii) its Term shall start on the date which was the Expiry Date of the Letter of Credit immediately prior to its renewal, and shall end on the proposed Expiry Date specified in the Renewal Request.
- (d) If the conditions set out in this Agreement have been met, the Issuing Bank shall amend and re issue any Letter of Credit pursuant to a Renewal Request.

6.7 Reduction of a Letter of Credit

- (a) If, on the proposed Utilisation Date of a Letter of Credit any of the Lenders under the Revolving Facility is a Non-Acceptable L/C Lender and:
 - (i) that Lender has failed to provide cash collateral to the Issuing Bank in accordance with Clause 7.4 (*Cash collateral by Non-Acceptable L/C Lender*) following such request by the Issuing Bank; and
 - (ii) either:
 - (A) the Issuing Bank has not required the relevant Borrower to provide cash cover pursuant to Clause 7.5 (*Cash cover by Borrower*); or
 - (B) the relevant Borrower has failed to provide cash cover to the Issuing Bank in accordance with Clause 7.5 (*Cash cover by Borrower*),

then, the Issuing Bank may refuse to issue that Letter of Credit or, with the agreement of the Parent, shall reduce the amount of that Letter of Credit by an amount equal to the amount of the participation of that Non-Acceptable L/C Lender in respect of that Letter of Credit and that Non-Acceptable L/C Lender shall be deemed not to have any participation (or obligation to indemnify the Issuing Bank) in respect of that Letter of Credit for the purposes of the Finance Documents.

- (b) The Issuing Bank shall notify the Agent and the Parent of each reduction made pursuant to this Clause 6.7.

- (c) This Clause 6.7 shall not affect the participation of each other Lender in that Letter of Credit.

6.8 Revaluation of Letters of Credit

- (a) If any Letter of Credit is denominated in an Optional Currency, the Agent shall on the last day of each Financial Year recalculate the Base Currency Amount of each Letter of Credit by notionally converting into the Base Currency the outstanding amount of that Letter of Credit on the basis of the Agent's Spot Rate of Exchange on the date of calculation.
- (b) A Revolving Facility Borrower (or the Parent on its behalf) shall, if so requested by the Agent or the Issuing Bank, within five (5) Business Days of any calculation under paragraph (a) above, ensure that within three (3) Business Days sufficient Letters of Credit are prepaid, or Loans prepaid, to prevent the Base Currency Amount of the Letters of Credit and the Base Current amount of all Loans under the Revolving Facility from exceeding the Revolving Facility Commitments (after deducting the total Ancillary Commitments) following any adjustment to a Base Currency Amount under paragraph (a) above.

6.9 Appointment of additional Issuing Banks

Any Lender which has agreed to the Parent's request to be an Issuing Bank pursuant to the terms of this Agreement shall become an Issuing Bank for the purposes of this Agreement upon notifying the Agent and the Parent that it has so agreed to be an Issuing Bank and on making that notification that Lender shall become bound by the terms of this Agreement as an Issuing Bank.

6.10 Effect of Termination Date

If any Letter of Credit has an Expiry Date ending on or after the Termination Date applicable to the Revolving Facility, without prejudice to the repayment obligation in Clause 6.8 (*Revaluation of Letters of Credit*), on such Termination Date each Letter of Credit shall be repaid unless, in the case of a Letter of Credit with an Expiry Date falling after such Termination Date:

- (a) the relevant Issuing Bank agrees that such Letter of Credit shall continue as between that Issuing Bank, and the relevant member of the Group on a bilateral basis and not as part of or under the Finance Documents; and
- (b) save for any rights and obligations against any other Finance Party under the Finance Documents arising prior to such Termination Date applicable to the Revolving Facility, no rights and obligations in respect of the Letter of Credit shall, as between the Finance Parties, continue and the Transaction Security shall not, following release thereof by the Security Agent support any such Letter of Credit in respect of any claims that arise after such Termination Date and, in such circumstances paragraph (b) of Clause 7.3 (*Indemnities*) shall not apply to any claim made or purported to be made under a Letter of Credit made after the Termination Date applicable to the Revolving Facility.

7 LETTERS OF CREDIT

7.1 Immediately payable

If a Letter of Credit or any amount outstanding under a Letter of Credit is expressed to be immediately payable, the Borrower that requested (or on behalf of which the Parent requested) the issue of that Letter of Credit shall repay or prepay that amount immediately.

7.2 Claims under a Letter of Credit

- (a) Each Borrower irrevocably and unconditionally authorises the Issuing Bank to pay any claim made or purported to be made under a Letter of Credit requested by it (or requested by the Parent on its behalf) and which claim appears on its face to comply with the terms of that Letter of Credit and to be in order (in this Clause 7.2, a claim).
- (b) Each Borrower shall within five (5) Business Days of demand pay to the Issuing Bank an amount equal to the amount of any claim or, **provided that** no Declared Default has occurred and no cash collateral has been provided in respect of that claim, may elect to have that claim converted into a Revolving Facility Loan.
- (c) Each Borrower acknowledges that the Issuing Bank:
 - (i) is not obliged to carry out any investigation or seek any confirmation from any other person before paying a claim (including any solvency investigation); and
 - (ii) deals in documents only and will not be concerned with the legality of a claim or any underlying transaction or any available set-off, counterclaim or other defence of any person.
- (d) The obligations of a Borrower under this Clause 7 (*Letters of Credit*) will not be affected by:
 - (i) the sufficiency, accuracy or genuineness of any claim or any other document; or
 - (ii) any incapacity of, or limitation on the powers of, any person signing a claim or other document.

7.3 Indemnities

- (a) Each Borrower shall within five (5) Business Days of demand indemnify the Issuing Bank against any cost, loss or liability incurred by the Issuing Bank (otherwise than by reason of the Issuing Bank's gross negligence or wilful misconduct) in acting as the Issuing Bank under any Letter of Credit requested by (or on behalf of) that Borrower.
- (b) Each Revolving Facility Lender shall (according to its L/C Proportion) immediately on demand indemnify the Issuing Bank against any cost, loss or liability incurred by the Issuing Bank (otherwise than by reason of the Issuing Bank's gross negligence or wilful misconduct) in acting as the Issuing Bank under any Letter of Credit (unless the Issuing Bank has been reimbursed by the Parent or an Obligor pursuant to a Finance Document).
- (c) If any Revolving Facility Lender is not permitted (by its constitutional documents or any applicable law) to comply with paragraph (b) above, then that Lender will not be obliged to comply with paragraph (b) and shall instead be deemed to have taken, on the date the Letter of Credit is issued (or if later, on the date the Lender's participation in the Letter of Credit is transferred or assigned to the Lender in accordance with the terms of this Agreement), an undivided interest and participation in the Letter of Credit in an amount equal to its L/C Proportion of that Letter of Credit. On receipt of demand from the Agent, that Lender shall pay to the Agent (for the account of the Issuing Bank) an amount equal to its L/C Proportion of the amount demanded.
- (d) The Borrower which requested (or on behalf of which the Parent requested) a Letter of Credit shall immediately on demand reimburse any Lender for any payment it makes to the Issuing Bank under this Clause 7.3 in respect of that Letter of Credit.

- (e) The obligations of each Lender or Borrower under this Clause are continuing obligations and will extend to the ultimate balance of sums payable by that Lender or Borrower in respect of any Letter of Credit, regardless of any intermediate payment or discharge in whole or in part.
- (f) The obligations of any Lender or Borrower under this Clause will not be affected by any act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Clause (without limitation and whether or not known to it or any other person) including:
 - (i) any time, waiver or consent granted to, or composition with, the Parent, any Obligor, any beneficiary under a Letter of Credit or any other person;
 - (ii) the release of the Parent or any other Obligor or any other person under the terms of any composition or arrangement with any creditor or any member of the Group;
 - (iii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Parent or any Obligor, any beneficiary under a Letter of Credit or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument (other than the relevant Letter of Credit) or any failure to realise the full value of any security;
 - (iv) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Parent or an Obligor, any beneficiary under a Letter of Credit or any other person;
 - (v) any amendment (however fundamental) or replacement of a Finance Document or (with the prior approval of the relevant Borrower), any Letter of Credit or any other document or security;
 - (vi) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, any Letter of Credit or any other document or security; or
 - (vii) any insolvency or similar proceedings.

7.4 Cash collateral by Non-Acceptable L/C Lender

- (a) If, at any time, a Lender under the Revolving Facility is a Non-Acceptable L/C Lender, the Issuing Bank may, by notice to that Lender, request that Lender to pay and that Lender shall pay, on or prior to the date falling five (5) Business Days after the request by the Issuing Bank, an amount equal to that Lender's L/C Proportion of the outstanding amount of a Letter of Credit and in the currency of that Letter of Credit to an interest-bearing account held in the name of that Lender with the Issuing Bank.
- (b) The Non-Acceptable L/C Lender to whom a request has been made in accordance with paragraph (a) above shall enter into a security document or other form of collateral arrangement over the account, in form and substance satisfactory to the Issuing Bank, as collateral for any amounts due and payable under the Finance Documents by that Lender to the Issuing Bank in respect of that Letter of Credit;
- (c) Subject to paragraph (f) below, until no amount is or may be outstanding under that Letter of Credit, withdrawals from the account may only be made to pay the Issuing Bank amounts due and payable to the Issuing Bank by the Non-Acceptable L/C Lender under the Finance Documents in respect of that Letter of Credit.

- (d) Each Lender under the Revolving Facility shall notify the Agent:
 - (i) on the date of this Agreement or on any later date on which it becomes such a Lender in accordance with Clause 2.3 (*Increase*) or Clause 30 (*Changes to the Lenders*) whether it is a Non-Acceptable L/C Lender within paragraph (a) of the definition thereof; and
 - (ii) as soon as practicable upon becoming aware of the same, that it has become a Non-Acceptable L/C Lender,

and an indication in Part 2 of Schedule 1 (*The Original Parties*), in a Transfer Certificate, in an Assignment Agreement or in an Increase Confirmation to that effect will constitute a notice under paragraph (d)(i) above to the Agent.
- (e) Any notice received by the Agent pursuant to paragraph (d) above shall constitute notice to the Issuing Bank of that Lender's status and the Agent shall, upon receiving each such notice, promptly notify the Issuing Bank of that Lender's status as specified in that notice.
- (f) If a Lender who has provided cash collateral in accordance with this Clause 7.4:
 - (i) ceases to be a Non-Acceptable L/C Lender; and
 - (ii) no amount is due and payable by that Lender in respect of a Letter of Credit,

that Lender may, at any time it is not a Non-Acceptable L/C Lender, by notice to the Issuing Bank request that an amount equal to the amount of the cash provided by it as collateral in respect of that Letter of Credit (together with any accrued interest) standing to the credit of the relevant account held with the Issuing Bank be returned to it and the Issuing Bank shall pay that amount to the Lender within five (5) Business Days after the request from the Lender (and shall cooperate with the Lender in order to procure that the relevant security or collateral arrangement is released and discharged).

7.5 Cash cover by Borrower

- (a) If a Lender which is a Non-Acceptable L/C Lender fails to provide cash collateral (or notifies the Issuing Bank that it will not provide cash collateral) in accordance with Clause 7.4 (*Cash collateral by Non-Acceptable L/C Lender*) and the Issuing Bank notifies the Obligors' Agent of such event (with a copy to the Agent), the Borrower of the relevant Letter of Credit or proposed Letter of Credit may (in the case of a Letter of Credit not yet issued) elect to or (in the case of a Letter of Credit that has already been issued) shall provide cash cover to an account with the Issuing Bank in an amount equal to that Lender's L/C Proportion of the outstanding amount of that Letter of Credit and in the currency of that Letter of Credit and that Borrower shall do so within three (3) Business Days after (as the case may be) such election or the notice is given.
- (b) Notwithstanding paragraph (d) of Clause 1.2 (*Construction*), the Issuing Bank may agree to the withdrawal of amounts up to the level of that cash cover from the account if:
 - (i) it is satisfied that the relevant Lender is no longer a Non-Acceptable L/C Lender; or
 - (ii) the relevant Lender's obligations in respect of the relevant Letter of Credit are transferred to a New Lender in accordance with the terms of this Agreement; or
 - (iii) an Increase Lender has agreed to undertake the obligations in respect of the relevant Lender's L/C Proportion of the Letter of Credit.

- (c) To the extent that a Borrower has provided cash cover in accordance with this Clause 7.5, the relevant Lender's L/C Proportion in respect of that Letter of Credit will remain (but that Lender's obligations in relation to that Letter of Credit may be satisfied in accordance with paragraph (d)(ii) of Clause 1.2 (*Construction*)). However, the relevant Borrower's obligation to pay any Letter of Credit fee in relation to the relevant Letter of Credit to the Agent (for the account of that Lender) in accordance with paragraph (b) of Clause 17.6 (*Fees payable in respect of Letters of Credit*) will be reduced proportionately as from the date on which it complies with that obligation to provide cash cover (and for so long as the relevant amount of cash cover continues to stand as collateral).
- (d) The relevant Issuing Bank shall promptly notify the Agent of the extent to which a Borrower provides cash cover pursuant to this Clause 7.5 (*Cash cover by Borrower*) and of any change in the amount of cash cover so provided.

7.6 Rights of contribution

No Obligor or the Parent will be entitled to any right of contribution or indemnity from any Finance Party in respect of any payment it may make under this Clause 7 (*Letters of Credit*).

7.7 Lender as Issuing Bank

A Lender which is also an Issuing Bank shall be treated as a separate entity in those capacities and capable, as a Lender, of contracting with itself as an Issuing Bank.

7.8 Existing Letters of Credit

Notwithstanding any provision of this Agreement to the contrary, a Borrower (or the Parent on its behalf) may by notice in writing to the Agent (including in any Utilisation Request) request that any Existing Letter of Credit be deemed a Letter of Credit established under the Revolving Facility and with effect from the date specified in such notice (being a date falling within the Availability Period of the Revolving Facility) that any Existing Letter of Credit shall be a Letter of Credit for all purposes under this Agreement, subject to the Agent having received notification in writing from the Issuing Bank that it agrees to the Existing Letter of Credit being a Letter of Credit for all purposes under this Agreement.

8 OPTIONAL CURRENCIES

8.1 Selection of currency

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

8.2 Unavailability of a currency

If before the Specified Time on any Quotation Day:

- (a) a Lender notifies the Agent that an Optional Currency requested under paragraph (a) of Clause 4.3 (*Conditions relating to Optional Currencies*) 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 an Optional Currency requested under paragraph (iv) of Clause 4.3(a) (*Conditions relating to Optional Currencies*) would contravene a law or regulation applicable to it,
- (c) the Agent will give notice to the relevant Borrower (or the Parent on its behalf) to that effect by the Specified Time on that day. In this event, any Lender that gives notice pursuant to this Clause 8.2 will be required to participate in the 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.

8.3 Agent's calculations

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

9 ANCILLARY FACILITIES

9.1 Type of Facility

An Ancillary Facility may be by way of any of the following (or any combination of the following):

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

9.2 Availability

- (a) If the Parent and a Lender agree and except as otherwise provided in this Agreement, the Lender may provide an Ancillary Facility on a bilateral basis in place of all or part of that Lender's unutilised Revolving Facility Commitment (which shall (except for the purposes of determining the Majority Lenders and of Clause 42.5 (*Replacement of Lender*)) be reduced by the amount of the Ancillary Commitment under that Ancillary Facility).
- (b) Except for the Existing Ancillary Facilities which shall be made available on and from the Closing Date as Ancillary Facilities without any further notice or delivery of information (but, for the avoidance of doubt, will otherwise be subject to the terms of this Clause 9), an Ancillary Facility shall not be made available unless at least five (5) Business Days prior to the Ancillary Commencement Date for that Ancillary Facility (other than in respect of any Ancillary Facilities made available on the Closing Date, the notice period for commencement of which shall be one (1) Business Day), the Agent has received from the Parent a notice in writing of the establishment of that Ancillary Facility and specifying:
 - (i) the Revolving Facility Borrower(s) (or, subject to Clause 9.9 (*Affiliates of Borrowers*), Affiliate(s) of a Revolving Facility Borrower) which may use that Ancillary Facility;
 - (ii) the Ancillary Commencement Date and expiry date of that Ancillary Facility;
 - (iii) the type or types of Ancillary Facility to be provided;

- (iv) the Ancillary Lender;
- (v) the amount of the Ancillary Commitment, the maximum amount of the Ancillary Facility and, if the Ancillary Facility is an overdraft facility comprising more than one account its maximum gross amount (that amount being the “**Designated Gross Amount**”) and its maximum net amount (that amount being the “**Designated Net Amount**”); and
- (vi) the currency or currencies of that Ancillary Facility (if not denominated in the Base Currency),

without prejudice to the rights of the Agent to so request, any other information which the Agent may reasonably request in relation to that Ancillary Facility.

- (c) The Agent shall promptly notify each Revolving Facility Lender of the establishment of an Ancillary Facility.
- (d) No amendment or waiver of any term of an 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 this Agreement (including, for the avoidance of doubt, under this Clause). In such a case, the provisions of this Agreement with regard to amendments and waivers will apply.
- (e) Subject to compliance with paragraph (b) above;
 - (i) the Lender concerned will become an Ancillary Lender; and
 - (ii) the Ancillary Facility will be available,

with effect from the date agreed by the Parent and the Ancillary Lender.

9.3 Terms of Ancillary Facilities

- (a) Except as provided in paragraph (b) below, the terms of any Ancillary Facility will be those agreed by the relevant Ancillary Lender and the Parent.
- (b) However, those terms:
 - (i) to the extent relating to the rate of interest, fees and other remuneration in respect of that Ancillary Facility, must be based upon the normal market rates and terms at that time of that Ancillary Facility Lender;
 - (ii) may only allow Revolving Facility Borrowers (or Affiliates of Revolving Facility Borrowers nominated pursuant to Clause 9.9 (*Affiliates of Borrowers*)) to use that Ancillary Facility;
 - (iii) may not allow the Ancillary Outstandings to exceed the Ancillary Commitment under that Ancillary Facility;
 - (iv) may not allow the Ancillary Commitment of an Ancillary Lender to exceed the Available Commitment with respect to the Revolving Facility of that Ancillary Lender (or its Affiliate); and
 - (v) must require that the Ancillary Commitment is reduced to nil, and that all Ancillary Outstandings are repaid (or cash cover is provided in respect of all the Ancillary Outstandings) not later than the Termination Date for 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 39.3 (*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 necessary to permit the netting of balances on those accounts; and
 - (iii) where the relevant term of this Agreement would be contrary to, or inconsistent with, the law governing the relevant Ancillary Document, in which case that term of this Agreement shall not prevail.
- (d) Interest, commission and fees on Ancillary Facilities are dealt with in Clause 17.8 (*Interest, commission and fees on Ancillary Facilities*).

9.4 Repayment of Ancillary Facility

- (a) An Ancillary Facility shall cease to be available on the Termination Date in relation to the 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 and to the extent that an Ancillary Facility expires, or is cancelled (in whole or in part) in accordance with its terms or is otherwise cancelled in accordance with this Agreement, the Ancillary Commitment of the Ancillary Lender shall be reduced, and the Available Commitment with respect to the Revolving Facility of the relevant Lender will immediately be increased, accordingly by an amount equal to the amount of the Ancillary Commitment of that Ancillary Facility (or, if less, that part of it which has expired or been cancelled).
- (c) No Ancillary Lender may demand repayment or prepayment of any amounts or demand cash cover for any liabilities made available or incurred by it under its Ancillary Facility (except where the Ancillary Facility is provided on a net limit basis to the extent required to bring any gross outstanding down to the net limit) prior to its expiry date unless:
 - (i) the Total Revolving Facility Commitments have been cancelled in full, or all outstanding Utilisations under the Revolving Facility have become due and payable in accordance with the terms of this Agreement, or the Agent has declared all outstanding Utilisations under the Revolving Facility immediately due and payable, or the expiry date of the Ancillary Facility occurs; or
 - (ii) 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 it becomes unlawful for any Affiliate of the Ancillary Lender for the Ancillary Lender to do so); or
 - (iii) the Ancillary Outstandings (if any) under that Ancillary Facility can be refinanced by a Revolving Facility Utilisation and the Ancillary Lender gives sufficient notice to enable a Revolving Facility Utilisation to be made to refinance those Ancillary Outstandings.

- (d) For the purposes of determining whether or not the Ancillary Outstandings under an Ancillary Facility mentioned in paragraph (c)(iii) above can be refinanced by a Utilisation of the Revolving Facility:
 - (i) the Available Commitment with respect to the Revolving Facility of the Ancillary Lender (or its Affiliate) will be increased by the amount of its Ancillary Commitment; and
 - (ii) the Utilisation may (so long as paragraph (c)(i) above does not apply) be made irrespective of whether a Default is outstanding or any applicable condition precedent is not satisfied (but only to the extent that the proceeds are applied in refinancing those Ancillary Outstandings) and irrespective of whether Clause 4.4 (*Maximum number of Utilisations*) or paragraph (a)(iv) of Clause 5.2 (*Completion of a Utilisation Request for Loans*) applies.
- (e) On the making of a Utilisation of the Revolving Facility to refinance all or part of any Ancillary Outstandings:
 - (i) each Lender will participate in that Utilisation in an amount (as determined by the Agent) which will result as nearly as possible in the aggregate amount of its participation in the Revolving Facility Utilisations then outstanding bearing the same proportion to the aggregate amount of the Revolving Facility Utilisations then outstanding as its Revolving Facility Commitment bears to the Total Revolving Facility Commitments; and
 - (ii) the relevant Ancillary Facility shall be cancelled to the extent of such refinancing.
- (f) In relation to an Ancillary Facility which comprises an overdraft facility where a Designated Net Amount has been established, the Ancillary Lender providing that Ancillary Facility shall only be obliged to take into account for the purposes of calculating compliance with the Designated Net Amount those credit balances which it is permitted to take into account by the then current law and regulations in relation to its reporting of exposures to the applicable regulatory authorities as netted for capital adequacy purposes.

9.5 Ancillary Outstandings

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

- (a) the Ancillary Outstandings under any Ancillary Facility provided by that Ancillary Lender shall not at any time exceed the Ancillary Commitment applicable to that Ancillary Facility and where the Ancillary Facility is an overdraft facility comprising more than one account, Ancillary Outstandings under that Ancillary Facility shall not exceed the Designated Net Amount in respect of that Ancillary Facility; and
- (b) where all or part of the Ancillary Facility is an overdraft facility comprising more than one account, the Ancillary Outstandings (calculated on the basis that the words “net of any credit balances on any account of any Borrower of an Ancillary Facility with the Ancillary Lender making available that Ancillary Facility to the extent that the credit balances are freely available to be set-off by that Ancillary Lender against liabilities owed to it by that Borrower under that Ancillary Facility” in brackets in paragraph (a) of the definition of that term were deleted) shall not exceed the Designated Gross Amount applicable to that Ancillary Facility.

9.6 Voluntary cancellation of Ancillary Facilities

The Parent may, if it gives the Agent and the relevant Ancillary Lender not less than five (5) Business Days’ prior notice, cancel the whole or any part of the Ancillary Commitment under an

Ancillary Facility. Any cancellation under this Clause 9.6 of an Ancillary Commitment of an Ancillary Lender shall increase the Available Commitment of the relevant Lender under the Revolving Facility to the extent provided in Clause 9.4(b) (*Repayment of Ancillary Facility*).

9.7 Information

Each Borrower and each Ancillary Lender shall (i) promptly notify the Agent of the expiry or termination of any Ancillary Facility and (ii) 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.

9.8 Affiliates of Lenders as Ancillary Lenders

- (a) Subject to the terms of this Agreement, an Affiliate of a Revolving Facility Lender may become an Ancillary Lender. In such case, the Revolving Facility Lender and its Affiliate shall be treated as a single Revolving Facility Lender whose Revolving Facility Commitment is the amount set out opposite the relevant Lender's name in Part 2 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. 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 Revolving Facility Lender in any notice delivered by the Parent to the Agent pursuant to paragraph (b) of Clause 9.2 (*Availability*).
- (c) An Affiliate of a Revolving Facility Lender which becomes an Ancillary Lender shall accede to the Intercreditor Agreement and any person who so accedes to the Intercreditor Agreement shall, at the same time, become a party to this Agreement as an Ancillary Lender in accordance with Clause 21.9 (*Creditor/Agent Accession Undertaking*) of the Intercreditor Agreement.
- (d) If a Lender assigns all of its rights and benefits or transfers all of its rights and obligations to a New Lender (as defined in Clause 30 (*Changes to the Lenders*)), its Affiliate shall cease to have any obligations under this Agreement or any Ancillary Document.
- (e) Where this Agreement or any other Finance Document imposes an obligation on an Ancillary Lender and the relevant Ancillary Lender is an Affiliate of a Lender which is not a party to that document, the relevant Lender shall ensure that the obligation is performed by its Affiliate.

9.9 Affiliates of Borrowers

- (a) Subject to the terms of this Agreement, an Affiliate of a Revolving Facility Borrower may with the approval of the relevant Ancillary Lender become a borrower with respect to an Ancillary Facility.
- (b) The Parent shall specify any relevant Affiliate of a Revolving Facility Borrower in any notice delivered by the Parent to the Agent pursuant to paragraph (b) of Clause 9.2 (*Availability*).
- (c) If a Borrower ceases to be a Revolving Facility Borrower under this Agreement in accordance with Clause 32.4 (*Resignation of an Obligor*), 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.

9.10 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 the aggregate of:

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

9.11 Adjustments required in relation to Ancillary Facilities

The Agent may, by notice in writing to the Revolving Facility Lenders, reallocate drawn and undrawn Revolving Facility Commitments at the end of an Interest Period among Revolving Facility Lenders as may be necessary to ensure that any Revolving Facility Lender that intends to enter into an Ancillary Facility has an undrawn Revolving Facility Commitment sufficient to allow it to enter into such Ancillary Facility, **provided that** for the avoidance of doubt no such reallocation may increase any Revolving Facility Lender's Revolving Facility Commitment.

9.12 Adjustment for Ancillary Facilities upon acceleration

- (a) In this Clause 9.12:

"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 Utilisation 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 (or any of its Affiliates) is also an Ancillary Lender, the Ancillary Outstandings in respect of Ancillary Facilities provided by that Ancillary Lender (or by its affiliates) (together with the aggregate amount of all accrued interest, fees and commission owed to it (or to its Affiliates) as an Ancillary Lender in respect of the Ancillary Facility).

"Total Revolving Outstandings" means the aggregate of all Revolving Outstandings.

- (b) If a Declared Default occurs, each Lender and each Ancillary Lender shall promptly adjust (by corresponding transfers (to the extent necessary) of rights and obligations under the Finance Documents relating to the Revolving Outstandings) their claims in respect of amounts outstanding to them under the Revolving Facility and each Ancillary Facility to ensure that after such transfers the Revolving Outstandings of each Lender bear the same proportion to the Total Revolving Outstandings as such Lender's Revolving Facility Commitment bears to the Total Revolving Facility Commitments, each as at the date the notice of such Declared Default is served under Clause 29.18 (*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 (a) above, then each Lender and Ancillary Lender will make a further adjustment by corresponding transfers (to the extent necessary) of rights and obligations under the Finance Documents relating to the Revolving

Outstandings 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) Prior to the application of the provisions of paragraph (a) of this Clause 9.12, an Ancillary Lender that has provided an overdraft comprising more than one account under an Ancillary Facility shall set-off any liabilities owing to it under such overdraft facility against credit balances on any account comprised in such overdraft facility.
- (e) All calculations to be made pursuant to this Clause 9.12 shall be made by the Agent based upon information provided to it by the Lenders and Ancillary Lenders.

9.13 Operation of accounts notwithstanding the Transaction Security Documents

Notwithstanding any Security on debts and bank accounts contained in the Transaction Security Documents, each Ancillary Lender may continue to collect instruments/credits payable to or endorsed in favour of the Obligors to its accounts with such Ancillary Lender; permit the Obligors to draw against any existing credit balance and the proceeds of instruments/credits collected from time to time to its accounts; and continue to exercise its rights of set-off or combination of accounts.

9.14 Existing Ancillary Facilities

Notwithstanding any provision of this Agreement to the contrary, a Borrower (or the Parent on its behalf) may by notice in writing to the Agent (including in any Utilisation Request) request that any Existing Ancillary Facility be deemed to be an Ancillary Facility established under the Revolving Facility and with effect from the date specified in such notice (being a date falling within the Availability Period for the Revolving Facility) that any Existing Ancillary Facility shall be an Ancillary Facility for all purposes under this Agreement, subject to the Agent having received notification in writing from the Ancillary Lender concerned (or, as the case may be, the Affiliate of the Lender concerned) that it agrees to that Existing Ancillary Facility being an Ancillary Facility for all purposes under this Agreement.

9.15 Continuation of Ancillary Facilities

- (a) A Borrower and an Ancillary Lender may, as between themselves only, agree that any Ancillary Facilities will continue to remain available on a bilateral basis following the Termination Date applicable to the Revolving Facility or, as the case may be, the date the Revolving Facility Commitments are otherwise cancelled under this Agreement.
- (b) If any arrangement contemplated in paragraph (a) above is to occur, each relevant Borrower and the Ancillary Lender shall each confirm that to be the case in writing to the Agent. Upon such Termination Date or, as the case may be, date of cancellation, any such facility shall continue as between the said entities on a bilateral basis and not as part of, or under, the Finance Documents. Save for any rights and obligations against any Finance Party under the Finance Documents arising prior to such Termination Date or, as the case may be, date of cancellation, no such rights or obligations in respect of such Ancillary Facility shall, as between the Finance Parties, continue and the Transaction Security shall not support any such facility in respect of any matters that arise after such Termination Date or, as the case may be, date of cancellation.

10 REPAYMENT

10.1 Repayment of Facility B Loans

- (a) Each Facility B Borrower shall repay the aggregate Facility B Loans made to it in full on the Termination Date in respect of Facility B in EUR.

- (b) The Borrowers may not reborrow any part of a Facility B Loan which is repaid.

10.2 Repayment of Additional Facility Loans

- (a) Each Borrower of an Additional Facility Loan shall repay that Additional Facility Loan borrower by it:
 - (i) in relation to an Additional Facility which is repayable in instalments, in the instalments by repaying on each applicable Amortising Facility Repayment Date the amount set opposite that Amortising Facility Repayment Date as set out in the table in the relevant Additional Facility Notice; and
 - (ii) in relation to an Additional Facility which is not repayable in instalments, in full on the Termination Date applicable to that Additional Facility Loan.
- (b) The Borrowers may not reborrow any part of an Additional Facility Loan which is repaid.

10.3 Repayment of Revolving Facility Loans

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

the aggregate amount of the new Revolving Facility Loans shall be treated as if applied in or towards repayment of the maturing Revolving Facility Loan so that:

- (A) if the amount of the maturing Revolving Facility Loan exceeds the aggregate amount of the new Revolving Facility Loans:
 - (1) the relevant Revolving Facility Borrower will only be required to pay an amount in cash in the relevant currency equal to that excess; and
 - (2) each Revolving Facility Lender's participation (if any) in the new Revolving Facility Loans shall be treated as having been made available and applied by the Revolving Facility Borrower in or towards repayment of that Revolving Facility Lender's participation (if any) in the maturing Revolving Facility Loan and that Revolving Facility Lender will not be required to make its participation in the new Revolving Facility Loans available in cash; and
- (B) if the amount of the maturing Revolving Facility Loan is equal to or less than the aggregate amount of the new Revolving Facility Loans:

- (1) the relevant Revolving Facility Borrower will not be required to make any payment in cash; and
 - (2) each Revolving Facility Lender will be required to make its participation in the new Revolving Facility Loans available in cash only to the extent that its participation (if any) in the new Revolving Facility Loans exceeds that Revolving Facility Lender's participation (if any) in the maturing Revolving Facility Loan and the remainder of that Revolving Facility Lender's participation in the new Revolving Facility Loans shall be treated as having been made available and applied by the Revolving Facility Borrower in or towards repayment of that Revolving Facility Lender's participation in the maturing Revolving Facility Loan.
- (c) At any time when a Revolving Facility Lender or revolving Additional Facility Lender becomes a Defaulting Lender, the maturity date of each of the participations of that Revolving Facility Lender in the Revolving Facility Loans or as (the case may be) revolving Additional Facility Loans then outstanding will be automatically extended to the Termination Date in relation to the Revolving Facility or as (the case may be) revolving Additional Facility and will be treated as separate Revolving Facility Loans or as (the case may be) revolving Additional Facility Loans (the "**Separate Loans**") denominated in the currency in which the relevant participations are outstanding.
- (d) A Revolving Facility Borrower to whom a Separate Loan is outstanding may prepay that Loan by giving five (5) Business Days' prior notice to the Agent. The Agent will forward a copy of a prepayment notice received in accordance with this paragraph (d) to the Defaulting Lender concerned as soon as practicable on receipt.
- (e) Interest in respect of a Separate Loan will accrue for successive Interest Periods selected by the Revolving Facility Borrower (or the Parent on its behalf) by the time and date specified by the Agent (acting reasonably) and will be payable by that Revolving Facility Borrower to the Defaulting Lender on the last day of each Interest Period of that Loan.
- (f) The terms of this Agreement relating to Revolving Facility Loans or as (the case may be) revolving Additional Facility Loans generally shall continue to apply to Separate Loans other than to the extent inconsistent with paragraphs (c) to (e) above, in which case those paragraphs shall prevail in respect of any Separate Loan.

10.4 Effect of Cancellation and Prepayment on Scheduled Repayments

- (a) If the Parent cancels the whole or any part of an Amortising Facility Commitment in accordance with Clause 11.6 (*Right of cancellation and repayment in relation to a single Lender or Issuing Bank*) or Clause 11.7 (*Right of cancellation in relation to a Defaulting Lender*) or if the Amortising Facility Commitment of any Lender is reduced under Clause 11.1 (*Illegality*) then (other than, in any relevant case, to the extent that any part of the relevant Amortising Facility Commitment(s) is subsequently increased pursuant to Clause 2.3 (*Increase*)) the amount of the Amortising Facility Repayment Instalment for the relevant Amortising Facility for each Amortising Facility Repayment Date falling after that prepayment will reduce *pro rata* by the amount of the Amortising Facility Commitment cancelled.
- (b) If the Parent cancels the whole or any part of an Amortising Facility Commitment in accordance with Clause 11.3 (*Voluntary cancellation*) then the amount of the Amortising Facility Repayment Instalment for the relevant Amortising Facility for each Amortising Facility Repayment Date falling after that cancellation will reduce *pro rata* by the amount cancelled.

- (c) If any of the Amortising Facility Loans are prepaid in accordance with Clause 11.6 (*Right of cancellation and repayment in relation to a single Lender or Issuing Bank*), Clause 11.1 (*Illegality*) or Clause 12.2(b) (*Disposal, insurance and recovery proceeds*) then the amount of the Amortising Facility Repayment Instalment for the relevant Amortising Facility for each Amortising Facility Repayment Date falling after that prepayment will reduce *pro rata* by the amount of the Amortising Facility Loan prepaid.
- (d) If any of the Amortising Facility Loans are prepaid in accordance with Clause 11.4 (*Voluntary prepayment of Term Loans*) then the amount of the Amortising Facility Repayment Instalment for the relevant Amortising Facility for each Amortising Facility Repayment Date falling after that prepayment will reduce in accordance with the allocation of such prepaid amounts against the Amortising Facility Repayment Instalments as notified by the Parent in its sole discretion.

11 ILLEGALITY, VOLUNTARY PREPAYMENT AND CANCELLATION

11.1 Illegality

If after the date of this Agreement (or, if later, the date the relevant Lender became a Party) it becomes unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in any Utilisation:

- (a) that Lender, shall promptly notify the Agent upon becoming aware of that event setting out details thereof (such notice, an “**Illegality Notice**”);
- (b) upon the Agent notifying the Parent, the Commitment of that Lender will be immediately cancelled; and
- (c) to the extent that Lender’s participation has not been transferred pursuant to Clause 42.5 (*Replacement of Lender*), each Borrower shall repay that Lender’s participation in the Utilisations made to that Borrower on the last day of the Interest Period for each Utilisation occurring after the Agent has notified the Parent or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law).

11.2 Illegality in relation to Issuing Bank

If after the date of this Agreement (or, if later, the date on which the relevant Letter of Credit is issued) it becomes unlawful for an Issuing Bank to issue or leave outstanding any Letter of Credit, then:

- (a) that Issuing Bank shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying the Parent, the Issuing Bank shall not be obliged to issue any Letter of Credit to the extent that such issuance would be unlawful;
- (c) to the extent it would be unlawful for any such Letter of Credit to remain outstanding, the Parent shall procure that the relevant Borrower shall use all reasonable endeavours to procure the release of each Letter of Credit issued by that Issuing Bank and outstanding at such time; and
- (d) unless any other Lender is or has agreed to be an Issuing Bank pursuant to the terms of this Agreement, the Revolving Facility shall cease to be available for the issue of Letters of Credit until such time as another Lender agrees to be an Issuing Bank.

11.3 Voluntary cancellation

The Parent may, if it gives the Agent not less than five (5) 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 EUR 1,000,000 and multiples thereof of an Available Facility). Any cancellation under this Clause 11.3 shall reduce the Commitments of the Lenders rateably under that Facility.

11.4 Voluntary prepayment of Term Loans

- (a) Subject to Clause 17.7 (*Facility B Soft Call*), a Borrower to which a Term Loan has been made may, if it or the Parent gives the Agent not less than five (5) Business Days' (or such shorter period as the Majority Lenders under the relevant Facility may agree) prior notice, prepay the whole or any part of that Term Loan (but, if in part, being an amount that reduces the amount of that Term Loan by a minimum amount of EUR 1,000,000 and multiples thereof).
- (b) The Parent or a Borrower may elect to apply a prepayment of Term Loans made under this Clause 11.4 against any or all of the Terms Loans in such proportions as it selects in its sole discretion.

11.5 Voluntary prepayment of Revolving Facility Utilisations

A Borrower to which a Revolving Facility Utilisation has been made may, if it or the Parent gives the Agent not less than five (5) Business Days' (or such shorter period as the Majority Lenders under the Revolving Facility may agree) prior notice, prepay the whole or any part of a Revolving Facility Utilisation (but if in part, being an amount that reduces the amount of the Revolving Facility Utilisation by a minimum amount of EUR 1,000,000 or its equivalent and multiples thereof).

11.6 Right of cancellation and repayment in relation to a single Lender or Issuing Bank

- (a) If:
 - (i) any sum payable to any Lender by the Parent or an Obligor is required to be increased under Clause 14.9 (*Minimum Interest*) or Clause 18.3 (*Tax Gross Up*); or
 - (ii) any Lender or Issuing Bank claims indemnification from the Parent or an Obligor under Clause 18.4 (*Tax Indemnity*) or Clause 19 (*Increased costs*); or
 - (iii) any Lender requests payment from the Parent or any Obligor based on the occurrence of a Market Disruption Event,the Parent may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice:
 - (i) (if such circumstances relate to a Lender) of cancellation of the Commitment(s) of that Lender and its intention to procure the repayment of that Lender's participation in the Utilisations; or
 - (ii) (if such circumstances relate to the Issuing Bank) of repayment of any outstanding Letter of Credit issued by it and cancellation of its appointment as an Issuing Bank under this Agreement in relation to any Letters of Credit to be issued in the future.
- (b) On receipt of a notice referred to in paragraph (a) above in relation to a Lender, the Commitment(s) of that Lender shall immediately be reduced to zero.

- (c) On the last day of each Interest Period which ends after the Parent has given notice under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Parent in that notice), each Borrower to which a Utilisation is outstanding shall repay that Lender's participation in that Utilisation together with all interest and other amounts accrued under the Finance Documents.

11.7 Right of cancellation in relation to a Defaulting Lender

- (a) If any Lender becomes a Defaulting Lender, the Parent may, at any time whilst the Lender continues to be a Defaulting Lender, give the Agent five (5) Business Days' notice of cancellation of each Available Commitment of that Lender.
- (b) On the notice referred to in paragraph (a) above becoming effective, each Available Commitment of the Defaulting Lender shall immediately be reduced to zero.
- (c) The Agent shall as soon as practicable after receipt of a notice referred to in paragraph (a) above, notify all the Lenders.

11.8 Right of prepayment of Non-Consenting Lender

If any Lender becomes a Non-Consenting Lender (as defined in Clause 42.5 (*Replacement of Lender*)) the Parent may within ninety (90) days after the date on which that Lender is deemed to be a Non-Consenting Lender cancel the Commitments of such Non-Consenting Lender and prepay all (but not part only) of the participations of such Non-Consenting Lender in the Facilities together with all interest and other amounts accrued under the Finance Documents, **provided that** it may only make such prepayment using Closing Overfunding, Retained Excess Cash and/or New Shareholder Injections.

12 MANDATORY PREPAYMENT

12.1 Exit and Listing

- (a) In this Agreement:
 - “**IPO Proceeds**” means the Net Cash Proceeds received by members of the Group or a Holding Company of the Parent from a Listing or a primary issue of shares in connection with such a Listing, any Subsidiary of it (in each case) if they are then a member of the Group.
 - “**Excess IPO Proceeds**” means any amount of IPO Proceeds to the extent received by a member of the Group and which are not required to be applied in prepayment of the Facilities pursuant to paragraph (c) below.
- (b) If a Change of Control, a Sale or a Listing which results in a Change of Control occurs:
 - (i) the Parent will promptly notify the Agent upon becoming aware of that event and the Agent will promptly notify the Lenders; and
 - (ii) if a Lender so requires and notifies the Agent within twenty (20) Business Days of the Company notifying the Agent of the event, the Agent shall, by no less than five (5) Business Days' notice to the Company, cancel the Commitments of that Lender and declare the participation of that Lender in all outstanding Utilisations, together with accrued interest and all other amounts accrued under the Finance Documents to that Lender, immediately due and payable, whereupon the Commitment of that Lender will be cancelled and all such outstanding amounts will become immediately due and payable and full cash cover in respect of its participation in each Letter of Credit shall be immediately due and payable,

unless the Majority Lenders otherwise agree.

- (c) Upon the occurrence of a Listing (not resulting in a Change of Control), the Parent will:
- (i) promptly notify the Agent upon becoming aware of that event; and
 - (ii) ensure that:
 - (A) if, on a *pro forma* basis (taking into account prepayments to be made in respect of such IPO Proceeds but otherwise ignoring the *pro forma* effect of such IPO Proceeds on Cash), the ratio of Consolidated Total Net Debt on the Quarter Date prior to the Listing for which Financial Statements are available (or if no such Financial Statements have yet been delivered, as at the Closing Date) to Consolidated Pro Forma EBITDA for the Relevant Period ending on such date (calculated in accordance with Clause 26 (*Financial Covenant*)) is greater than 3.50:1, one hundred per cent. (100%) of the IPO Proceeds shall be applied in prepayment of the Facilities in accordance with Clause 12.4 (*Application of prepayments*) to the extent required to reduce the *pro forma* ratio of Consolidated Total Net Debt to Consolidated Pro Forma EBITDA to 3.50:1;
 - (B) to the extent that, on a *pro forma* basis (taking into account prepayments to be made in respect of such IPO Proceeds but otherwise ignoring the *pro forma* effect of such IPO Proceeds on Cash), the ratio of Consolidated Total Net Debt on the Quarter Date prior to the Listing for which Financial Statements are available (or if no such Financial Statements have yet been delivered, as at the Closing Date) to Consolidated Pro Forma EBITDA for the Relevant Period ending on such date (calculated in accordance with Clause 26 (*Financial Covenant*)) is (or becomes, taking into account the application of any prepayment required under paragraph (A) above) greater than 3.00:1, but less than or equal to 3.50:1, fifty per cent. (50%) of the remaining IPO Proceeds shall be applied in prepayment of the Facilities in accordance with Clause 12.4 (*Application of prepayments*) to the extent required to reduce the *pro forma* ratio of Consolidated Total Net Debt to Consolidated Pro Forma EBITDA to 3.00:1; and
 - (C) thereafter if, on a *pro forma* basis (taking into account prepayments to be made in respect of such IPO Proceeds but otherwise ignoring the *pro forma* effect of such IPO Proceeds on Cash), the ratio of Consolidated Total Net Debt on the Quarter Date prior to the Listing for which Financial Statements are available (or if no such Financial Statements have yet been delivered, as at the Closing Date) to Consolidated Pro Forma EBITDA for the Relevant Period ending on such date (calculated in accordance with Clause 26 (*Financial Covenant*)) is (or becomes, taking into account the application of any prepayment required and deducting such amounts as the Parent is entitled to retain, in each case, under paragraphs (A) and (B) above) less than or equal to 3.00:1, no prepayment of the remaining IPO Proceeds shall be required to be made and such IPO Proceeds may be retained by the Group for any purpose not prohibited by the Finance Documents.

12.2 Disposal, insurance and recovery proceeds

- (a) In this Agreement:

“Disposal Proceeds” means the Net Cash Proceeds received by a member of the Group in relation to any Disposal (or series of related Disposals) except for Excluded Disposal Proceeds.

“Disposal” means any sale, lease, licence, transfer, loan or other disposal of all or any part of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions, including any Permitted Sale and Leaseback) of any member of the Group.

“Excluded Disposal Proceeds” means the Net Cash Proceeds of any Disposal:

- (i) to the extent falling within paragraphs (a), (b), (c), (d), (f), (h), (j), (k), (l), (m), (n), (o), (q) and (u) of the definition of Permitted Disposal and paragraph (v) of the definition of Permitted Disposal to the extent that the disposals to the relevant special purpose vehicle are Permitted Disposals under the paragraphs of that definition listed in this paragraph; or
- (ii) which is an individual Disposal where the Net Cash Proceeds from such Disposal are in an amount less than EUR 1,500,000 (or its equivalent in any other currency or currencies); or
- (iii) which is a Permitted Disposal to the extent not otherwise excluded in this definition, where the Net Cash Proceeds of such disposal are, within twelve (12) Months of receipt, applied or committed to be applied by the board of the Parent (and if so committed to be applied, are actually applied within eighteen (18) Months of receipt) in the purchase of replacement assets or to finance a Permitted Acquisition or Capital Expenditure or (in the case of any Disposal falling within paragraph (r) of the definition of Permitted Disposal only) to purchase other assets (other than Cash or Cash Equivalent Investments) useful in the business of the Group, or otherwise applied in mandatory prepayment of the Facilities or the Additional Facility in accordance with Clause 12.4 (*Application of prepayments*) or the Second Lien Facility, Second Lien Additional Facility or any other Permitted Alternative Debt, in each case, in a manner not prohibited under the Finance Documents; or
- (iv) the Net Cash Proceeds from a Disposal which, when aggregated with the Net Cash Proceeds of other Disposals made in the same Financial Year of the Parent, are up to a maximum aggregate amount of EUR 7,000,000 (or its equivalent in any other currency or currencies) **provided that** the Net Cash Proceeds of a Disposal falling within sub-paragraphs (i) to (iii) above shall be disregarded for the purposes of calculating the amount of the Net Cash Proceeds under this sub-paragraph.

“Excluded Insurance Proceeds” means the Net Cash Proceeds of any insurance claim:

- (i) which are received in respect of third party liability, public liability, directors liability, business interruption, loss of earnings or similar claims; or
- (ii) in respect of the loss or destruction of assets and where the Net Cash Proceeds of such insurance claim are, within twelve (12) Months of receipt, applied or committed to be applied by the board of the Parent (and if so committed to be applied, are actually applied within eighteen (18) Months of receipt) in the replacement, reinstatement and/or repair of the relevant asset (or reimbursement of a member of the Group for funding any of the foregoing) or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made, or otherwise applied in mandatory prepayment of the Facilities or the Additional Facility in accordance with Clause 12.4 (*Application of prepayments*)

or the Second Lien Facility, Second Lien Additional Facility or any other Permitted Alternative Debt, in each case, in a manner not prohibited under the Finance Documents; or

- (iii) which relates to an individual claim the aggregate proceeds of which are less than EUR 1,500,000 (or its equivalent in any other currency or currencies); or
- (iv) the Net Cash Proceeds from an insurance claim which, when aggregated with the Net Cash Proceeds of other insurance claims made in the same Financial Year of the Parent, are up to a maximum aggregate amount of EUR 7,000,000 (or its equivalent in any other currency or currencies) **provided that** the Net Cash Proceeds from an insurance claim falling within sub-paragraphs (i) to (iii) above shall be disregarded for the purposes of calculating the amount of the Net Cash Proceeds under this sub-paragraph).

“Excluded Recovery Proceeds” means the Net Cash Proceeds of any Recovery Claim:

- (i) which are, within twelve (12) Months of receipt, applied or committed to be applied by the board of the Parent (and if so committed to be applied, are actually applied within eighteen (18) Months of receipt) to satisfy (or reimburse a member of the Group which has discharged) a liability of a member of the Group in compensation for a loss or in rectifying the deficiency (including, without limitation, tax liability, environmental liability, litigation and working capital deficiency) giving rise to that Recovery Claim;
- (ii) which relates to an individual claim the aggregate proceeds of which are less than EUR 1,500,000 (or its equivalent in any other currency or currencies); or
- (iii) the Net Cash Proceeds from a Recovery Claim which, when aggregated with the Net Cash Proceeds of other Recovery Claims made in the same Financial Year of the Parent, are up to a maximum aggregate amount of EUR 7,000,000 (or its equivalent in any other currency or currencies), **provided that** the Net Cash Proceeds of a Recovery Claim under sub-paragraphs (i) and (ii) above shall be disregarded for the purposes of calculating the amount of the Net Cash Proceeds under this sub-paragraph.

“Insurance Proceeds” means the Net Cash Proceeds of any insurance claim (or series of related insurance claims) received by a member of the Group in respect of the loss or destruction of assets of the Group except for Excluded Insurance Proceeds.

“Recovery Claim” means:

- (i) any claim against the Vendors (or any of their respective Affiliates, employees, officers or advisers, or any other person) in relation to the Acquisition Documents; and
- (ii) any claim against the provider of any Report.

“Recovery Proceeds” means the Net Cash Proceeds of any Recovery Claim by a member of the Group (including any Award Proceeds (as defined in the Investor Proceeds Letter)) except for Excluded Recovery Proceeds.

“Net Cash Proceeds” means the cash proceeds, in each case, consequent upon a Disposal, insurance claim, Recovery Claim or from a Listing, in each case, after deducting:

- (i) all taxes incurred and required to be paid or reserved against (as reasonably determined by the Parent on the basis of their existing rates) by the seller or

claimant in relation to the Disposal, insurance claim, Recovery Claim, or from a Listing (including without limitation any Taxes incurred as a result of the transfer of any cash consideration intra-Group);

- (ii) fees, costs and expenses (including, for the avoidance of doubt, reasonable legal fees, reasonable agents' commission, reasonable auditors' fees, reasonable out-of-pocket reorganisation costs (including redundancy, closure and other restructuring costs, both preparatory to, and in consequence of, the relevant disposal, insurance claim, Recovery Claim, or from a Listing));
 - (iii) any amount required to be applied in repayment or prepayment of any Financial Indebtedness other than the Facilities (including, without limitation, to an entity the subject of a disposal, amounts to be repaid or prepaid to the entity disposed of in respect of intra-Group indebtedness and any third party debt secured on the assets disposed of which is to be repaid or prepaid out of those proceeds) or amounts owed to partners in Permitted Joint Ventures as a consequence of that Disposal, insurance claim, Recovery Claim or from a Listing; and
 - (iv) any reasonable amounts retained to cover indemnities, contingent and other liabilities in connection with the Disposal, insurance claim, Recovery Claim, or from a Listing.
- (b) The Parent shall ensure that an amount equal to the following amounts is applied in prepayment of the Facilities at the times and in the order of application contemplated by Clause 12.4 (*Application of prepayments*):
 - (i) an amount equal to any Disposal Proceeds;
 - (ii) an amount equal to any Insurance Proceeds; and
 - (iii) an amount equal to any Recovery Proceeds.
- (c) Any prepayment under this Clause 12.2 shall, unless the Parent makes an election under paragraph (d) below, be made promptly (and by no later than ten (10) Business Days) after the relevant circumstance or event giving rise to such prepayment.
- (d) The Parent may elect that any prepayment under this Clause 12.2 shall be applied in prepayment of a Loan on the last day of the Interest Period relating to that Loan **provided that**:
 - (i) if the Parent makes such an election then a proportion of the Loan equal to the amount of the relevant prepayment shall be due and payable on the last day of its next Interest Period;
 - (ii) no such election may be made at any time while an Event of Default has occurred and is continuing, and if the Parent has so made an election under this paragraph 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 (if the Majority Lenders so require in writing).

12.3 Excess Cash Flow

- (a) The Parent will ensure that as soon as reasonably practicable, and in any event within ten (10) Business Days of the delivery of the Annual Financial Statements and Compliance Certificate for the relevant Financial Year (commencing with the first full Financial Year after the Closing Date), an amount (if positive) equal to the applicable percentage of the

Excess Cash Flow for such Financial Year less (i) (only to the extent not deducted from Excess Cash Flow) voluntary prepayments and the consideration paid for Debt Purchase Transactions of the Term Facilities by the Group in that Financial Year and (ii) the Excess Cash Flow De Minimis, is applied in prepayment of the Facilities pursuant to Clause 12.4 (*Application of prepayments*) below, where the applicable percentage is set out in the table below opposite the applicable ratio of Consolidated Senior Secured Net Debt to Consolidated Pro Forma EBITDA as demonstrated by the Annual Financial Statements for such Financial Year and, for this purpose, the ratio of Consolidated Senior Secured Net Debt to Consolidated Pro Forma EBITDA shall be calculated taking into account any prepayment made under this paragraph (a) until such time (if any) as such ratio falls to the next or subsequent level, whereupon that applicable percentage shall apply:

Ratio of Consolidated Senior Secured Net Debt to Consolidated Pro Forma EBITDA	Percentage of Excess Cash Flow
Greater than 4.25:1	50%
Equal to or less than 4.25:1 but greater than 3.75:1	25%
Equal to or less than 3.75:1	0%

12.4 Application of prepayments

- (a) Prepayments made pursuant to Clause 12.1 (*Exit and Listing*), Clause 12.2 (*Disposal, insurance and recovery proceeds*) and Clause 12.3 (*Excess Cash Flow*) shall be applied in the following order:
- (i) **first**, in prepayment of the Term Loans under Facility B and each Additional Facility *pro rata* **provided that**, if at such time Facility B has not been repaid in full or would not be paid in full after giving effect to the application of proceeds from the Additional Facility or other payment or transaction, an Amortising Additional Facility may not be prepaid pursuant to this paragraph if amortisation payments for such Amortising Additional Facility commence after the Termination Date for Facility B as at the date of this Agreement;
 - (ii) **secondly**, in cancellation of the Available Commitments under any Additional Facility *pro rata* (and the Available Commitment of the respective Lenders under each Additional Facility will be cancelled rateably);
 - (iii) **thirdly**, in cancellation of the Available Commitments under the Revolving Facility (and the Available Commitment of the respective Lenders under the Revolving Facility will be cancelled rateably);
 - (iv) **fourthly**, in permanent prepayment and cancellation of Revolving Facility Utilisations (such that any outstanding Revolving Facility Loans shall be prepaid before outstanding Letters of Credit) and cancellation of Revolving Facility Commitments; and
 - (v) **then**, in prepayment and cancellation of the Ancillary Outstandings and Ancillary Commitments,

provided that any Additional Facility Loans (if any) will only be prepaid in accordance with paragraph (i) above and paragraph (b) and (c) below after the end of the applicable Availability Period for such Facilities.

- (b) A prepayment which is to be applied to prepay the Amortising Facilities under paragraph (a)(i) above shall, be applied in amounts which reduce the relevant Amortising Facility, *pro rata* to each Additional Facility Loan.
- (c) A prepayment which is to be applied to prepay the Term Loans under paragraph (a)(i) above shall, subject to Clause 12.5 (*Right to Refuse Prepayment*) below, be applied in amounts which reduce the relevant Facility B Loans and the Additional Facility Loans by the same proportion, and, as within Facility B, *pro rata* to each Facility B Loan and, as within the Additional Facility, *pro rata* to each Additional Facility Loan.
- (d) The Parent and each other Obligor shall use all reasonable endeavours to ensure that any transaction giving rise to a prepayment obligation or obligation to provide cash cover is structured in such a way that it will not be unlawful for the Obligors or other members of the Group to move the relevant proceeds received between members of the Group to enable a mandatory prepayment to be lawfully made, cash cover lawfully provided and the proceeds lawfully applied as provided under this Clause 12 (*Mandatory Prepayment*), and/or to minimise the costs and Taxes of making such mandatory prepayment (including using all reasonable endeavours to fund such payment from surplus cash in the Group that is not so trapped provided doing so would not be materially prejudicial to overall Group liquidity or the availability of such cash to members of the Group requiring funds). If, however the costs and Taxes of making (or moving the funds to make) such mandatory prepayment under this Clause 12 (*Mandatory Prepayment*) would in aggregate exceed three per cent. (3.0%) ("**Material Costs**") of the amount of such payment at that time or after the Parent and each such Obligor has used all such reasonable endeavours and taken such reasonable steps, or it will still:
 - (i) be unlawful (including, without limitation, by reason of thin capitalisation, financial assistance, corporate benefit restrictions on upstreaming cash intra-group and the fiduciary and statutory duties of the directors or other officers of any member of the Group) or breach contractual restrictions (that were not entered into for the purpose of limiting such prepayment) for such a prepayment to be made and/or cash cover to be provided and the proceeds so applied (including where counsel to the Group has advised that there is a reasonable likelihood of personal liability of management or shareholders); or
 - (ii) be unlawful (including, without limitation, by reason of thin capitalisation, financial assistance, corporate benefit restrictions on upstreaming cash intra-group and the fiduciary and statutory duties of the directors or other officers of any member of the Group) or breach contractual restrictions (that were not entered into for the purpose of limiting such prepayment) to make funds available to a member of the Group that could make such a prepayment and/or provide such cash cover (including where counsel to the Group has advised that there is a reasonable likelihood of personal liability of management or shareholders),

then such prepayment and/or provision of cash cover shall not be required to be made (and, for the avoidance of doubt, the relevant amount shall be available for the working capital purposes of the Group and shall not be required to be paid to a mandatory prepayment account or any other blocked account) provided always that if the unlawfulness, restriction or other impediment (including Material Costs) preventing such payment/provision of cash cover or giving rise to such liability is subsequently removed or otherwise ceases to apply, any relevant proceeds will immediately be applied in prepayment and/or the provision of cash cover in accordance with this Clause 12 (*Mandatory Prepayment*) at the end of the relevant Interest Period(s) to the extent that such payment or provision of cash cover has not otherwise been made.

- (e) The obligation to make a mandatory prepayment under Clause 12.1 (*Exit and Listing*) shall not be subject to any limitation set out under paragraph (c) above.

- (f) If any Term Loans are prepaid in accordance with Clause 11.4 (*Voluntary prepayment of Term Loans*) then:
 - (i) the Parent may, by giving not less than three (3) Business Days' notice to the Agent, select in the case of a Term Facility, which Borrower or Borrowers (if more than one) under the relevant Facility shall effect repayment of each Loan; or
 - (ii) if the Parent does not make an election under this paragraph, each Borrower shall effect such repayment on a *pro rata* basis.

12.5 Right to Refuse Prepayment

- (a) The Agent shall notify the Lenders as soon as practicable of any proposed prepayment of Term Loans under Clause 11.4 (*Voluntary prepayment of Term Loans*), paragraph (c) of Clause 12.1 (*Exit and Listing*), 12.2 (*Disposal, insurance and recovery proceeds*) or 12.3 (*Excess Cash Flow*).
- (b) If a Facility B Lender (a “**Non-Accepting Lender**”) to which the proposed payment would otherwise be made, gives notice to the Agent by 11.00 a.m. on the third Business Day prior to the date on which a prepayment referred to in paragraph (a) above is to be made (or such shorter period as the Majority Lenders may agree), that Lender will waive its right to receive such prepayment to the extent specified in its notice.
- (c) If any Non-Accepting Lender delivers any notice under paragraph (b) above, the amount in respect of which that Non-Accepting Lender has waived its right to prepayment (the “**Waived Amount**”) shall be offered to the other Facility B Lenders (*pro rata* to their respective Facility B Commitments). To the extent that those Facility B Lenders elect not to receive any part of the Waived Amount, the balance of the Waived Amount shall be applied to any Additional Facility Lenders (after the end of the applicable Availability Period for the relevant Additional Facility Commitments) *pro rata* to their respective participations. In the event that those Lenders do not have sufficient Loans outstanding against which to apply the Waived Amount, the balance of the Waived Amount shall be offered to any Lenders that do wish to receive such further part of the Waived Amount (*pro rata* amongst them if there is an insufficient amount to meet their wishes) **provided that** any balance of the Waived Amount not so distributed to other Lenders (the “**Residual Waived Amount**”) shall be retained by the Group or, at the election of the Parent, prepaid to the relevant Non-Accepting Lender.

12.6 Excluded proceeds

- (a) Where Excluded Recovery Proceeds, Excluded Disposal Proceeds and Excluded Insurance Proceeds include amounts which are intended to be used for a specific purpose within a specified period (as set out in the applicable definition of Excluded Recovery Proceeds, Excluded Disposal Proceeds or Excluded Insurance Proceeds), the Parent shall ensure that those amounts are used for that purpose and/or otherwise applied in prepayment of the Facilities in accordance with this Clause 12.
- (b) Subject to (a) above, any proceeds of Disposals, insurance claims, Recovery Claims a Listing and Excess Cash Flow not, in each case, required to be applied in prepayment of the Facilities hereunder, may be retained by the Group for its general corporate purposes and application by it in any manner not restricted by the Finance Documents or to fund or make Capital Expenditure, Permitted Acquisitions, Permitted Joint Ventures, Permitted Loans, Permitted Guarantees, or Permitted Payments.

13 RESTRICTIONS

13.1 Notices of Cancellation or Prepayment

Any notice of cancellation, prepayment, authorisation or other election given by any Party under Clause 11 (*Illegality, Voluntary Prepayment and Cancellation*) or Clause 12.5 (*Right to Refuse Prepayment*) shall (subject to the terms of those Clauses), unless a contrary indication appears in this Agreement, specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment. In the event that a Borrower delivers a conditional or revocable notice of voluntary cancellation and/or voluntary prepayment under this Agreement, which it shall be permitted to do, that Borrower shall be liable for any cost, loss or liability reasonably incurred by any Lender as a result of that payment not being made (provided any demand is accompanied by reasonable calculations or details of the amount demanded).

13.2 Interest and other amounts

Save in respect of any Debt Pushdown, any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.

13.3 No reborrowing of Term Facilities

Save in respect of any Debt Pushdown, no Borrower may reborrow any part of a Term Facility which is prepaid.

13.4 Reborrowing of Revolving Facility

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

13.5 Prepayment in accordance with Agreement

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

13.6 No reinstatement of Commitments

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

13.7 Agent's receipt of Notices

If the Agent receives a notice under Clause 11 (*Illegality, Voluntary Prepayment and Cancellation*) or an election under Clause 12.5 (*Right to Refuse Prepayment*), it shall promptly forward a copy of that notice or election to either the Parent or the affected Lender, as appropriate.

13.8 Effect of Repayment and Prepayment on Commitments

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

14 INTEREST

14.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

- (a)** Margin; and
- (b)** EURIBOR for Utilisations in EUR, CIBOR for Utilisations in Danish Kroner and LIBOR for all other Utilisations.

14.2 Payment of interest

- (a)** The Borrower to which a Loan has been made shall pay accrued interest on that Loan on the last day of each Interest Period (and, if the Interest Period is longer than six (6) Months, on the dates falling at six-monthly intervals after the first day of the Interest Period).
- (b)** If the Annual Financial Statements and related Compliance Certificate received by the Agent show a higher or lower Margin should have applied during a certain period then the next payment of interest under the relevant Facility following receipt of the relevant Annual Financial Statements by the Agent shall be increased or reduced (as the case may be) by such amount as is necessary to put the Agent and the Lenders in the position that they should have been in had the appropriate rate of Margin been applied at the time (**provided that** any such reduction shall only apply to the extent the Lender which received the overpayment of interest remains a Lender as at the date of such adjustment and, with respect to payments to Lenders, such payments shall only apply to Lenders who were participating in the relevant Facility both at the time to which the adjustments relate and the time when the adjustments are actually made).

14.3 Default interest

- (a)** If the Parent or an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall, to the extent permitted by law, accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is one per cent. (1%) higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 14.3 shall be immediately payable by the Parent or 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. (1%) 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 (other than an amount due from a French Obligor) will be compounded (to the extent permitted under any applicable law, including article 1283 of the Italian Civil Code, article 120 of the Italian Banking Law and article 317 of the Spanish Commercial Code) with the overdue amount at the end of each

Interest Period applicable to that overdue amount but will remain immediately due and payable.

14.4 Notification of rates of interest

The Agent shall promptly (and in any event within five (5) Business Days) notify the Lenders and the relevant Borrower (or the Parent) of the determination of a rate of interest under this Agreement.

14.5 Compounding of interest due by a French Guarantor

Any interest due by any French Obligor and unpaid under the Finance Documents (including any default interest accrued pursuant to Clause 14.3 (*Default interest*)) shall be compounded on an annual basis in accordance with the provisions of Article 1154 of the French Civil Code.

14.6 Compounding of interest due by a Spanish Guarantor

For the purposes of article 317 of the Spanish Commercial Code, any interest due by any Spanish Guarantor and unpaid under the Finance Documents (including any default interest accrued pursuant to Clause 14.3 (*Default interest*)) will be compounded with the principal amount of the relevant Loan at the end of each Interest Period but shall remain immediately due and payable.

14.7 Interest Act (Canada)

For purposes of disclosure pursuant to the Interest Act (Canada), whenever any interest or fee under this Agreement (or any other Finance Document) is calculated using a rate based on a number of days less than a full year, such rate determined pursuant to such calculation, when expressed as an annual rate, is equivalent to (x) the applicable rate based on a year of 360, 365 or 366 days, as the case may be, (y) multiplied by the actual number of days in the calendar year in which the period for which such interest or fee is payable (or compounded) ends, and (z) divided by the number of days based on which such rate is calculated. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement (or any other Finance Document). The rates of interest stipulated in this Agreement (or any other Finance Document) are intended to be nominal rates and not effective rates or yields.

14.8 Criminal rate of interest (Canada)

In no event shall the aggregate “interest” (as defined in Section 347 (the “**Criminal Code Section**”) of the Criminal Code (Canada)), payable to any Finance Party under this Agreement or any other Finance Document exceed the effective annual rate of interest lawfully permitted under the Criminal Code Section on the “credit advanced” (as defined in such section) under this Agreement or any other Finance Document. Further, if any payment, collection or demand pursuant to this Agreement or any other Finance Document in respect of such “interest” is determined to be contrary to the provisions of the Criminal Code Section, such payment, collection, or demand shall be deemed to have been made by mutual mistake of the affected Finance Party and the affected Obligor and such “interest” shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by the Criminal Code Section so as to result in receipt by such Lender of interest at a rate not in contravention of the Criminal Code Section, such adjustment to be effected, to the extent necessary, as follows:

- (a) **firstly**, by reducing the amounts or rates of interest required to be paid to that Lender; and
- (b) **then**, by reducing any fees, charges, expenses and other amounts required to be paid to the affected Lender which would constitute “interest”.

Notwithstanding the above, and after giving effect to all such adjustments, if any Lender shall have received an amount in excess of the maximum permitted by the Criminal Code Section, then the affected Obligor shall be entitled, by notice in writing to the affected Lender, to obtain reimbursement from that Lender in an amount equal to such excess and, pending such reimbursement, such amount shall be deemed to be an amount payable by such Lender to the affected Obligor. Any amount or rate of interest referred to in this Clause 14 shall be determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term that the applicable Ancillary Outstandings or Advances outstanding remain outstanding on the assumption that any charges, fees or expenses that fall within the meaning of "interest" (as defined in the Criminal Code (Canada)) shall, if they relate to a specific period of time, be pro-rated over that period of time and otherwise be pro-rated over the period from the date of this Agreement to the Termination Date for the Facility to which such charges, fees or expenses relate and, in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Facility Agent shall be conclusive for the purposes of such determination.

14.9 Minimum Interest

When entering into this Agreement, the Parties have assumed that the interest payable hereunder is not and will not become subject to any tax deduction on account of Swiss Withholding Taxes (the "**Swiss Tax Deduction**"). Notwithstanding the foregoing, if a Swiss Tax Deduction is required by law in respect of any payment under a Finance Document and should it be unlawful for an Obligor to comply with Clause 18.3 (*Tax Gross Up*) for any reason (where this would otherwise be required by the terms of Clause 18.3 (*Tax Gross Up*) (taking into account the exclusions in Clause 18.3 (*Tax Gross Up*)) then:

- (a) the applicable interest rate in relation to that interest payment shall be (i) the interest rate which would have applied to that interest payment as provided for in Clause 14.1 (*Calculation of interest*) divided by (ii) one (1) minus the rate at which the relevant Swiss Tax Deduction is required to be made under Swiss domestic tax law and/or applicable double taxation treaties (where the rate at which the relevant Swiss Tax Deduction is required to be made is for this purpose expressed as a fraction of one (1)); and
- (b) that Obligor shall:
 - (i) pay the relevant interest at the adjusted rate in accordance with paragraph (a) above,
 - (ii) make the Swiss Tax Deduction on the interest so recalculated, and
 - (iii) all references to a rate of interest under the Finance Documents shall be construed accordingly.

To the extent that interest payable by an Obligor under a Finance Document becomes subject to Swiss Withholding Tax, each relevant Lender and the Obligor shall promptly co-operate in completing any procedural formalities (including submitting forms and documents required by the appropriate tax authority) to the extent possible and necessary (i) for the relevant Obligor to obtain authorization to make interest payments without them being subject to Swiss Withholding Tax or to being subject to Swiss Withholding Tax at a rate reduced under applicable double taxation treaties and (ii) to ensure that any person which is so entitled to a full or partial refund under any double taxation treaty is so refunded.

14.10 Italian Usury Law

The Parties mutually acknowledge that the rate of interest applicable to Loans under this Agreement (including the relevant component of any applicable fee and expense) determined as of the date of execution of this Agreement is believed in good faith to be in compliance with Law

No. 108 of 7 March 1996 as amended, supplemented or implemented from time to time (the “**Italian Usury Law**”). In any event, the Parties agree and accept that if, pursuant to a change in law or in the official interpretation of Italian Usury Law, or for any reason whatsoever, the rate of interest and/or the default rate of interest applicable to a Loan (if due at such time by any Italian Obligor) at any time is deemed to exceed the maximum rate permitted by Italian Usury Law, then the relevant interest rate or default rate applicable to such Italian Obligor shall be automatically reduced to the maximum admissible interest rate pursuant to such legislation, for the period during which it is not possible to apply the interest rate as originally agreed in this Agreement.

15 INTEREST PERIODS

15.1 Selection of Interest Periods and Terms

- (a) A Borrower (or the Parent on behalf of a Borrower) may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan is a Term Loan and has already been borrowed) in a Selection Notice.
- (b) Each Selection Notice for a Term Loan is irrevocable and must be delivered to the Agent by the Borrower (or the Parent on behalf of the Borrower) to which that Term Loan was made not later than the Specified Time.
- (c) If a Borrower (or the Parent) fails to deliver a Selection Notice to the Agent in accordance with paragraph (b) above, the relevant Interest Period will be three (3) Months.
- (d) Subject to this Clause 15, a Borrower (or the Parent) may select an Interest Period of one (1), two (2), three (3) or six (6) Months or such other period agreed between the Parent and the Agent (acting on the instructions of the Majority 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 or as applicable a term Additional Facility 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.
- (h) A Borrower (or the Parent on its behalf) may select an Interest Period of less than one (1) Month:
 - (i) in relation to a Term Facility if necessary or desirable to implement any interest rate hedging in relation to that Term Facility which the Group is required to enter into in accordance with the Hedging Letter; and
 - (ii) in relation to an Amortising Facility if necessary or desirable to ensure that there are Amortising Facility Loans (with an aggregate Base Currency Amount) equal to or greater than an Amortising Facility Repayment Instalment with an Interest Period ending on a Amortising Facility Repayment Date for an Amortising Facility in order for the Borrowers to make the Amortising Facility Repayment Instalment due on that date.
- (i) Prior to the earlier of (i) completion of syndication of the Facilities in the manner agreed between the Parent and the Mandated Lead Arrangers on or prior to the date of this Agreement (as notified by the Mandated Lead Arrangers to the Parent) and (ii) the last day of the Certain Funds Period, Interest Periods shall be one or two (2) weeks or such other period as the Agent and the Parent may agree.

15.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

15.3 Consolidation and division of Term Loans

(a) If two or more Interest Periods:

- (i) relate to Facility B Loans to be made to the same Borrower; and
- (ii) end on the same date,

those Facility B Loans will, unless that Facility B Borrower requests to the contrary in a Selection Notice for the next Interest Period or those Loans are denominated in different currencies, be consolidated into, and treated as, a single Facility B Loan on the last day of the Interest Period.

(b) If two or more Interest Periods:

- (i) relate to Additional Facility Loans to be made to the same Borrower by the same Lenders; and
- (ii) end on the same date,

those Additional Facility Loans will, unless that Additional Facility Borrower requests to the contrary in a Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Additional Facility Loan on the last day of the Interest Period.

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

16 CHANGES TO THE CALCULATION OF INTEREST

16.1 Unavailability of Screen Rate

(a) If no Screen Rate is available for LIBOR, EURIBOR or CIBOR (as applicable), for the Interest Period of a Loan, the applicable LIBOR, CIBOR or EURIBOR (as applicable) shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.

(b) If no Screen Rate is available for LIBOR, EURIBOR or CIBOR (as applicable) for:

- (i) the currency of a Loan; or
- (ii) the Interest Period of a Loan and it is not possible to calculate the Interpolated Screen Rate,

the applicable LIBOR, CIBOR or EURIBOR (as applicable) 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) If paragraph (b) above applies but no Base Reference Bank Rate is available for the relevant currency or Interest Period, Clause 16.3 (*Market disruption*) shall apply to that Loan for that Interest Period.

16.2 Calculation of Base Reference Bank Rate

- (a) Subject to paragraph (b) below, if LIBOR, CIBOR 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.

16.3 Market disruption

- (a) If a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender's share of that Loan for the Interest Period shall be the percentage rate per annum which is the sum of:
 - (i) the Margin; and
 - (ii) the rate notified to the Agent by that Lender as soon as practicable and in any event by close of business on the date falling two (2) Business Days after the Quotation Day (or, if earlier, on the date falling five (5) Business Days prior to 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 that Lender of funding its participation in that Loan from whatever source it may reasonably select,

provided that, if the percentage rate per annum notified by the Lender is less than the applicable LIBOR, CIBOR or EURIBOR (as applicable), or a Lender has not notified the Agent of a percentage rate per annum, the cost of that Lender of funding its participation in that Loan for that Interest Period shall be deemed (for the purposes of this paragraph (a)) to be the applicable LIBOR, CIBOR or EURIBOR (as applicable).

In this Agreement:

“Market Disruption Event” means:

- (i) at or about noon on the Quotation Day for the relevant Interest Period, LIBOR, CIBOR or, EURIBOR, is to be determined by reference to the Base Reference Banks and none or only one of the Base Reference Banks supplies a rate to the Agent to determine the applicable LIBOR, CIBOR or EURIBOR (as applicable), for the relevant currency and Interest Period; or
- (ii) 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 thirty-five per cent. (35%) of that Loan) that the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of the applicable LIBOR, CIBOR or EURIBOR (as applicable).

16.4 Alternative basis of interest or funding

- (a)** If a Market Disruption Event occurs 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 (30) days) with a view to agreeing a substitute basis for determining the rate of interest.
- (b)** Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and the Parent, be binding on all Parties.

16.5 Break Costs

- (a)** Each Borrower shall, within three (3) Business Days of 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, together with any demand by the Agent under paragraph (a) above, provide a certificate confirming the amount of (and giving reasonable details of the calculation of) its Break Costs for any Interest Period in which they accrue, a copy of which shall be provided to the Parent.

17 FEES

17.1 No deal, No fees

No fees, commissions, costs or other expenses (other than reasonable legal fees up to an amount to be agreed) will be payable unless a Utilisation under a Facility occurs.

17.2 Commitment fee

- (a)** The Parent shall pay (or procure there is paid) to the Agent (for the account of each Lender) a fee in the Base Currency computed at:
 - (i)** the rate of thirty five (35) per cent. of the applicable Margin on that Lender's Available Commitment under the Revolving Facility for the period commencing on the Closing Date and ending on the last day of the Availability Period applicable to the Revolving Facility; and
 - (ii)** the rate and for the period (if any) specified in the relevant Additional Facility Notice on that Additional Facility Lenders Available Commitment under the relevant Additional Facility.
- (b)** The accrued commitment fee is payable on the last day of each successive period of three (3) Months which ends during the Availability Period applicable to the Revolving Facility or Additional Facility (as applicable), on the last day of the Availability Period applicable to the Revolving Facility or Additional Facility and on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.
- (c)** No accrued commitment fee shall be payable if the Closing Date does not occur.
- (d)** No commitment fee is payable to the Agent (for the account of a Lender) on any Available Commitment of that Lender for any day on which that Lender is a Defaulting Lender.

17.3 Underwriting fee

The Company shall pay (or procure there is paid) to each Mandated Lead Arranger an underwriting fee in the amount and at the times agreed in a Fee Letter.

17.4 Ticking fee

The Company shall pay (or procure there is paid) a ticking fee in the manner, the amount and at the times agreed in a Fee Letter.

17.5 Agent and Security Agent fees

The Parent shall pay (or procure there is paid) to the Agent and the Security Agent (in each case for its own account) a fee in the amount and at the times agreed in a Fee Letter.

17.6 Fees payable in respect of Letters of Credit

- (a) The Parent or a Revolving Facility Borrower shall pay (or procure there is paid) to the Issuing Bank a fronting fee at the rate of 0.0875 per cent. per annum (unless otherwise agreed by the relevant Issuing Bank) on the part of its outstanding exposure under each Letter of Credit requested by it which is counter-indemnified by other Lenders (that are not Affiliates of the Issuing Bank) and which is not cash collateralised, repaid, prepaid or cancelled, for the period from the issue of that Letter of Credit until its Expiry Date (or the date of its repayment, prepayment or cancellation, if earlier).
- (b) The Parent or each Revolving Facility Borrower for whose account a Letter of Credit is issued shall pay (or procure there is paid) to the Agent (for the account of each Revolving Facility Lender) a Letter of Credit fee in the currency of that Letter of Credit on the outstanding amount of each Letter of Credit (excluding any amount in respect of which cash cover has been provided) requested by it for the period from the issue of that Letter of Credit until the expiry date (or the date of its cancellation, if earlier). The Letter of Credit fee shall be computed at the rate equal to the applicable Margin for the Revolving Facility. Any such fee shall be distributed according to each Facility Lender's L/C Proportion of that Letter of Credit.
- (c) The fees payable under paragraphs (a) and (b) above shall be payable on each Quarter Date and on the date on which the Total Revolving Facility Commitments are cancelled in full.

17.7 Facility B Soft Call

If on or prior to the date falling six (6) Months after the Closing Date (but not otherwise) any member of the Group:

- (a) prepays, refinances, or reprices the whole or any part of any Facility B Loan in connection with any Repricing Transaction; or
- (b) effects any amendment of or to a Finance Document that results in a Repricing Transaction,

the Company shall, within five (5) Business Days' of such Repricing Transaction taking effect, pay (or procure the payment of) to the Agent, for the account of each applicable Lender (without double counting):

- (c) in the case of paragraph (a) above, a prepayment fee in the Base Currency equal to one per cent. (1.00%) flat on the aggregate principal amount of that Lender's participation in the amount of the Facility B Loan which is prepaid, refinanced or repriced; and

- (d) in the case of paragraph (b) above, a prepayment fee in the Base Currency equal to one per cent. (1.00%) flat on the aggregate principal amount of the Facility B Loans of each Lender:
 - (i) that shall have been the subject of a mandatory transfer, assignment, prepayment or cancellation pursuant to paragraph (a) of Clause 42.5 (*Replacement of Lender*) where such Lender is a Non-Consenting Lender in respect of the amendment referred to in paragraph (b) above; or
 - (ii) that rolls or transfers into any new or replacement tranche of one or more term loans that is put in place as part of, that Repricing Transaction.
- (e) For the avoidance of doubt, no fee shall be payable under this Clause 17.7 (*Facility B Soft Call*) as a result of any Debt Pushdown.

In this Clause:

“Repricing Transaction” means (i) any prepayment or repayment of a Facility B Loan, in whole or in part, with the proceeds of, or conversion or replacement of a Facility B Loan, in whole or in part, into, any new or replacement tranche of term loans having an “effective yield” (taking into account all fees (including upfront or similar fees), interest rate spreads, interest rate benchmark floors and original issue discount (amortised over the shorter of (a) the remaining weighted average life to maturity of that new or replacement tranche of term loans and (b) the three (3) years following the date of incurrence of that new or replacement tranche of term loans), but excluding the effect of any arrangement, structuring, syndication or other fees payable in connection therewith that are not shared with all lenders or holders of such new or replacement loans) less than the “effective yield” applicable to the Facility B Loan (as such comparative yields are determined in the reasonable judgment of the Agent consistent with generally accepted financial practices) but excluding any new or replacement loans incurred in connection with a Change of Control or a Transformative Acquisition and (ii) any amendment to the Finance Documents which reduces the “effective yield” applicable to the Facility B Loans; **provided that** in each case one of the primary purposes of such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver or other modification was to reduce the effective interest rate or weighted average yield of the Facility B Loans.

“Transformative Acquisition” shall mean any acquisition the total consideration for which is equal to or in excess of EUR 100,000,000 that either (a) is not permitted by the terms of the Finance Documents immediately prior to the consummation of such acquisition or (b) if permitted by the terms of the Finance Documents immediately prior to the consummation of such acquisition, would not provide the Company and its subsidiaries with adequate flexibility under the Finance Documents for the continuation and/or expansion of their combined operations following such consummation, as determined by the Company acting in good faith.

17.8 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.

18 TAXES

18.1 Tax Definitions

In this Agreement:

“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.

“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 Jurisdiction” means, in relation to any Borrower, the jurisdiction in which it is resident for tax purposes on the date it becomes a Borrower.

“Tax Payment” means either the increase in a payment made by an Obligor to a Finance Party under Clause 18.3 (*Tax Gross Up*) or a payment under Clause 18.4 (*Tax Indemnity*).

“Treaty Lender” means, in relation to a payment by a Borrower under a Finance Document, a Lender which:

- (a) is treated as a resident of a Treaty State for the purposes of the relevant Treaty;
- (b) does not carry on a business in the relevant Borrower’s Tax Jurisdiction through a permanent establishment, a fixed base or a permanent representative with which that Lender’s participation in the Loan is effectively connected; and
- (c) fulfils any other conditions which must be fulfilled under the relevant Treaty and under the laws of the corresponding Tax Jurisdiction by residents of the relevant Treaty State for such residents to obtain the full exemption from Tax imposed on interest payments made by an Obligor under that Finance Document, including completion of any necessary procedural formalities.

“Treaty State” means a jurisdiction having a double taxation agreement (a **“Treaty”**) in force with the relevant Borrower’s Tax Jurisdiction which makes provision for full exemption from Tax imposed by that jurisdiction on interest.

Unless a contrary indication appears, in this Clause 18 a reference to determines or determined means a determination made in the absolute discretion of the person making the determination acting reasonably and in good faith.

18.2 Situation of the Agent at the Closing Date

The Agent confirms that, at the Closing Date, it is not incorporated, domiciled, established or acting through an office situated in a Non-Cooperative Jurisdiction and no account is opened in the name or for the benefit of the Agent in a financial institution situated in a Non-Cooperative Jurisdiction.

18.3 Tax Gross Up

- (a) All payments shall be made by each Obligor under each Finance Document without any Tax Deduction, unless a Tax Deduction is required by law. The Parent shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is a change in the rate or the basis of any Tax Deduction) notify the Agent accordingly. Similarly, a Lender or Issuing Bank shall notify the Agent on becoming so aware in respect of a payment payable to that Lender or Issuing Bank. If the Agent receives such notification from a Lender or Issuing Bank it shall notify the Parent and that Obligor.
- (b) 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 any Tax

Deductions, leaves an amount equal to the payment which would have been due had no Tax Deduction been required.

- (c) A payment shall not be increased under paragraph (b) above by reason of a Tax Deduction on account of Tax imposed by an Obligor's Tax Jurisdiction, if on the date on which the payment falls due the Borrower making a payment to a Finance Party is able to demonstrate that the payment could have been made to that Finance Party without the Tax Deduction had that Finance Party complied with its obligations under paragraph (f) below.
- (d) If an Obligor is required by law to make a Tax Deduction it shall make the Tax Deduction and any payment required in connection with that Tax Deduction in the time allowed by law and minimum amount required by law.
- (e) Within thirty (30) days of making either a Tax Deduction or a payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction or payment shall deliver to the Agent for the relevant Finance Party evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment has been made to the relevant Tax authority.
- (f) A Treaty Lender and each Borrower which makes a payment to which that Treaty Lender is entitled, shall co-operate in completing or assisting with the completion of any procedural formalities necessary for that Borrower to obtain authorisation to make that payment without a Tax Deduction.

18.4 Tax Indemnity

- (a) The Parent shall, within five (5) 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:
 - (A) under the laws 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
 - (B) under the laws of the jurisdiction in which that Finance Party's Facility Office or other permanent establishment is located in respect of amounts received or receivable in that jurisdiction,if that Tax is imposed on or calculated by reference to the net or gross income or net or gross receipts received or receivable by that Finance Party; or
 - (ii) if and to the extent that a loss, liability or cost:
 - (A) is compensated for by an increased payment pursuant to Clause 18.3 (*Tax Gross Up*) or Clause 14.9 (*Minimum Interest*); or
 - (B) would have been so compensated but was not so compensated solely because any of the exclusions in paragraph (c) of Clause 18.3 (*Tax Gross Up*) applied;
 - (C) relates to a FATCA Deduction required to be made by a Party;

- (D) (for the avoidance of doubt) is compensated for by Clause 18.6 (*Stamp taxes*) (or would have been so compensated for under that Clause but was not so compensated solely because any of the exceptions set out therein applied); or
 - (E) (for the avoidance of doubt) is suffered or incurred with respect to any Bank Levy (or any payment attributable to, or liability arising as a consequence of, a Bank Levy).
- (c) A Protected Party making, or intending to make, a claim under paragraph (a) of Clause 18.4 above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent will notify the Parent.

18.5 Tax Credits

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

- (a) a Tax Credit is attributable either 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 or an Affiliate has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it or the Affiliate (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

18.6 Stamp taxes

The Borrower shall pay and, within three (3) Business Days of demand, indemnify each Finance Party and Arranger against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document except for (A) any such Tax payable in respect of an assignment or, transfer or sub-participation of a Loan (or part thereof) by that Finance Party, or (B) pursuant or to the extent that such stamp duty, registration or other similar Tax becomes payable upon a voluntary registration made by any Party if such registration is not necessary to evidence, prove, maintain, enforce, compel or otherwise assert the rights of such Party or obligations of any Party under an Finance Document.

18.7 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 a supply or supplies for VAT purposes shall be deemed to be exclusive of any VAT which is chargeable on such supply or supplies and accordingly, subject to paragraph (b) below if VAT is or becomes chargeable on any supply or supplies made by any Finance Party to any Party in connection with a Finance Document, and such Finance Party is required to account to the relevant tax authority for the VAT, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration for that supply or supplies) an amount equal to the amount of the VAT (and such Finance Party shall promptly provide an appropriate VAT invoice to such Party).
- (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 (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 costs or expenses, that Party shall reimburse or indemnify (as the case may be) the Finance Party against any VAT incurred by the Finance Party in respect of the costs or expenses, to the extent that the Finance Party reasonably determines that it is not entitled to credit for or repayment in respect of the VAT from the relevant tax authority.
- (d) Any reference in this Clause 18.7 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply or, where appropriate, as receiving the supply, under the VAT grouping rules provided for in Article 11 of Council Directive 2006/112/EC (or as implement in the relevant member state of the European Union) or any other similar provision in any jurisdiction which is not a member state of the European Union, so that a reference to a Party shall be construed as a reference to that Party or the relevant group or unity (or fiscal unity) of which that Party is a member for VAT purposes at the relevant time or the relevant representative member (or head) of such group or unity (or fiscal unity) at the relevant time (as the case may be).

18.8 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 Company, the Agent and the other Finance Parties.

18.9 FATCA Information

- (a) Subject to paragraph (c) below, each Party shall, within ten (10) Business Days of a reasonable request by another Party:
 - (i) confirm to that other Party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party; and

- (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA;
 - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to 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.

19 INCREASED COSTS

19.1 Increased costs

- (a) Subject to Clause 19.3 (*Exceptions*) the Borrower shall, within five (5) Business Days of a 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 treaty after the date of this Agreement (or, if later, the date it became a Party unless at such time the Majority Lenders are making a claim pursuant to this Clause); (ii) compliance with any law or regulation or treaty made after the date of this Agreement (or, if later, the date it became a Party unless at such time the Majority Lenders are making a claim pursuant to this Clause) or (iii) the implementation or application of or compliance with Basel III or CRD IV or any other law or regulation which implements Basel III or CRD IV (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates).
- (b) In this Agreement:

“Increased Costs” means:

 - (a) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital;
 - (b) an additional or increased cost; or
 - (c) 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 or Letter of Credit.

19.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 19.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Parent.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate (giving reasonable details of the circumstances giving rise to such claim and the calculation of the Increased Cost) confirming the amount of its Increased Costs, a copy of which shall be provided to the Parent.

19.3 Exceptions

- (a) Clause 19.1 (*Increased costs*) does not apply to the extent any Increased Cost is:
 - (i) attributable to a Tax Deduction required 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 18.4 (*Tax Indemnity*) or would have been compensated for under Clause 18.4 (*Tax Indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 18.4 (*Tax Indemnity*) applied;
 - (iv) compensated for by Clause 18.6 (*Stamp taxes*) or would have been so compensated for under that Clause but was not so compensated solely because any of the exceptions set out therein applied;
 - (v) suffered or incurred with respect to any Bank Levy (or any payment attributable to, or any liability arising as a consequence of, a Bank Levy);
 - (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 (other than Basel III) (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates);
 - (vii) attributable to the implementation or application of, or compliance with, Basel III or CRD IV to the extent that a Finance Party knew about or could reasonably be expected to have known about the relevant Increased Cost on or prior to the date on which it became a Finance Party (**provided that**, if the Increased Cost was not fully quantifiable on or prior to the date on which it became a Finance Party, Clause 19.1 (*Increased costs*) shall apply to that amount of the Increased Cost which was not, or could not reasonably be expected to have been, quantifiable); or
 - (viii) attributable to the wilful breach by any Finance Party or its Affiliates of any law or regulation or the terms of any Finance Document.

(b) In this Clause 19.3 reference to a “**Tax Deduction**” has the same meaning given to the term in Clause 18.1 (*Tax Definitions*).

(c) 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 on 16 December 2010, each as amended, supplemented or restated; and
- (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
- (iii) any further guidance or standards published by the Basel Committee on Banking Supervision relating to Basel III.

“**CRD IV**” means:

- (i) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012; and
- (ii) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

20 OTHER INDEMNITIES

20.1 Currency indemnity

- (a) If any sum due from the Parent or 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 the Parent or that Obligor; or
 - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Parent or that Obligor shall as an independent obligation, within five (5) Business Days of demand, indemnify each Mandated Lead 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.

20.2 Other indemnities

- (a) The Parent shall (or shall procure that an Obligor will), subject to the applicable Guarantee Limitations, within three (3) Business Days of demand (which demand shall be accompanied by reasonable calculations or details of the amount demanded) indemnify each Mandated Lead Arranger and each other Secured Party against any cost, loss or liability incurred by it as a result of:
 - (i) the occurrence of any Event of Default;
 - (ii) a failure by the Parent or 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 35 (*Sharing among the Finance Parties*);
 - (iii) funding, or making arrangements to fund, its participation in a Utilisation requested by a Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone);
 - (iv) issuing or making arrangements to issue a Letter of Credit requested by the Parent or a Borrower in a Utilisation Request but not issued by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
 - (v) any prepayment payable by any Borrower under the Finance Documents not being paid after irrevocable notice of such prepayment has been made to the Agent.
- (b) The Company shall promptly indemnify each Finance Party, each Affiliate of a Finance Party and each officer or employee of a Finance Party or its Affiliate (each an Indemnified Person), against any cost, loss, liability or expense incurred by that Finance Party or its Affiliate (or officer or employee of that Finance Party or Affiliate) in connection with or arising out of the Acquisition or the funding of the Acquisition (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the Acquisition), except to the extent such loss or liability is caused by the gross negligence or wilful misconduct of that Finance Party or its Affiliate (or employee or officer of that Finance Party or Affiliate) and **provided that** the Indemnified Persons together shall instruct only one legal counsel in any one jurisdiction at any one time (unless it is reasonably determined they have a conflict as between themselves).
- (c) If any event occurs in respect of which indemnification may be sought from the Company, the relevant Indemnified Person shall only be indemnified if it notifies the Company in writing within a reasonable time after the relevant Indemnified Person becomes aware of such event, and shall, to the extent legally permitted and only if it would not prejudice the defence or making of such claim, consult with the Company with respect to the conduct of the relevant claim, action or proceeding, conducts such claim action or proceeding properly and diligently (based on advice from its legal counsel, to the extent permitted by law and without being under any obligation to disclose any information which it is not lawfully permitted to disclose) and does not settle any such claim, action or proceeding without the Company's prior written consent (such consent not to be unreasonably withheld or delayed).

- (d) Notwithstanding any other provision in this Agreement, each Indemnified Person shall be entitled to rely on the indemnities contained in this Clause 20.2 as if it were a party to this Agreement.

20.3 Indemnity to the Agent

Each Obligor shall within five (5) Business Days of demand indemnify the Agent against:

- (a) any third party cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
 - (i) investigating any event which it reasonably believes is an Event of Default, **provided that** if after doing so it is established that the event or matter is not a Default or an Event of Default, such cost, loss or liability of investigation shall be for the account of the Lenders *pro rata* to their Commitments; or
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and
- (b) any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) 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 36.11 (*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.

21 MITIGATION BY THE LENDERS

21.1 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 11.1 (*Illegality*) (or, in respect of the Issuing Bank, Clause 11.2 (*Illegality in relation to Issuing Bank*)), Clause 18 (*Taxes*) or Clause 19 (*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 the Parent or any Obligor under the Finance Documents.

21.2 Limitation of liability

- (a) The Company shall promptly 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 21.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 21.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

22 COSTS AND EXPENSES

22.1 Transaction expenses

The Company shall within five (5) Business Days of demand pay the Agent, each Mandated Lead Arranger, the Issuing Bank and the Security Agent (and, in the case of the Security Agent, any Receiver or Delegate) the amount of all costs and expenses (including, but not limited to, legal fees (subject to agreed caps, if any)) reasonably incurred by any of them (evidence of which shall be provided to the Parent) in relation to the Acquisition and arrangement, negotiation, preparation, printing, execution, syndication and perfection of the Facilities and any other Finance Document referred to in this Agreement up to a maximum amount agreed (if any). In relation to any Spanish Guarantor and any Finance Documents they incorporate or sign subject to the laws of Spain, the Company and/or the corresponding Spanish Guarantor shall also pay the applicable notary public fees and registry fees whenever due.

22.2 Amendment costs

If (a) the Parent or an Obligor requests an amendment, waiver or consent, or (b) an amendment is required pursuant to Clause 2.2 (*Additional Facility*) or Clause 36.10 (*Change of currency*), the Company shall, within five (5) Business Days of demand, reimburse each of the Agent and the Security Agent for the amount of all reasonable third party costs and expenses (including, but not limited to, legal fees) reasonably incurred by the Agent and the Security Agent (and, in the case of the Security Agent, by any Receiver or Delegate) (in each case, subject to agreed caps (if any)) in responding to, evaluating, negotiating or complying with that request or requirement. In relation to any Spanish Guarantor and any Finance Documents they incorporate or sign subject to the laws of Spain, the Company and/or the corresponding Spanish Guarantor shall also pay the applicable notary public fees and registry fees whenever due.

22.3 Enforcement and preservation costs

The Company shall, within five (5) Business Days of demand, pay to each Mandated Lead Arranger and each other Secured Party the amount of all costs and expenses (including, but not limited to, legal fees and the fees of any court representative (*procurador*) (even if the intervention of lawyers or court representatives is not mandatory, provided in such circumstances that the Secured Parties provide a breakdown of the fees incurred and detailing the work performed)) 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.

23 GUARANTEES AND INDEMNITY

23.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Finance Party punctual performance by the Parent and each other Obligor of all the Parent or 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 (allowing for any applicable grace period) 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 the Parent or 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 23 if the amount claimed had been recoverable on the basis of a guarantee.

23.2 Continuing Guarantee

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

23.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Parent or 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, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 23 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

23.4 Waiver of defences

The obligations of each Guarantor under this Clause 23 will not be affected by an act, omission, matter or thing which, but for this Clause 23, would reduce, release or prejudice any of its obligations under this Clause 23 (without limitation and whether or not known to it or any Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, the Parent any Obligor or other person;
- (b) the release of any other Obligor, the Parent 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, the Parent 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 the Parent, 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.

23.5 Guarantor Intent

- (a) Without prejudice to the generality of Clause 23.4 (*Waiver of defences*) but subject to the guarantee limitations set out in Clause 23.11 (*Guarantee Limitations: General*) to Clause 23.23 (*Additional Guarantee Limitations*), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the 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.
- (b) In respect of a Belgian Guarantor, the Parties agree in general that nothing in this Agreement or any other Finance Document must be construed so that the guarantee granted by such Belgian Obligor pursuant to this Clause 23 would constitute a surety ("*borgtocht*" / "*cautionnement*") and that nothing in this Agreement or any other Finance Document will affect their intention to grant an independent and abstract guarantee pursuant to this Clause 23 and not a surety ("*borgtocht*" / "*cautionnement*"). For the avoidance of doubt, the Parties agree that the provisions of Book III, Title XIV of the Belgian Civil Code regarding suretyship ("*borgtocht*" / "*cautionnement*") will not apply.
- (c) For the purposes of article 135 of the Spanish Insolvency Law, the obligations of each Spanish Guarantor under this Agreement *vis-a-vis* each Finance Party shall be governed by the terms of this Agreement at any time such that each Spanish Guarantor's obligations pursuant to this Clause 23 shall not be affected in any way by any settlement agreement that may be agreed in the Insolvency Proceedings (as defined in Clause 29.8 (*Insolvency Proceedings*)) of a Spanish Guarantor (nor shall they be deemed amended as a consequence of the approval of that settlement agreement) that each of the Finance Parties has approved/acceded to or irrespective of the fact that has not approved/acceded to, such settlement agreement.

23.6 Immediate recourse

- (a) 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 23. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.
- (b) Without limiting the foregoing, any Spanish Guarantor acknowledges that the guarantee provided by it under this Clause 23 must be construed as a first demand guarantee (*garantía a primera demanda*) and not as a surety (*fianza*) and, therefore, the benefits of preference (*exención*), order (*orden*) and division (*división*) do not apply.

23.7 Appropriations

Until all amounts which may be or become payable by the Parent or 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 on account of any Guarantor's liability under this Clause 23.

23.8 Deferral of Guarantors' and Parent's rights

Until all amounts which may be or become payable by the Parent or 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 23:

- (a) to be indemnified by the Parent or an Obligor;
- (b) to claim any contribution from any other guarantor of the Parent or 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 the Parent or any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor or Parent has given a guarantee, undertaking or indemnity under Clause 23.1 (*Guarantee and indemnity*);
- (e) to exercise any right of set-off against the Parent or any Obligor; and/or
- (f) to claim or prove as a creditor of the Parent or 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 Parent or 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 36 (*Payment Mechanics*).

23.9 Release of Guarantors' and Parent's 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 or any of its Holding Companies 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.

23.10 Additional security

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

23.11 Guarantee Limitations: General

(a) Without limiting any specific exemptions set out below:

(i) no Guarantor's obligations and liabilities under this Clause 23.11 and under any other guarantee or indemnity provision in a Finance Document (the "**Guarantee Obligations**") will extend to include any obligation or liability; and

(ii) no Transaction Security granted by a Guarantor will secure any Guarantee Obligation,

if to the extent doing so would be unlawful financial assistance (notwithstanding any applicable exemptions and/or undertaking of any applicable prescribed whitewash or similar financial assistance procedures) in respect of the acquisition of shares in itself or its Holding Company or a member of the Group under the laws of its jurisdiction of incorporation.

(b) If, notwithstanding paragraph (a) above, the giving of the guarantee in respect of the Guarantee Obligations or Transaction Security would be unlawful financial assistance, then, to the extent necessary to give effect to paragraph (a) above, the obligations under the Finance Documents will be deemed to have been split into two tranches; Tranche X comprising those obligations which can be secured by the Guarantee Obligations or Transaction Security without breaching or contravening relevant financial assistance laws and Tranche Y comprising the remainder of the obligations under the Finance Documents. The Tranche Y obligations will be excluded from the relevant Guarantee Obligations.

23.12 Guarantee Limitations - Belgian Guarantors

Notwithstanding anything set out to the contrary in this Agreement or any other Finance Document to the contrary, the aggregate of the obligations of any Belgian Guarantor under this Clause 23 and clause 20 (*Guarantees and Indemnity*) of the Second Lien Facility Agreement will at all times be limited to the highest of:

(a) the highest level of On-Lending (as defined below) to such Belgian Guarantor and its Subsidiaries reached at any time between the date of this Agreement and the date on which a demand is made on such Belgian Guarantor under this Clause 23 or clause 20 (*Guarantees and Indemnity*) of the Second Lien Facility Agreement;

(b) seventy-five per cent. (75%) of the Net Assets (as defined below) of such Belgian Guarantor calculated on the basis of the latest available audited annual accounts at the date of this Agreement; and

(c) seventy-five per cent. (75%) of the Net Assets (as defined below) of such Belgian Guarantor calculated on the basis of the latest audited annual accounts available at the date on which a demand is made on it under this Clause 23 or clause 20 (*Guarantees and Indemnity*) of the Second Lien Facility Agreement.

For the purposes of this Clause:

"**Net Assets**" (*netto-actief/actif net*) has the meaning given to it in Article 617 of the Belgian Companies Code.

“On-Lending” means the aggregate amount of all Loans drawn by any Obligor under the Facilities or any Additional Facility under the Second Lien Facility Agreement and made available, directly or indirectly, to such Belgian Guarantor or any of its Subsidiaries (in each case, irrespective of whether retained or on-lent by such Belgian Guarantor or the Subsidiary in question), it being understood that the amount of each such Loan will only be counted once when calculating the aggregate amount.

23.13 Guarantee limitations – Danish Guarantors

Notwithstanding anything to the contrary in the Finance Documents, including any provision of this Clause 23 and Clause 20 (*Other Indemnities*), any guarantee, indemnity, subordination, postponement, turnover, application of proceeds or similar third party obligations undertaken or any security granted by a Danish Obligor or by such Danish Obligor’s Subsidiaries under any Security Document (as defined in the Intercreditor Agreement):

- (a) shall be deemed not to be assumed or shall be limited (as the case may be) to the extent required for the same not to constitute unlawful financial assistance within the meaning of Section 206(1) (as modified by Section 206(2)) of Consolidated Act No. 610 of 28 April 2015 on public and private limited liability companies, as amended and supplemented from time to time (the **“Danish Companies Act”**) and Section 210(1) (as modified by Section 210(2) and Sections 211 and 212) of the Danish Companies Act; and
- (b) shall (as regards a Danish Obligor) further be limited to an amount equivalent to the higher of the Danish Obligor’s equity (A) at such time(s) the Danish Obligor is requested to make a payment or security granted by it is enforced (as applicable) and (B) the equity of the Danish Obligor at the date that it became a party to this Agreement,

provided that the limitation in paragraph (b) above shall only apply to obligations and liabilities of such Danish Obligor which exceed the sum of (I) the advances received by such Danish Obligor in its capacity as a Borrower under this Agreement, or in its capacity as intra-group borrower of moneys directly or indirectly originating from a borrowing by (another) Borrower under this Agreement (in each case to the extent such advances are outstanding at the relevant time), and (II) interest and other costs and fees which are to be borne by such Danish Obligor in its capacity as Borrower under this Agreement or in its capacity as intra-group borrower of moneys directly or indirectly originating from a borrowing by (another) Borrower under this Agreement.

23.14 Guarantee limitations – Dutch Guarantors

The guarantee provided by a Guarantor incorporated in the Netherlands under this Clause 23 does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of section 2:98c of the Dutch Civil Code.

23.15 Guarantee Limitations – English Guarantors

Notwithstanding anything set out to the contrary in this Agreement or any other Finance Document to the contrary, the obligations of any English Guarantor under this Clause 23 shall not apply to any liability to the extent that it would result in such obligations constituting unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006.

23.16 Guarantee Limitations – French Guarantors

- (a) Notwithstanding any contrary indication in this Agreement, in relation to a French Guarantor, its obligations under this Clause 23 (*Guarantees and Indemnity*) shall apply only insofar as required to:
 - (i) guarantee the payment obligations under this Agreement of its direct or indirect Subsidiaries which are or become Obligors from time to time under this

Agreement and incurred by those Subsidiaries as Borrowers (if they are not French Obligors) or as Borrowers and/or Guarantors (if they are French Obligors); and

- (ii) guarantee the payment obligations of other Obligors (each a “**Guaranteed Obligor**”) which are not direct or indirect Subsidiaries of that French Guarantor, **provided that** in such case such guarantee shall be limited: (A) to the payment obligations of such Guaranteed Obligors under the Finance Documents and (B) up to an amount equal to the aggregate of all amounts borrowed directly (as Borrower) or indirectly (by way of intra-group loans directly or indirectly from any other Borrower) by such Guaranteed Obligors and on-lent directly or indirectly to that French Guarantor and/or its Subsidiaries and outstanding on the date on which the guarantee is enforced against that French Guarantor (the “**Maximum Guaranteed Amount**”); it being specified that any payment made by such French Guarantor under this Clause 23 (*Guarantees and Indemnity*) in respect of the obligations of any other Guaranteed Obligor shall reduce *pro tanto* the outstanding amount of the intercompany loans (if any) due by such French Guarantor to that Guaranteed Obligor under the intercompany loan arrangements referred to above.
- (b) For the avoidance of doubt, any payment made by a French Guarantor in respect of Obligors referred to in sub-paragraph (a)(ii) above shall reduce the Maximum Guaranteed Amount.
- (c) Notwithstanding any other provision of this Clause 23.16, no French Guarantor shall secure liabilities under the Agreement which would result in such French Guarantor not complying with French financial assistance rules as set out in article L. 225-216 of the French Code de commerce and/or would constitute a misuse of corporate assets within the meaning of article L. 241-3, article L. 242-6 or L. 244-1 of the French Code de commerce or any other law or regulations having the same effect, as interpreted by French courts.
- (d) It is acknowledged that no French Guarantor is acting jointly and severally with the other Guarantors and no French Guarantor shall therefore be considered as “*co-débiteurs solidaires*” with the other Guarantors as to its obligations pursuant to the guarantee given pursuant to this Clause 23 (*Guarantees and indemnity*).
- (e) The limitations set out in paragraph (a) above shall apply mutatis mutandis to any Transaction Security created by any French Guarantor under the Transaction Security Documents and to any guarantee, undertaking, obligation, indemnity and payment, including (but not limited to) distributions, cash sweeps, credits, loans and set-offs, pursuant to or permitted by the Finance Documents and made by a French Guarantor.

23.17 Guarantee limitations – German Guarantors

- (a) Scope
 - (i) The restrictions in this Clause 23.17 shall apply to any guarantee and indemnity (hereinafter the “**Guarantee**”) granted by a Guarantor incorporated under the laws of Germany as a limited liability company (“**GmbH**”) (a “**German Guarantor**”) to secure liabilities of its direct or indirect shareholder(s) (upstream) or an entity affiliated with such shareholder (*verbundenes Unternehmen*) within the meaning of Section 15 of the German Stock Corporation Act (*Aktiengesetz*) (cross-stream) (excluding, for clarification purposes any direct or indirect wholly owned Subsidiary of such German Guarantor).

- (ii) Notwithstanding the forgoing, the restrictions set out in paragraph (b) below shall also apply to the extent the Guarantee of a German Guarantor secures any indebtedness under any Loan Document in respect of any funds borrowed by a Borrower under the Credit Agreement which have been directly or indirectly on-lent or otherwise passed on (i) to any Investor or (ii) to any direct or indirect parent company of the German Guarantor for the purpose of funding any payments to any Investor. The above shall also apply in the event that the respective Borrower is a Subsidiary of the German Guarantor.
- (iii) Subject to (a)(ii) above, the limitations set out in paragraph (b) below shall not apply if and to the extent the relevant German Guarantor guarantees any amounts borrowed under this Agreement which are lent, on-lent or otherwise passed on to such German Guarantor or any of its respective Subsidiaries from time to time and which have not been repaid;
- (iv) If, at the time of enforcement of the relevant Guarantee a domination and/or profit and loss transfer agreement (*Beherrschungs-und/oder Gewinnabführungsvertrag*) (either directly or indirectly through an unbroken chain of domination and/or profit and loss transfer agreements) exists (*besteht*) between the relevant German GmbH Guarantor as a dominated company and:
 - (A) in case that German Guarantor is a Subsidiary of the relevant affiliate whose obligations are secured by the relevant Guarantee, that affiliate as dominating entity (*beherrschendes Unternehmen*); or
 - (B) in case the German Guarantor and the relevant affiliate whose obligations are secured by the relevant Guarantee are both Subsidiaries of a joint (direct or indirect) affiliate, such affiliate as dominating entity (*beherrschendes Unternehmen*),

but only to the extent the loss compensation claim of the relevant German Guarantor against the dominating entity is covered (*gedeckt*) by means of a fully valuable and recoverable compensation claim (*vollwertiger Verlustausgleichsanspruch*) if and to the extent required according to Section 30 German Limited Liabilities Company Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*, “**GmbHG**”); or

- (v) to the extent any payment under the relevant Guarantee demanded by a Finance Party from the relevant German Guarantor is covered (*gedeckt*) by means of a fully valuable and recoverable consideration or recourse claim (*Gegenleistungs-oder Rückgewähranspruch*) of the relevant German Guarantor against the affiliate whose obligations are secured by the relevant Guarantee.

(b) Restrictions on Payment

- (i) The parties to this Agreement agree that if payment under the Guarantee would (A) cause the amount of a German Guarantor’s net assets, as calculated pursuant to paragraph (c) below, to fall below the amount of its registered share capital (*Stammkapital*) (*Begründung einer Unterbilanz*) or increase an existing shortage of its registered share capital in each case in violation of Section 30 GmbHG (*Vertiefung einer Unterbilanz*) (a “**Capital Impairment**”) or (B) result in the illiquidity (*Zahlungsunfähigkeit*) of the German Guarantor in violation of Section 64, Sentence 3 GmbHG (a “**Liquidity Impairment**”) or (C) constitute an intervention threatening the existence of a German Guarantor (*existenzvernichtender Eingriff*) (an “**Existence Threatening Intervention**”), then the Secured Parties (acting through the Agent) shall, subject to paragraphs (c) and (d) below, only be entitled to demand payment under the Guarantee from

such German Guarantor only to the extent such Capital Impairment or Liquidity Impairment or Existence Threatening Intervention does not occur.

- (ii) If the relevant German Guarantor does not notify the Agent in writing (the “**Management Notification**”) within ten (10) Business Days after the Agent notified such German Guarantor of its intention to demand payment under the Guarantee that a Capital Impairment, a Liquidity Impairment or an Existence Threatening Intervention would occur (setting out in reasonable detail to what extent a Capital Impairment, a Liquidity Impairment or an Existence Threatening Intervention would occur), then the restrictions set out in paragraph (b)(i) above shall not apply, **provided that** the Agent shall in any event be entitled to enforce the Guarantee for any amounts where such enforcement would, in accordance with the Management Notification, not cause a Capital Impairment.
- (iii) Following the Agent’s receipt of the Management Notification, any further enforcement of the Guarantee (i.e. any enforcement to which the Agent is not already entitled pursuant to paragraph (b)(ii) above) shall be excluded pursuant to paragraph (b)(i) above for a period of no more than thirty (30) Business Days only. If the Agent receives within such thirty (30) day period the Auditor’s Determination (as defined in paragraph (e) below), the future enforcement of the Guarantee shall be limited, if and to the extent such enforcement would, in accordance with the Auditor’s Determination (as defined in paragraph (e) below) cause a Capital Impairment. If the relevant German Guarantor does not provide an Auditors’ Determination (as defined in paragraph (e) below) within thirty (30) Business Days from the date on which the Agent received the Management Notification then the restrictions in respect of a Capital Impairment set out in paragraph (b)(i) above shall not apply.

(c) Net Assets

The calculation of net assets (the “**Net Assets**”) shall only take into account the sum of the values of the assets of the relevant German Guarantor determined in accordance with applicable law (consisting of all assets which correspond to those items listed in Section 266 Subsection (2) A, B, C, D and E German Commercial Code (*Handelsgesetzbuch*) (“**HGB**”)) less (i) the relevant German Guarantor’s liabilities (consisting of all liabilities and liability reserves which correspond to those items listed in accordance with Section 266 Subsection (3) B, C, D and E HGB) but shall, for the avoidance of doubt, exclude the liabilities under or relating to this Guarantee, (ii) any legally blocked reserves (if any) and (iii) any amounts not available for distribution according to Section 268 Subsection (8) HGB. For the purposes of calculating the Net Assets, the following balance sheet items shall be adjusted as follows:

- (i) the amount of any increase in the registered share capital of the relevant German Guarantor out of company assets (*Gesellschaftsmitteln*) which was carried out after the relevant German Guarantor became a party to this Agreement without the prior written consent of the Agent shall be deducted from the amount of the registered share capital of the relevant German Guarantor; and
- (ii) loans or other contractual liabilities incurred by the relevant German Guarantor in wilful (*vorsätzlich*) or grossly negligent (*grob fahrlässig*) breach of the Finance Documents shall not be taken into account as liabilities.

(d) Mitigation

- (i) The relevant German Guarantor shall realise, to the extent legally permitted in a situation where it does not have sufficient Net Assets to maintain its registered share capital, any asset that is shown in the balance sheet with a book value

(*Buchwert*) that is significantly lower than the market value of the assets unless such asset is essential for the business (*nicht operativ betriebsnotwendig*) of the relevant German Guarantor or if the disposal of such asset is otherwise not commercially justifiable and such justification being satisfactory to the Agent.

- (ii) The limitations on demanding payment under this Guarantee set out in this Clause 23.17 shall not apply if and to the extent that the relevant German Guarantor is legally permitted to take measures (including, without limitation, setting-off claims) to avoid demanding payment under the Guarantee causing a Capital Impairment of the relevant German Guarantor **provided that** it is commercially justifiable to take such measures.

(e) Auditors' Determination

- (i) If the relevant German Guarantor claims that a Capital Impairment would occur on payment under this Guarantee, the German Guarantor may (at its own cost and expense) arrange for the preparation of a balance sheet by a firm of recognised auditors (the "**Auditors**") in order to have such Auditors determine whether (and if so, to what extent) any payment under this Guarantee would cause a Capital Impairment (the "**Auditors' Determination**").
- (ii) The Auditors' Determination shall be prepared, taking into account the adjustments set out in paragraph (c) above, by applying the generally accepted accounting principles applicable from time to time in Germany (*Grundsätze ordnungsmäßiger Buchführung*) based on the same principles and evaluation methods as constantly applied by the relevant German Guarantor in the preparation of its financial statements, in particular in the preparation of its most recent annual balance sheet, and taking into consideration applicable court rulings of German courts. Such Auditors' Determination shall be binding on the relevant German Guarantor and the Agent except in case of manifest error.
- (iii) Even if the relevant German Guarantor arranges for the preparation of an Auditors' Determination, the relevant German Guarantor's obligations under the mitigation provisions set out in paragraph (d) above shall continue to exist.

(f) Improvement of Financial Condition

If, after it has been provided with an Auditors' Determination which prevented it from demanding any or only partial payment under this Guarantee, the financial condition of the relevant German Guarantor as set out in the Auditors' Determination has substantially improved (in particular, if the relevant German Guarantor has taken any action in accordance with the mitigation provisions set out in paragraph (d) above), the Agent may, at the relevant German Guarantor's cost and expense (but not more than once in a calendar year), arrange for the preparation of an updated balance sheet of the relevant German Guarantor by applying the same principles that were used for the preparation of the Auditors' Determination by the Auditors who prepared the Auditors' Determination pursuant to paragraph (a) above in order for such Auditors to determine whether (and, if so, to what extent) the Capital Impairment has been cured as a result of the improvement of the financial condition of the relevant German Guarantor. The Agent may demand payment under this Guarantee to the extent that the Auditors determine that the Capital Impairment has been cured.

(g) GmbH & Co KG.

The aforementioned provisions in this Clause 23.17 shall apply to a limited partnership with a limited liability company as its general partner (GmbH & Co. KG) *mutatis mutandis* and all references to net assets shall be construed as a reference to the net assets of the general partner of the limited partnership.

(h) No forfeiture and Change in Law

- (i)** The limitations set out in this Clause 23.17 do not affect the rights of the Agent to claim any outstanding amount again at a later point in time if any to the extent that provisions in this Clause 23.17 would allow this at that later point.
- (ii)** If and to the extent the deficit (*Unterbilanz*) referred to in paragraph (b)(i)(A) above regarding a Capital Impairment does not constitute a breach of the German Guarantor's obligations to maintain its registered share capital pursuant to Sections 30 et seq. of the GmbHG as a result of a change in the relevant rules of law or court rulings the limitations under this Clause 23.17 shall not apply to the extent permitted under in accordance with the changes in law or court rulings.

23.18 Guarantee Limitations – Italian Guarantors

- (a)** The guarantee provided by each of the Italian Guarantors under this Clause 23.18 in respect of any Obligor not being a Subsidiary of that Italian Guarantor (if any) shall be limited to the higher of:
 - (i)** One hundred and twenty per cent. (120%) of the maximum amount in aggregate from time to time of:
 - (A)** the aggregate of the outstanding principal amount of any facility made available from time to time to that Italian Guarantor or any of its Subsidiaries (if any) under the Finance Documents; and
 - (B)** the aggregate principal amount of any loan (including, without limitation, any intercompany loan), documentary credit (including any intercompany documentary credit) or any other item constituting Financial Indebtedness made available, directly or indirectly, by any Obligor or any of its Subsidiaries to that Italian Obligor or any of its Subsidiaries and which is at any time outstanding (the “**Italian Intercompany Debt**”); and
 - (ii)** an amount corresponding to the Net Worth of that Italian Guarantor resulting from the latest approved financial statements (*bilancio di esercizio*) or interim financial statements (*situazione patrimoniale*) (if available) of that Italian Guarantor as at the date of the event which triggered the enforceability of the guarantee under this Clause 23 (*Guarantee and Indemnity*) net of an amount of Euro 10,000.00,

provided that:

- (b)** the obligations of any Italian Guarantor under this Clause 23.18 shall not include and shall not extend to any amount utilised to fund or to refinance the acquisition or the subscription of the shares in the Italian Guarantor and/or any entity of which that Italian Guarantor is a Subsidiary, to the extent that it would result in such guarantee constituting unlawful financial assistance under the Italian Civil Code; and it being understood that, in case of enforcement against an Italian Guarantor of the guarantee provided for in this clause, notwithstanding any provisions to the contrary in the Finance Documents, that Italian Guarantor shall be entitled to set-off an amount equal to any payment actually made by that Italian Guarantor pursuant to sub-paragraph (a)(i)(B) above of this Clause 23.18 against the corresponding amount of monies owed by that Italian Guarantor under an Italian Intercompany Debt, notwithstanding any assignment to a third party (other than an Obligor or any of its Subsidiaries) of the receivables owed by the Italian Guarantor under any Italian Intercompany Debt.

- (c) For the purpose of this Clause 23.18, Net Worth means the total value of the “*Patrimonio Netto*” of the relevant Italian Guarantor under article 2424 of the Italian Civil Code.
- (d) Without prejudice to subparagraph (i) above, the maximum aggregate liability of the Italian Guarantor under this Clause 23.18 shall not exceed, also for the purposes of Article 1938 of the Italian Civil Code, in any event the sum of EUR 367,500,000 or its equivalent in any other currency.

23.19 Guarantee Limitations – Spanish Guarantors

- (a) Notwithstanding anything set out to the contrary in this Agreement or any other Finance Document to the contrary, the obligations and liabilities of any Spanish Guarantor under this Clause 23 or any other provision of this Agreement or any other Finance Document to which it is a party shall be deemed to have given only to the extent such guarantee does not violate the financial assistance rules and limitations provided in articles 143 or 150 of the Spanish Capital Companies Law.

As a consequence to the above:

- (i) The obligations of any Spanish Guarantor as a limited liability company (*sociedad de responsabilidad limitada*) shall not extend to any obligations or liabilities incurred by any Obligor as a result of such Obligor borrowing (or guaranteeing the borrowing of) funds (but only in respect of those funds) under any Facilities for the purpose of (a) acquiring quotas (*participaciones sociales*) representing the share capital of such Spanish Guarantor or quotas (*participaciones sociales*) or shares (*acciones*) representing the share capital of a company within its group (including, for the avoidance of doubt, the acquisition of quotas or shares of an entity to the extent such entity becomes a member of the group as a result of any Permitted Acquisition), or (b) refinancing a previous debt incurred by any Obligor for the acquisition of quotas (*participaciones sociales*) representing the share capital of such Spanish Guarantor or quotas (*participaciones sociales*) or shares (*acciones*) representing the share capital of a company within its group.

For the purposes of this paragraph above, a reference to the “group” of a Spanish Guarantor shall have the meaning set out in article 42 of the Spanish Commercial Code.

- (ii) In case an Additional Guarantor incorporated under the laws of Spain in the form of a Spanish public limited company (*sociedad anónima*) accedes to this Agreement (or in case the Spanish Guarantor is transformed into a Spanish *sociedad anónima*), the obligations of such Spanish Guarantor shall not extend to any obligations or liabilities incurred by any Obligor as a result of such Obligor borrowing (or guaranteeing the borrowing of) funds (but only in respect of those funds) under any Facilities for the purpose of (a) acquiring shares (*acciones*) representing the share capital of such Spanish Guarantor or shares (*acciones*) or quotas (*participaciones sociales*) representing the share capital of its holding company, or (b) refinancing a previous debt incurred by any Obligor for the acquisition of shares (*acciones*) representing the share capital of such Spanish Guarantor or shares (*acciones*) or quotas (*participaciones sociales*) representing the share capital of its holding company.

For the purposes of this paragraph (a), a reference to a “holding company” of a Spanish Guarantor shall mean the company which, directly or indirectly, owns the majority of the voting rights of such Spanish Guarantor or that may have a dominant influence on such Spanish Guarantor. It shall be presumed that one company has a dominant influence on another company when: (i) any of the scenarios set out in section 1 of article 42 of the

Spanish Commercial Code are met; or (ii) at least half plus one of the members of the managing body of the Spanish Guarantor are also members of the managing body or top managers (*altos directivos*) of the dominant company or of another company controlled by such dominant company.

- (b) The limitation set out in paragraph (a) above shall apply *mutatis mutandis* to any Transaction Security created by any Spanish Guarantors under the Transaction Security Documents and to any guarantee, undertaking, obligation, indemnity and payment, including (but not limited to) distributions, cash sweeps, credits, loans and set-offs, pursuant to or permitted by the Finance Documents and made by a Spanish Guarantor.
- (c) It is further understood that, each of the Accession Deed pursuant to which a Spanish Guarantor accedes to this Agreement as a Guarantor and any Transaction Security Documents that are signed by such Guarantor, will specify which Facilities are guaranteed by such Guarantor and/or such Transaction Security and any other relevant issues which could have an impact on such limitation language.

23.20 Guarantee Limitations – Swiss Guarantors

- (a) If and to the extent that:
 - (i) a Swiss Guarantor under a Finance Document guarantees obligations other than obligations of one of its direct or indirect subsidiaries (i.e. obligations of a Swiss Guarantor's direct or indirect parent companies (up-stream liabilities) or sister companies (cross-stream liabilities)) ("**Restricted Obligations**"); and
 - (ii) a guarantee payment in fulfilling such obligations would, under Swiss law and practice, constitute a repayment of capital (*Einlagerückgewähr*), a violation of the legally protected reserves (*gesetzlich geschützte Reserven*) or the payment of a (constructive) dividend (*Gewinnausschüttung*) by such Swiss Guarantor or would otherwise be restricted under Swiss corporate law,

the aggregate liability of the Swiss Guarantor for Restricted Obligations shall be limited to the amount of unrestricted equity capital surplus available for distribution as dividends to the shareholders of the Swiss Guarantor (the "**Maximum Amount**") at the time or times payment under or pursuant to Clause 23 (*Guarantees and Indemnity*) or otherwise under a Finance Document is requested from such Swiss Guarantor, provided this is a requirement under then applicable mandatory Swiss law and understood that such limitation (as may apply from time to time or not) shall not (generally or definitively) free such Swiss Guarantor from payment obligations hereunder in excess of the Maximum Amount, but merely postpone the payment date therefore until such times as payment is again permitted notwithstanding such limitation. Any and all indemnities and guarantees of such Swiss Guarantor contained in any Finance Documents shall be construed in a manner consistent with the provisions herein contained.

- (b) Immediately after having been requested to perform the Restricted Obligations under the Finance Documents, the Swiss Guarantor shall implement the following:
 - (i) the performance of any obligations which are not affected by the above limitations;
 - (ii) the preparation of an up-to-date audited interim balance sheet of such Swiss Guarantor;
 - (iii) the confirmation of the auditors of such Swiss Guarantor setting out the Maximum Amount;

- (iv) the prompt convening of a meeting of the shareholders of such Swiss Guarantor which will approve the (resulting) profit distribution; and
 - (v) other measures required to allow the Swiss Guarantor to make the payments agreed hereunder with a minimum of limitations and, immediately thereafter, pay up to the Maximum Amount to the Agent.
- (c) In case a Swiss Guarantor who must make a payment in respect of Restricted Obligations under this Agreement is obliged to withhold Swiss Withholding Tax in respect of such payment, such Swiss Guarantor shall:
- (i) procure that such payments can be made without deduction of Swiss Withholding Tax, or with deduction of Swiss Withholding Tax at a reduced rate, by discharging the liability to such tax by notification pursuant to applicable law (including double tax treaties) rather than payment of the tax;
 - (ii) if the notification procedure pursuant to sub-paragraph (i) above does not apply, deduct Swiss Withholding Tax at the rate of thirty-five per cent. (35%) (or such other rate as in force from time to time), or if the notification procedure pursuant to sub-paragraph (i) above applies for a part of the Swiss Withholding Tax only, deduct Swiss Withholding Tax at the reduced rate resulting after the discharge of part of such tax by notification under applicable law, from any payment made by it in respect of Restricted Obligations and promptly pay any such taxes to the Swiss Federal Tax Administration;
 - (iii) notify the Agent that such notification, or as the case may be, deduction has been made and provide the Agent with evidence that such a notification of the Swiss Federal Tax Administration has been made or, as the case may be, such taxes deducted have been paid to the Swiss Federal Tax Administration; and
 - (iv) in the case of a deduction of Swiss Withholding Tax, use its best efforts to ensure that any person, which is entitled to a full or partial refund of the Swiss Withholding Tax deducted from such payment in respect of Restricted Obligations, will, as soon as possible after such deduction:
 - (A) request a refund of the Swiss Withholding Tax under applicable law (including tax treaties) and pay to the Agent upon receipt any amounts so refunded; and
 - (B) if the Agent is entitled to a full or partial refund of the Swiss Withholding Tax deducted from such payment and if requested by the Agent, provide the Agent those documents that are required by law and applicable tax treaties to be provided by the payer of such tax in order to enable the Agent to prepare a claim for refund of Swiss Withholding Tax.
- (d) For the avoidance of doubt, where a deduction for Swiss Withholding Tax is required pursuant to paragraph (c) above, the obligations of the Obligors under Clause 14.9 (*Minimum interest*), Clause 18.3 (*Tax Gross Up*) and Clause 18.4 (*Tax Indemnity*) of this Agreement shall remain applicable, save to the extent and for as long as that would cause the Maximum Amount to be exceeded.
- (e) If the enforcement of Restricted Obligations would be limited as a result of any matter referred to in this Clause 23.20, such Swiss Guarantor shall:
- (i) to the extent permitted by applicable law, write up and/or realise any of its assets shown in its balance sheet with a book value that is significantly lower than the

market value of the assets, in case of realisation, however, only if such assets are not necessary for such Swiss Guarantor's business (*nicht betriebsnotwendig*);

- (ii) reduce its share capital to the minimum allowed under then applicable law, and
- (iii) all such other measures necessary and/or to promptly procure the fulfilment of all prerequisites necessary to allow such Swiss Guarantor and relevant parent company to promptly make the payments and perform the obligations agreed hereunder from time to time with a minimum of limitations.

23.21 Guarantee Limitations – United States Guarantors

- (a) Each U.S. Obligor, and by its acceptance of the guarantee under this Clause 23, the Agent and each Lender, hereby confirms that it is the intention of all such Persons that this Clause 23 and the guarantee hereunder by each U.S. Obligor hereunder not constitute a fraudulent transfer or conveyance for purposes of U.S. Debtor Relief Laws, applicable law relating to fraudulent conveyance or transfer or any similar federal or state law to the extent applicable to this Clause 23 and the guarantee hereunder by the U.S. Obligor. To effectuate the foregoing intention, the Agent, the Lenders and each U.S. Obligor hereby irrevocably agree that the guarantee by each U.S. Obligor hereunder at any time shall be limited to the maximum amount as will result in the guarantee of such U.S. Obligor hereunder and under the other Finance Documents not constituting a fraudulent transfer or conveyance for the purposes of U.S. Debtor Relief Laws in each case after giving effect to all other liabilities of such U.S. Obligor, contingent or otherwise, that are relevant under such laws.
- (b) Each U.S. Obligor acknowledges that:
 - (i) it will receive valuable direct or indirect benefits as a result of the transactions financed by the Finance Documents;
 - (ii) those benefits will constitute reasonably equivalent value and fair consideration for the purpose of any fraudulent transfer law; and
 - (iii) each Finance Party has acted in good faith in connection with the guarantee given by that U.S. Obligor and the transactions contemplated by the Finance Documents.
- (c) For the purposes of paragraph (a) above, the following terms have the following meanings:

“**Bankruptcy Code**” means Title 11 of the United States Code (11 U.S.C. § 101 et seq.);

“**fraudulent transfer law**” means any applicable United States bankruptcy and State fraudulent transfer and conveyance statute and any related case law; and

“**U.S. Debtor Relief Laws**” means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, general assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

23.22 Qualified Keepwell Provider; Non-Qualified ECP Guarantor

- (a) The Qualified Keepwell Provider absolutely, unconditionally and irrevocably, undertakes to provide such funds as may be needed by any Non-Qualified ECP Guarantor to honour all of such Non-Qualified ECP Guarantor's obligations under this guarantee in respect of

Swap Obligations (but, in each case, only up to the maximum amount of such liability that can be incurred without rendering the Qualified Keepwell Provider's obligations hereunder voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations and undertakings of the Qualified Keepwell Provider under this paragraph (a) shall remain in full force and effect until all Swap Obligations in respect of which a Non-Qualified ECP Guarantor has provided a guarantee have been fully and finally discharged. The Parties intend this provision to constitute, and this provision shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of, each Non-Qualified ECP Guarantor for all purposes of Section 1a (18)(A)(v)(II) of the CEA.

- (b) If, notwithstanding paragraph (a) above, there exists at any time any Non-Qualified ECP Guarantor that is providing a guarantee (express or otherwise) or granting security with respect to any Swap Obligation, any guarantee or security provided by such Non-Qualified ECP Guarantor shall not constitute a guarantee (express or otherwise) or security for Excluded Swap Obligations, and any reference in any Finance Document with respect to such Non-Qualified ECP Guarantor providing a guarantee or security for Swap Obligations or Secured Obligations (as defined in the Intercreditor Agreement) shall be deemed to be all Swap Obligations other than the Excluded Swap Obligations (and each Party relinquishes, waives and releases any rights to enforce such guarantee or security, or share in the proceeds from the enforcement thereof, in respect of such Excluded Swap Obligations).
- (c) For the purposes of paragraphs (a) and (b) above, the following terms have the following meanings:

"CEA" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.) (as amended from time to time, and any successor statute).

"CFTC" means the Commodity Futures Trading Commission.

"ECP" means an "eligible contract participant" as defined in the CEA or any regulations promulgated thereunder and the applicable rules issued by the CFTC.

"**Excluded Swap Obligations**" means, with respect to the Parent or any Obligor, any obligation (each a "**Swap Obligation**") to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the CEA if, and to the extent that, all or a portion of the guarantee of such Obligor of, or the grant by such Obligor of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal or unlawful under the CEA or any rule, regulation, or order of the CFTC (or the application or official interpretation of any thereof) by virtue of the Parent or such Obligor's failure for any reason to constitute an ECP at the time the guarantee of such Obligor, or a grant by such Obligor of a security interest, would otherwise become effective with respect to such Swap Obligation but for the Parent or such Obligor's failure to constitute an ECP at such time.

"**Non-Qualified ECP Guarantor**" means, in respect of any Swap Obligation, a Guarantor that is not a Qualified ECP Guarantor at the time the relevant guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation.

"**Qualified ECP Guarantor**" means, in respect of any Swap Obligation, each Guarantor that has total assets exceeding USD 10,000,000 at the time the relevant guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or otherwise constitutes an ECP.

“**Qualified Keepwell Provider**” means the Company or, in respect of any Swap Obligation, if the Company is not an ECP at the time the relevant guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation, any other Guarantor notified by the Company to the Security Agent and each Hedge Counterparty that is (i) a corporation, partnership, proprietorship, organization, trust or other entity (other than a “**commodity pool**” as defined in Section 1a(10) of the CEA and CFTC regulations thereunder) that has total assets exceeding USD 10,000,000 or (ii) an ECP that can cause another person to qualify as an ECP under Section 1a(18)(A)(v)(II) of the CEA by entering into a keepwell.

“**Swap Obligation**” has the meaning given to it in the definition of “**Excluded Swap Obligation**”.

23.23 Additional Guarantee Limitations

The guarantee of any Additional Guarantor is subject to any limitations relating to that Additional Guarantor on the amount guaranteed or to the extent of the recourse of the beneficiaries of the guarantee which is set out in the Accession Deed applicable to such Additional Guarantor and agreed with the Agent (acting reasonably in accordance with the Agreed Security Principles).

24 REPRESENTATIONS AND WARRANTIES

Each Obligor, solely in the case of Clauses 24.30 (*US Investment Company Status*), 24.31 (*US Federal Reserve Regulations*) and 24.32 (*ERISA Provisions*), each U.S. Obligor or solely in the case of Clause 24.9 (*Information Memorandum, Base Case Model and Reports*), the Parent, represents and warrants to each of the Finance Parties that:

24.1 Status

- (a) It and each of its Material Subsidiaries is duly incorporated (or, as the case may be, organised) and validly existing under the laws of its jurisdiction of its incorporation (or, as the case may be, organisation).
- (b) It and each of its Material Subsidiaries has the power to own its assets and carry on its business substantially as it is now being conducted.
- (c) With respect to any Spanish Guarantor, such Spanish Guarantor is not affected by any mandatory dissolution event (*causa de disolución obligatoria*) as set out in sections 363 et seq. of the Spanish Capital Companies Law.

24.2 Binding obligations

Subject to the Legal Reservations and the Perfection Requirements:

- (a) its obligations under the Finance Documents to which it is a party are valid, legally binding and enforceable obligations; and
- (b) (without limiting the generality of paragraph (a) above), each of the Transaction Security Documents to which it is party creates valid security interests which that Transaction Security Document purports to make, ranking in accordance with the terms of such documents and those security interests are valid and effective.

24.3 Non-conflict with other obligations

Subject to the Legal Reservations and the Perfection Requirements, the entry into and performance by it of, and the transactions contemplated by the Finance Documents to which it is a party do not contravene:

- (a) any law or regulation applicable to it in any material respect;
- (b) its constitutional documents in any material respect; or
- (c) any agreement or instrument binding upon it or any member of the Group or any of its or their respective assets, to an extent which has or is reasonably likely to have a Material Adverse Effect.

24.4 Power and authority

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, each of the Finance Documents to which it is a party or will be a party and to carry out the transactions contemplated by those Finance Documents.

24.5 Validity and admissibility in evidence

All Authorisations required by it in order:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations under the Finance Documents to which it is a party; and
- (b) to make the Finance Documents to which it is a party, subject to the Legal Reservations, admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect, subject to the Legal Reservations and Perfection Requirements.

24.6 Governing law and enforcement

- (a) Subject to the Legal Reservations, the choice of governing law of the Finance Documents as expressed in such Finance Document will be recognised in its jurisdiction of incorporation.
- (b) Subject to the Legal Reservations and the Perfection Requirements, (i) any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its jurisdiction of incorporation and (ii) any judgment obtained in relation to a Transaction Security Document will be recognised and enforced in the jurisdiction of the governing law of that Transaction Security Document.

24.7 Filing and stamp taxes

Under the laws of its Relevant Jurisdictions (and, in relation to Transaction Security Documents, subject to the Perfection Requirements) it is not necessary 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 other than any tax or fee payable in connection with the filing, registration or recordation of any financing statements, mortgages, deeds of trust or other documentation to perfect the liens granted under the Transaction Security Documents and any Belgium Stamp Duty and it being understood that this Clause 24.7 does not extend to assignments or transfers made pursuant to Clause 30 (*Changes to the Lenders*) or, as the case may be, to the enforcement of Transaction Security and, subject to the Perfection Requirements, it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction, except for any filing, recording or enrolling which is referred to in any Legal Opinion and which will be made within the period allowed by applicable law or the relevant Finance Document.

24.8 No Default

- (a) No Event of Default (or, when this representation is made on the date of this Agreement only, no Default) has occurred and is continuing or could reasonably be expected to result from any Utilisation or the entry into or the performance of any Finance Document.
- (b) To the best of the knowledge and belief of the Parent, no event has occurred and is continuing which constitutes a default (howsoever described) under any agreement to which it or any of its Subsidiaries is party and which has or could reasonably be expected to have a Material Adverse Effect.

24.9 Information Memorandum, Base Case Model and Reports

- (a) Except as disclosed to the Agent or the Mandated Lead Arrangers in writing prior to the date on which the Parent approves the Information Memorandum:
 - (i) to the best of the knowledge, information and belief of the Parent, all the material factual information (taken as a whole) contained in the Information Memorandum is true and accurate in all material respects at the date (if any) ascribed thereto in the Information Memorandum or (if none) at the date of the relevant component of the Information Memorandum;
 - (ii) to the best of the knowledge, information and belief of the Parent, all expressions of opinion and/or intention in the Information Memorandum were arrived at after careful consideration and are based on reasonable grounds at the time of being made;
 - (iii) the projections and forecasts contained in the Information Memorandum are based upon recent historical information and on the basis of assumptions believed to be reasonable by the Parent (after careful consideration) at the time of being made; and
 - (iv) to the best of the knowledge, information and belief of the Parent as at the date of the approval by the Parent of the Information Memorandum, no event or circumstance has occurred and the Information Memorandum does not omit to disclose any matter where failure to disclose or take into account such event or circumstances would result in the information, opinions, intentions, forecasts or projections contained in the Information Memorandum (taken as a whole) being untrue or misleading in any material respect.
- (b) The forecasts and projections contained in the Base Case Model were prepared based on assumptions believed to be reasonable by the Parent at the time made.
- (c) To the best of the knowledge, information and belief of the Parent, all material factual information relating to the Target Group (taken as a whole) contained in the Reports is accurate in all material respects on the date of the relevant Report or (if different) as at the date ascribed thereto in such Report.

24.10 Financial statements

- (a) To the best of the knowledge, information and belief of the Parent, the Original Financial Statements give a true and fair view of the financial position of the Target Group for the period to which they relate and were prepared in accordance with the Accounting Principles consistently applied unless expressly disclosed in the Reports.
- (b) The Annual Financial Statements (together with the notes thereto) most recently delivered pursuant to Clause 25.4 (*Financial Statements*):

- (i) give a true and fair view of the consolidated financial position of the Group as at the date to which they were prepared and for the Financial Year then ended; and
 - (ii) were, subject to Clause 25.8 (*Agreed Accounting Principles*) prepared in accordance with the Accounting Principles consistently applied.
- (c) The Quarterly Financial Statements most recently delivered pursuant to Clause 25.4 (*Financial Statements*):
 - (i) fairly present (subject to customary year-end adjustments) the financial position of it and its Subsidiaries as at the date to which they were prepared and for the Quarter Date to which they relate; and
 - (ii) were, subject to Clause 25.8 (*Agreed Accounting Principles*), prepared on a basis consistent with the Accounting Principles (to the extent appropriate in the context of such accounts).
- (d) The Monthly Financial Statements most recently delivered pursuant to Clause 25.4 (*Financial Statements*):
 - (i) fairly present (subject to customary year-end adjustments) the financial position of it and its Subsidiaries as at the date to which they were prepared and for the Month to which they relate; and
 - (ii) were, subject to Clause 25.8 (*Agreed Accounting Principles*), prepared on a basis consistent with the Accounting Principles (to the extent appropriate in the context of such accounts).

24.11 No litigation

- (a) No litigation, arbitration, action, administrative proceeding or Environmental Claim of or before any court, arbitral body or agency which could reasonably be expected to be adversely determined and which, if adversely determined, is reasonably expected to have a Material Adverse Effect has been started or, to the best of its knowledge is threatened, or is pending against it or any member of the Group.
- (b) There are no labour disputes current, pending or, to its knowledge, threatened which could reasonably be expected to have a Material Adverse Effect.

24.12 Consents, Filings and Laws Applicable to Operations

- (a) All consents and filings have been obtained or effected which are necessary for the carrying on of the business and operations of the Group (taken as a whole) in all material respects substantially as it is being conducted and all such consents and filings are in full force and effect and there are no circumstances known to it which indicate that any such consents and filings are likely to be revoked or varied in whole or in part, save in each case to the extent that absence of any such consent or filing or variation of any such consent does not and could not reasonably be expected to have a Material Adverse Effect.
- (b) It and each of its Subsidiaries is in compliance with all laws and regulations applicable to it in its jurisdiction of incorporation or jurisdictions in which it operates where non-compliance would reasonably be expected to have a Material Adverse Effect.

24.13 Environmental Laws

- (a) It, and each of its Subsidiaries, is in compliance with all Environmental Laws and all Environmental Permits necessary in connection with the ownership and operation of its

business are in full force and effect in each case where failure to do so would reasonably be expected to have a Material Adverse Effect.

- (b) To the best of its knowledge and belief, there are no circumstances which may reasonably be expected to prevent or interfere with it or any of its Subsidiaries being in compliance with any Environmental Law including, without limitation, obtaining or being in compliance with any Environmental Permits in the future where failure to so comply would reasonably be expected to have a Material Adverse Effect.

24.14 Taxation

- (a) No claims are being asserted against it or any of its Subsidiaries with respect to Taxes which are reasonably likely to be determined adversely to it or to such Subsidiary and which, if so adversely determined, would have or would reasonably be expected to have a Material Adverse Effect and all reports and returns on which such Taxes are required to be shown have been filed within any applicable time limits and all Taxes required to be paid have been paid within any applicable time limit (taking into account any extension or grace period) save, in each case, to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect.
- (b) It is not (and none of its Material Subsidiaries is) overdue (taking into account any extension or grace period) in the filing of any Tax return to an extent which would reasonably be expected to have a Material Adverse Effect.

24.15 No Security/Guarantees/Financial Indebtedness

- (a) No Security (or agreement to create the same) exists on or over its or any of its Subsidiaries' assets except as permitted by Clause 27.13 (*Negative Pledge*);
- (b) Neither it nor any of its Subsidiaries has granted any guarantee except as permitted by Clause 27.16 (*Guarantees*); and
- (c) Neither it nor any of its Subsidiaries has incurred any Financial Indebtedness except as permitted under Clause 27.15 (*Indebtedness*).

24.16 Pari passu ranking

The payment obligations of each Obligor under each of the Finance Documents rank and will at all times (except pursuant to a Notifiable Debt Purchase Transaction) rank at least pari passu in right and priority of payment with all its other present and future unsecured and unsubordinated indebtedness (actual or contingent) except indebtedness preferred by laws of general application.

24.17 Legal and Beneficial Ownership

- (a) It and each of its Subsidiaries has good, valid and marketable title to, or valid leases or licences of, or is otherwise entitled to use, all material assets necessary for the conduct of the business as it is presently being conducted, where failure to do so would reasonably be expected to have a Material Adverse Effect.
- (b) Once acquired by the Company pursuant to the Acquisition Agreement, the Target Shares so acquired are or will be legally and beneficially owned by the Company, free from any claims, third party rights or competing interests other than as permitted by this Agreement and save that the Target Shares may be potentially beneficially but not legally owned directly or indirectly by the Company until those shares are registered in the register of shareholders of the Target, which registration will be made as soon as possible after the Closing Date.

24.18 Shares

The shares of any Obligor or Material Subsidiary which are subject to the Transaction Security under the laws of that Obligor's or that Material Subsidiary's (as the case may be) jurisdiction of incorporation are fully paid and not subject to any option to purchase or similar rights. The constitutional documents of such members of the Group do not and will not materially restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security, other than (i) in respect of a Dutch Obligor or a Material Subsidiary incorporated under Dutch law of which one hundred per cent. (100%) of the shares are subject to the Transaction Security, the share transfer restrictions (*blokkeringsregeling*) set forth in the articles of association of the relevant company, or (ii) in respect of all other Obligors or Material Subsidiaries, to the extent such restrictions or inhibitions are required by applicable law.

24.19 Documents

- (a) As at the date of this Agreement, the Acquisition Documents contain all the material terms and conditions of the Acquisition.
- (b) The Constitutional Documents and any document evidencing an Investor Loan contain all the material terms and conditions of the arrangements between the Investors and the Parent in relation to the investment (whether by way of equity, debt or otherwise) in connection with the Acquisition.
- (c) No member of the Group is a party to the shareholder agreements or investment agreements between the Initial Investors and management or between the Investors and a Holding Company of the Parent.

24.20 Intellectual Property

The Intellectual Property required in order to conduct the business of the Group:

- (a) is beneficially owned by or licensed to members of the Group free from any licences to third parties which are materially prejudicial to the use of that Intellectual Property in the Business and will not be adversely affected by the transactions contemplated by the Finance Documents in each case to an extent which would reasonably be expected to have a Material Adverse Effect; and
- (b) has not lapsed or been cancelled in any respect which has or could reasonably be expected to have a Material Adverse Effect and all steps have been taken to protect and maintain such Intellectual Property, including, without limitation, paying renewal fees where failure to do so would reasonably be expected to have a Material Adverse Effect.

24.21 Group structure

To the best of the knowledge, information and belief of the Parent, the factual information relating to the structure of the Group contained in the Group Structure Chart and in the Tax Structure Report accurately records in all material respects the structure of the Group.

24.22 Holding companies

Each of the Parent and the Company is a holding company and:

- (a) has not traded, other than by entering into the Transaction Documents, the provision of administrative services to other members of the Group and any other activity expressly permitted under Clause 27.28 (*Holding Company*);

- (b) does not own any asset, other than loans and money received by it which are in each case permitted by the terms of the Finance Documents, rights arising under the Finance Documents, the shares in the capital of its Subsidiaries and any other ownership or rights expressly permitted under Clause 27.28 (*Holding Company*); and
- (c) does not have liabilities to any person, other than pursuant to the Transaction Documents and in respect of payment of Acquisition Costs, legal fees, auditors fees and other similar fees and expenses, and other matters expressly permitted under Clause 27.28 (*Holding Company*).

24.23 Pension Schemes

- (a) The pension schemes of each member of the Group are funded to the extent required by law or otherwise comply with the requirements of any material law applicable in the jurisdiction in which the relevant pension scheme is maintained, in each case, where failure to do so would reasonably be expected to have a Material Adverse Effect.
- (b) No Canadian Obligor has established or is contributing to or is required to contribute to any registered pension plan for or in respect of its employees

24.24 Insurances

The insurances required by Clause 27.4 (*Insurances*) are in full force and effect as required by this Agreement and no event or circumstance has occurred (and no failure to disclose a fact) which would entitle any insurer to reduce or avoid its liability under any such insurance where such event, circumstance or failure would reasonably be expected to have a Material Adverse Effect.

24.25 Centre of main interests and establishments

For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the “**Regulation**”), so far as each Obligor incorporated in the European Union is aware, its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in its jurisdiction of incorporation).

24.26 Anti-corruption law/Sanctions

- (a) The Parent and each member of the Group has conducted 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.
- (b) Neither the Parent nor the Company or any of their directors or officers:
 - (i) is a Restricted Party;
 - (ii) has engaged in any transaction, activity or conduct that could reasonably be expected to result in its being designated as a Restricted Party; and/or
 - (iii) has received written notice of any claim, action, suit, proceedings or investigation involving it with respect to Sanctions.
- (c) Neither it (nor any member of the Group) is a Restricted Party.
- (d) Any representations and warranties contained in paragraph (b)(ii) above are made insofar as they do not result in a violation of or conflict with Section 7 of the German Foreign Trade Ordinance (§ 7 *Außenwirtschaftsverordnung*) or a violation of the European Council Regulation 2271/96 by any German Obligor.

24.27 Insolvency

No corporate action, legal proceeding or other formal procedure or step described in Clauses 29.7 (*Insolvency*) to 29.10 (*Similar events elsewhere*) (each inclusive) has, in each case, subject to the thresholds and exceptions set out in such Clauses and the other provisions of such Clauses, been taken or (to the best of its knowledge and belief) threatened against it or any of its Material Subsidiaries and, in each case, excluding any such actions, proceedings, steps or process which have been discharged, revoked or otherwise lapsed.

24.28 Tax Deduction

The Company is not required by law to make any Tax Deduction from any payment it may make under the Finance Documents to any Lender.

24.29 Controlled Italian Obligors

- (a) No Italian Obligor is subject to direction and co-ordination (*attività di direzione e coordinamento* pursuant to Article 2497 et seq. of the Italian Civil Code) of any person, except for Ammeraal Beltech S.r.l. (the “**Controlled Italian Obligor**”) which is subject to the direction and co-ordination of Ammeraal Beltech International Beheer B.V.. The Controlled Italian Obligor has complied with the publicity requirements set out in Article 2497-*bis* of the Italian Civil Code.
- (b) The decision by the Controlled Italian Obligor to enter into, and perform its obligations under, this Agreement and the other Finance Documents to which it is or will become a party has been taken under the influence of the direction and co-ordination activity of Ammeraal Beltech International Beheer B.V. but in the interest of the Controlled Italian Obligor and without breaching the principles of the correct corporate and entrepreneurial management (*corretta gestione societaria e imprenditoriale*) of, or otherwise creating unlawful prejudice to, such Controlled Italian Obligor or its assets and such decision has been adequately motivated in accordance with Article 2497-*ter* of the Italian Civil Code.
- (c) No Italian Obligor has created any *patrimonio destinato ad uno specifico affare* nor has incurred any *finanziamento destinato ad uno specifico affare* pursuant to article 2447-*bis* of the Italian Civil Code.
- (d) None of the circumstances set out in Article 2447 or Article 2482-*ter* of the Italian Civil Code have arisen in respect of any Italian Obligor.

24.30 US Investment Company Status

No U.S. Obligor is an “investment company” as defined in, or is required to be registered under, the Investment Company Act of 1940.

24.31 US Federal Reserve Regulations

No part of the proceeds of any Loan or any Letter of Credit have been used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that results in a violation of the provisions of Regulation T, U or X.

24.32 ERISA Provisions

- (a) Each Plan is in compliance in form and operation with its terms and with ERISA and the Internal Revenue Code and all other applicable Requirements of Law, except where any failure to comply would not reasonably be expected to result in a Material Adverse Effect.

- (b) In the five-year period prior to the date on which this representation is made or deemed made, no ERISA Event has occurred and is continuing or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, would reasonably be expected to result in a Material Adverse Effect.

24.33 Repetition

- (a) The representations and warranties contemplated in this Clause 24 (*Representations and Warranties*) shall be made on the date of this Agreement and the Closing Date except that:
 - (i) the representations and warranties set out in Clause 24.9 (*Information Memorandum, Base Case Model and Reports*), to the extent relating to the Information Memorandum and the Reports, shall be made only, in the case of and in relation to each of the Information Memorandum and each Report as applicable, on the later of the date of this Agreement and the date of approval and delivery in final form to the Mandated Lead Arrangers or the Agent (as the case may be) by the Parent, and not repeated thereafter;
 - (ii) the representations and warranties set out in Clause 24.9 (*Information Memorandum, Base Case Model and Reports*) to the extent relating to the Base Case Model shall be made only on the date of this Agreement and not repeated thereafter;
 - (iii) the representations and warranties set out in paragraph (a) of Clause 24.10 (*Financial statements*) shall be made only on the date of this Agreement and not repeated thereafter; and
 - (iv) the representation and warranty set out in paragraph (b) of Clause 24.17 (*Legal and Beneficial Ownership*) shall be made on each date on which Target Shares are acquired pursuant to the Acquisition Agreement (as applicable) and in respect of the Target Shares acquired on such date only.
- (b) The representations and warranties set out in Clauses 24.1 (*Status*) to 24.6 (*Governing law and enforcement*) (inclusive), paragraph (a) of Clause 24.8 (*No Default*) and Clause 24.16 (*Pari passu Ranking*) (such representations and warranties being the “**Repeating Representations**”) shall be deemed to be repeated on each Utilisation Date and on the first day of each Interest Period.
- (c) The Repeating Representations (along with, in the case of the accession of a U.S. Obligor, the representations and warranties set out in Clause 24.27 (*Insolvency*)) shall in addition be repeated in relation to the relevant Additional Obligor on each date on which it becomes an Obligor.
- (d) The representations and warranties set out in paragraphs (b), (c) and (d) of Clause 24.10 (*Financial statements*) in respect of each set of financial statements delivered as contemplated by Clause 25.4 (*Financial Statements*) to this Agreement shall only be made once in respect of each set of financial statements on the date such financial statements are delivered.

25 INFORMATION AND ACCOUNTING UNDERTAKINGS

The undertakings in this Clause 25 (*Information and Accounting Undertakings*) shall continue for so long as any sum remains payable or capable of becoming payable under the Finance Documents or any Commitment is in force.

25.1 Events of Default

Each Obligor will, promptly after becoming aware of it, notify the Agent (with a copy to the Security Agent) of the occurrence of any Default that is continuing (and the steps if any being taken to remedy it) and will from time to time if the Agent has reasonable grounds for believing that a Default has occurred and is continuing and so requests in writing, deliver to the Agent a certificate on behalf of the Parent, signed by the CEO or the CFO confirming that to the best of such director's knowledge, no Default has occurred and is continuing or setting out details of any Default of which such director is aware and the action (if any) taken or proposed to be taken to remedy it).

25.2 Books of Account

Each Obligor will keep, and each Obligor will procure that its Subsidiaries will keep, proper books of account relating to its business.

25.3 Appointment of Auditors

The Parent will not (except where required by applicable law) appoint any auditors other than the Auditors in respect of the financial statements delivered under Clause 25.4 (*Financial Statements*).

25.4 Financial Statements

- (a) The Parent will deliver (or will procure that the relevant Obligor delivers) to the Agent for distribution to the Lenders (with sufficient copies for each of the Lenders if so requested by the Agent) of the following:
 - (i) as soon as these are available and in any event within one hundred and twenty (120) days after the end of each other Financial Year of the Parent:
 - (A) the audited consolidated financial statements of the Group for that Financial Year (the “**Annual Financial Statements**”); and
 - (B) if prepared and if requested by a Lender, the audited financial statements (consolidated if appropriate) of each Obligor for that Financial Year; and
 - (ii) within forty-five (45) days after the end of each Financial Quarter (or, in the case of the first four Financial Quarters after the Closing Date and the final Financial Quarter in each Financial Year of the Parent, within sixty (60) days), its consolidated financial statements for that Financial Quarter (the “**Quarterly Financial Statements**”);
 - (iii) within forty-five (45) days of the end of each Month, the monthly unaudited consolidated management accounts of the Group (the “**Monthly Financial Statements**”); and
 - (iv) commencing with the Financial Year beginning 1 January 2016, not more than forty-five (45) days after the beginning of each of its Financial Years, its annual budget for such Financial Year.
- (b) The Parent shall ensure that each of the Financial Statements delivered to the Agent pursuant to this Agreement shall:
 - (i) include a balance sheet, profit and loss account, full cashflow statement (including changes in cash) and a calculation of Consolidated Total Net Debt of the Group;

- (ii) be accompanied by a comparison of actual performance for that period against projected performance for that period in the Budget and performance against the corresponding period in the last Financial Year; and
 - (iii) fairly represent (subject to customary year-end adjustments) the financial condition of the Group and its operations as at the date on which those financial statements or accounts were drawn up and, in the case of the Annual Financial Statements, shall be certified by the CEO or the CFO as giving a true and fair view of the financial condition of the Group.
- (c) The Parent shall ensure that each Budget delivered to the Agent pursuant to this Agreement shall:
- (i) be in the format discussed with the Agent and shall include a projected consolidated profit and loss statement, balance sheet and cashflow statements for the Group, projected disposals and projected capital expenditure for the Group;
 - (ii) have been approved by the CEO or CFO and shall, solely for the Financial Year commencing on 1 January 2016 and ending on 31 December 2016, be accompanied by a statement by the CEO or CFO comparing the information and projections in that Budget relating to revenues, Consolidated EBITDA and Consolidated Total Net Debt with the information and projections relating to revenues, Consolidated EBITDA and Consolidated Total Net Debt for the same period in the Base Case Model; and
 - (iii) subject to Clause 25.8 (*Agreed Accounting Principles*), be prepared using the Accounting Principles, accounting practices and financial reference periods consistent with those applied in the Original Financial Statements and the Base Case Model.

25.5 Compliance Certificates

- (a) The Parent shall deliver to the Agent with each set of Quarterly Financial Statements, a Quarterly Compliance Certificate signed by the CEO or CFO:
- (i) certifying whether or not as at the date of the relevant accounts the Group was in compliance with the financial covenant contemplated in Clause 26 (*Financial Covenant*) to this Agreement and setting out (in reasonable detail) computations as to compliance with that financial covenant but only to the extent such financial covenant is tested with respect to the Relevant Period ending on the last day of the relevant Financial Quarter;
 - (ii) confirming the Margin as set out in the definition of Margin;
 - (iii) setting out (in reasonable detail) the details of any Permitted Acquisition during that period; and
 - (iv) confirming the amount of Closing Overfunding used or otherwise designated (if any) during the relevant Quarter Period, the purpose of the use or designation (if any) and the amount of the remaining Closing Overfunding.

For the avoidance of doubt there will be no requirement to deliver a Compliance Certificate with any set of Monthly Financial Statements delivered to the Lenders.

- (b) The Parent shall deliver to the Agent with the Annual Financial Statements, an Annual Compliance Certificate signed by the CEO or CFO:

- (i) confirming whether or not as at the date of the relevant accounts the Group was in compliance with the financial covenant contained in Clause 26 (*Financial Covenant*) and setting out (in reasonable detail) computations as to compliance with the financial covenant but only to the extent such financial covenant is tested with respect to the Relevant Period ending on the last day of the relevant Financial Year;
 - (ii) setting out (in reasonable detail) computations as to the calculation of the Margin set out in the definition of Margin;
 - (iii) confirming the amount of Excess Cash Flow and Retained Excess Cash; and
 - (iv) confirming the Material Subsidiaries and compliance or lack of compliance with paragraph (a) of Clause 24.15 (*No Security/Guarantees/Financial Indebtedness*) to this Agreement (such certificate to contain reasonably detailed calculations demonstrating such matters).
- (c) Each Annual Compliance Certificate shall be reported on by the Auditors as to the proper extraction of the numbers used in the calculation of the financial covenant contained in Clause 26 (*Financial Covenant*) (subject to each Finance Party agreeing an engagement letter with the Auditors (and otherwise in such manner and on such conditions as the auditors specify) and only to the extent that firms of auditors of international repute have not adopted a general policy of not providing such reports). The Parent shall use all reasonable endeavours to ensure that the Auditors provide an engagement letter on acceptable terms.

25.6 Investigations

Each Obligor will (and the Parent will ensure that each other member of the Group will) while an Event of Default is continuing under any of Clause 29.1 (*Payment Default*), Clause 29.2 (*Financial covenant*), or any of Clause 29.7 (*Insolvency*) to Clause 28.10 (*Similar events elsewhere*), permit the Agent or other professional advisers engaged by the Agent (after consultation with the Parent as to the scope of the investigation and engagement), at the cost of the Parent (but subject to prior notification to the Parent; and where such costs are notified to be in aggregate greater than EUR 1,000,000, then subject to the prior consent of the Parent); and otherwise at the cost of the Finance Parties:

- (a) free access (in the presence of the Parent) at all reasonable times and on reasonable notice to the books, accounts and records of each member of the Group to the extent the Agent (acting reasonably) considers such books, accounts or records to be relevant to the Event of Default which has occurred and to inspect and take copies of and extracts from such books, accounts and records; and
- (b) during normal business hours and on reasonable notice to meet and discuss with senior management of the relevant Obligor or other member of the Group,

provided that all information obtained as a result of such access shall be subject to the confidentiality restrictions set out in this Agreement.

25.7 Other Information

The Parent will, and will procure that each Obligor shall (unless it is aware that another Obligor has already done so), promptly upon becoming aware of or receiving a request (as the case may be) deliver to the Agent for distribution to the Lenders:

- (a) details of any litigation, arbitration or administrative proceedings, Environmental Claim, action or labour dispute affecting it or any of its Subsidiaries which could reasonably be expected to have a Material Adverse Effect;
- (b) at the same time as sent to the Parent's creditors, any other material document or material information sent to the Parent's creditors as a class by reason of financial difficulty;
- (c) details of any material breach of the terms of the Acquisition Documents or any material claim made by or against it under the terms of the Acquisition Documents of which it is aware;
- (d) details of any New Shareholder Injections provided pursuant to Clause 29.2 (*Financial Covenant*);
- (e) such other information relating to the financial condition, assets or operation of the Group, as the Agent or the Majority Lender through the Agent may from time to time reasonably request; and
- (f) details of any material change in the structure of the Group from that set out in the most recently delivered Group Structure Chart together with, if requested, an updated Group Structure Chart.

25.8 Agreed Accounting Principles

- (a) The Parent shall procure that all its Financial Statements delivered or to be delivered to the Agent under this Agreement shall be prepared in accordance with the Original Accounting Principles. If such Financial Statements are prepared on a different accounting basis to the Original Accounting Principles (including in the case of a change of Accounting Principles):
 - (i) the Parent shall promptly so notify the Agent;
 - (ii) if requested by the Agent following notification under paragraph (i) above, the Parent must promptly supply to the Agent a full description of the change notified under paragraph (i) and a statement (the "**Reconciliation Statement**") signed by the CEO or CFO;
 - (iii) the Parent and the Agent shall promptly after such notification enter into negotiations in good faith with a view to agreeing (A) such amendments to the terms contemplated in Clause 26 (*Financial Covenant*) and/or the definitions of any or all of the terms used therein as are necessary to give the Lenders comparable protection to that contemplated at the date of this Agreement and (B) any other amendments to this Agreement which are necessary to ensure that the adoption by the Group of such different accounting basis does not result in any material alteration in the commercial effect of the obligations of the Parent or any Obligor in the Finance Documents;
 - (iv) if amendments satisfactory to the Majority Lenders (acting reasonably and in accordance with the provisions of this Clause) are agreed by the Parent and the Agent in writing within thirty (30) days of such notification to the Agent, those amendments shall take effect in accordance with the terms of that agreement; and
 - (v) if such amendments are not so agreed within thirty (30) days, the Parent shall promptly deliver to the Agent:
 - (A) in reasonable detail and in a form satisfactory to the Agent, details of all such adjustments as need to be made to the relevant financial statements

in order to reflect the applicable accounting principles at the date of delivery of the relevant financial statements;

- (B) only to the extent the financial covenant is applicable with respect to the most recently ended Relevant Period, sufficient information, in form and substance as may be reasonably required by the Majority Lenders to enable the Majority Lenders to determine whether the financial covenant set out in Clause 26 (*Financial Covenant*) has been complied with including but not limited to a Reconciliation Statement to be delivered with each set of Financial Statements; and
 - (C) together with the Compliance Certificate delivered with the Annual Financial Statements for that Financial Year, written confirmation from the Auditors (addressed to the Agent) confirming the basis for such changes and the calculations and adjustments provided by the Parent under paragraphs (A) and (B) above (subject to each Finance Party agreeing an engagement letter with the Auditors (and otherwise in such manner and on such conditions as the auditors specify) and only to the extent that firms of auditors of international repute have not adopted a general policy of not providing such confirmation).
- (b) No alteration may be made to the Accounting Reference Date of the Parent without the prior written consent of the Agent (acting solely on the instructions of the Majority Lenders) (in which event the Agent may require such changes to the financial covenant set out in Clause 26 (*Financial Covenant*) and/or definitions of any or all of the terms used therein as are necessary to give the Lenders comparable protection to that contemplated at the date of this Agreement as will fairly reflect such change) **provided that** the consent of the Agent (acting solely on the instructions of the Majority Lenders (acting reasonably and in accordance with the provisions of this Clause)) shall not be required to any such change where:
 - (i) the Accounting Reference Date is changed to another Quarter Date and the Financial Year of the Parent is not longer than twelve (12) Months; or
 - (ii) the Parent:
 - (A) delivers to the Agent, in reasonable detail and in a form satisfactory to the Agent (acting on the instructions of the Majority Lenders (acting reasonably and in accordance with the provisions of this Clause)) on the date of delivery of each set of audited Financial Statements required to be delivered as contemplated by Clause 25.4 (*Financial statements*) but only to the extent the financial covenant is applicable with respect to the Relevant Period covered in such audited Financial Statements, details of all such adjustments as need to be made to such financial statements to provide the information required to test compliance with the financial covenant set out in Clause 26 (*Financial Covenant*);
 - (B) together with the Compliance Certificate delivered with the Annual Financial Statements for that Financial Year, provides written confirmation from the Auditors (addressed to the Agent) confirming the basis for such changes and the calculations and adjustments provided by the Parent under paragraph (A) above; and
 - (C) enters into an agreement satisfactory to the Agent (acting on the instructions of the Majority Lenders (acting reasonably and in accordance with the provisions of this Clause)) with regard to the amount and timing of mandatory prepayments of Excess Cash Flow as

contemplated in this Agreement and Financial Year based general baskets, in each case which places the Lenders in no worse position as a result of such change than they would have been in if no change had taken place,

provided further that the Parent may not exercise this right to alter its Accounting Reference Date on more than two occasions.

25.9 Annual Presentation

Once in every Financial Year of the Group at least two executive directors of the Parent (one of whom shall be the CFO) shall, if requested by the Agent, give a single presentation to the Finance Parties, at a time and venue agreed with the Agent, about the financial performance of the Group.

25.10 “Know your customer” checks

- (a) 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 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) (provided it has entered into a confidentiality undertaking substantially in the standard LMA form) in order for the Agent, such Lender or any prospective New Lender to carry out and be satisfied with the results of 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 with the results of 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 ten (10) Business Days’ 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 32 (*Changes to the Obligors*).
- (d) Following the giving of any notice pursuant to paragraph (c) above, 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) (provided it has entered into a confidentiality undertaking substantially in the standard LMA form) in order for the Agent, or any Lender or any prospective New Lender to carry out and be satisfied with the results of 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 pursuant to Clause 32 (*Changes to the Obligors*).

26 FINANCIAL COVENANT

26.1 Financial definitions

For the purposes of this Agreement:

“**Acquisition Costs**” means all fees, commissions, costs and expenses, stamp, registration and other Taxes incurred by the Parent or any other member of the Group in connection with the Acquisition or the negotiation, preparation, execution, notarisation and registration of the Transaction Documents together with all fees, commissions, costs and expenses incurred by the

Target Group in connection with the Acquisition or the Transaction Documents (including for the avoidance of doubt, the payment of any make-whole costs and other costs in relation thereto, Hedging Costs and all payments made to any Hedge Counterparty, and all fees, costs and expenses incurred, by any member of the Target Group in connection with the close-out or termination on or about the Closing Date of any hedging arrangements in respect of which any member of the Target Group was a party (including without limitation in respect of interest rate, exchange rate and commodity price risk hedging)).

“Borrowings” means, at any time, the aggregate outstanding principal, capital or nominal amount of the Financial Indebtedness of members of the Group (on a consolidated basis) other than:

- (a) any indebtedness referred to in paragraph (g) of the definition of Financial Indebtedness;
- (b) the amount of any liability of pension obligations of the Group;
- (c) any indebtedness under any operating lease;
- (d) in relation to the minority interests line in the balance sheet of any member of the Group;
- (e) Investor Loans subordinated under the terms of the Intercreditor Agreement or otherwise to the satisfaction of the Majority Lenders (acting reasonably);
- (f) any Financial Indebtedness represented by shares (except for shares redeemable mandatorily or at the option of the holder prior to the final maturity date of the Facilities); and
- (g) all contingent liabilities under a guarantee, indemnity, bond, standby or documentary letter of credit unless the underlying liability covered by such instrument has become due and payable and remains unpaid except for any contingent liabilities in respect of a guarantee granted by a member of the Group in respect of Permitted Alternative Debt incurred by a person that is not a member of the Group, which shall be included in Borrowings.

“Business Acquisition” means the acquisition of or investment in a company or any shares (or equivalent ownership interests), or securities or a business, real estate, or undertaking (or, in each case, any interest in any of them) or the incorporation of a company (including a Permitted Acquisition or Permitted Joint Venture).

“Capital Expenditure” means any expenditure or obligation (other than expenditure or obligations in respect of Business Acquisitions or Restructuring Costs) in respect of cash expenditure which, in accordance with the Accounting Principles, is treated as capital expenditure (including the capital element of any expenditure or obligation incurred in connection with a Capitalised Lease Obligation (other than for purposes of Consolidated Cash Flow)), and only taking into account the actual cash payment made where assets are replaced and part of the purchase price is paid by way of part exchange.

“Capitalised Lease Obligations” means, with respect to any person, any rental obligation (including any hire purchase payment obligation) which, under the Original Accounting Principles, would be required to be treated as a finance lease or otherwise capitalised in the audited financial statements of that person, but only to the extent of that treatment.

“Consolidated Cash Flow” means, in respect of the Group and any Relevant Period, Consolidated EBITDA:

- (a) less any increase in Working Capital;
- (b) plus any decrease in Working Capital;

- (c) less all amounts paid in respect of Capital Expenditure;
- (d) less all amounts paid in respect of Permitted Acquisitions other than the Acquisition (net of cash on the balance sheet of any acquired business as at the date of completion of such acquisition (without double-counting);
- (e) less Pension Items paid in cash to the extent not included in Consolidated EBITDA;
- (f) less amounts paid in cash or falling due for payment during such period in respect of income tax, corporation tax, withholding tax, trade tax or any other equivalent (except to the extent any such tax was deducted from Excess Cash Flow under paragraph (j) of the definition thereof in respect of the previous Financial Year);
- (g) plus the amount of any tax credit or rebate received in cash (to the extent not included in Consolidated EBITDA);
- (h) plus exceptional items received in cash (to the extent not included in Consolidated EBITDA);
- (i) less exceptional, one-off and non-recurring items and restructuring and reorganisation costs paid in cash;
- (j) less amounts invested in Permitted Joint Ventures but plus the amount of any loan which was made to a Permitted Joint Venture which is repaid in cash to a member of the Group plus any royalty or other distribution in cash received from any Permitted Joint Venture not otherwise included in Consolidated EBITDA;
- (k) (to the extent not taken into account in or excluded by any other paragraph of this definition) less all non-cash credits and plus all non-cash debits and other non-cash charges included in establishing Consolidated EBITDA;
- (l) (to the extent included in Consolidated EBITDA or in any other paragraph of this definition) excluding the effect of all cash movements associated with the Acquisition and excluding any Acquisition Costs, Amendment Costs and Permitted Acquisition Costs;
- (m) less any fees, costs or charges of a non-recurring nature related to any equity offering, investments, acquisitions or Financial Indebtedness permitted under the Finance Documents (whether or not successful);
- (n) plus to the extent not already taken into account as exceptional items under the paragraphs above or applied to exclude items as contemplated under the paragraphs above and to the extent not already included in calculating Consolidated EBITDA, Net Cash Proceeds for any disposal received by the Group which it is permitted to retain and which are not required to be reinvested or applied in mandatory prepayment;
- (o) less any amounts paid outside the Group to minority shareholders or partners of members of the Group or pursuant to a Permitted Payment to the extent not already taken into account in calculating Consolidated EBITDA;
- (p) for any Quarter Date falling at the end of a Financial Year, less any amounts that constitute Trapped Cash at the last day of the applicable Relevant Period and plus any amounts that were deducted under this paragraph for the calculation of this definition for the Quarter Date ending on the immediately previous Financial Year but no longer constitute Trapped Cash; and
- (q) (to the extent not included in calculating Consolidated Total Net Cash Interest Expenses) plus the amount of any cash receipts and less the amount of any cash payments paid,

under any Treasury Transaction by a member of the Group during the Relevant Period (including any one-off cash payments, premia fees, costs or expenses in connection with the purchase of a Treasury Transaction or which arise upon maturity, close-out or termination of any Treasury Transaction),

and so that no amount shall be added (or deducted) more than once, and excluding amounts already taken into account in Consolidated EBITDA, and there shall also be excluded any item expressed to be deducted to the extent at any time allocated by the Parent as funded directly or indirectly from Acceptable Funding Sources.

“Consolidated Debt Service” for any period and in relation to the Group, means Consolidated Total Net Cash Interest Expenses of the Group for such period,

- (a) **plus** all scheduled repayments of Borrowings on a consolidated basis which fell due for repayment or prepayment (excluding for the avoidance of doubt any voluntary prepayment) during such period;
- (b) **excluding** any principal amount which fell due under any overdraft or revolving credit facility and which was available for simultaneous redrawing according to the terms of such facility or under the Revolving Facility and any Ancillary Facility or which would have been available for simultaneous redrawing but for a cancellation or termination of the available facility by a member of the Group;
- (c) **excluding** any repayment of Financial Indebtedness existing on the Closing Date which is required to be repaid under the Finance Documents;
- (d) **excluding** the repayment of any debt by a member of the Group which is required to be repaid in accordance with the implementation of the Debt Pushdown; and
- (e) **excluding** any amounts under paragraphs (a) and/or (j) of the definition of Permitted Financial Indebtedness which are refinanced by a replacement facility or notes permitted under the Finance Documents.

“Consolidated EBIT” for any period, means the consolidated profits of the Group from ordinary activities before taxation:

- (a) **before taking into account** any accrued interest, commission, fees, discounts and other finance charges incurred or payable or owed to any member of the Group in respect of Borrowings (but including Treasury Transactions in Borrowings);
- (b) **after including** the amount of profit or loss of any member of the Group which is attributable to any third party (not being a member of the Group) which is a shareholder (or holder of a similar interest) in such member of the Group but after deducting any dividends or other profit distributions (net of any applicable withholding tax) paid in cash to such minority shareholders (or holders of similar ownership interests) in members of the Group;
- (c) **before taking into account** any (w) unrealised gains or losses on hedging or other derivatives or (x) realised gains or losses on hedges or other derivatives entered in relation to the Facilities, Second Lien Facility, any Additional Facility, Second Lien Additional Facility or any other Permitted Alternative Debt or otherwise in connection with any purpose other than in the ordinary course of trading (including for the avoidance of doubt before taking into account mark-to-market adjustments on currency swaps) or (y) exchange rate gains or losses arising due to the re-translation of the balance sheet items but (z) after taking into account any realised gains or losses on hedges or other derivatives entered into in the ordinary course of trading;

- (d) **before taking into account** any gain or loss arising from an upward or downward revaluation of any asset or on the disposal of an asset;
- (e) **before deducting** any items (positive or negative) of a one-off, non-recurring, extraordinary or exceptional nature;
- (f) **plus** any amounts claimed under business interruption insurance (or its equivalent);
- (g) **before deducting** Restructuring Costs;
- (h) **before taking into account** costs related to the Debt Pushdown and other merger and structure simplification transactions contemplated in the Tax Structure Report;
- (i) **before deducting** any Acquisition Costs, Amendment Costs and Permitted Acquisition Costs;
- (j) **before deducting** expenses relating to pensions including service costs and pension interest costs but after deducting Pension Items;
- (k) **plus** the amount received in cash by members of the Group through dividends, profit distributions, returns on investments, royalties or similar payments by any entity (which is not a member of the Group) in which any member of the Group has an ownership interest (grossed up in respect of any applicable withholding tax and including any repayment to the Group of loans to, or other investments, in associates or joint ventures);
- (l) **before deducting** any fees, costs or charges of a non-recurring nature related to any equity offering, investments, acquisitions or Financial Indebtedness permitted under the Finance Documents (whether or not successful) and before deducting agency and trustee fees under Permitted Financial Indebtedness;
- (m) **before deducting** any management, monitoring or advisory fees paid to the Investors and holding company costs where permitted to be paid under the Finance Documents;
- (n) **before** taking into account any development costs or other similar costs that are costs of the type that are capitalised in the Base Case Model; and
- (o) **plus** any amount of Tax that would be accounted for below EBIT in accordance with IFRS accounting standards,

and, for the avoidance of doubt, **provided that** (i) any profit or loss on any Debt Purchase Transaction shall not be taken into account in calculating Consolidated EBIT; and (ii) realised exchange gains and losses on operational trading is taken into account in determining the consolidated profits of the Group from ordinary activities however exchange gains and losses on the translation of any non-euro debt for accounting purposes (whether realised or not) will not be taken into account.

“Consolidated EBITDA” for any period and without double counting means the Consolidated EBIT of the Group **plus** the consolidated depreciation and amortisation (including acquisition goodwill) and any impairment costs of the Group (each as defined by reference to the consolidated financial statements of the Group).

“Consolidated Pro Forma EBITDA” for any Relevant Period, means Consolidated EBITDA as adjusted in accordance with Clause 26.4 (*Calculations*) below.

“Consolidated Senior Secured Net Debt” means the principal amount of all Borrowings of the Group under the Facilities and under any Permitted Alternative Debt solely to the extent such Permitted Alternative Debt ranks in right of payment and security *pari passu* with the Facilities

and is guaranteed by (and has the right to receive guarantees from) at least the same guarantors as under the Facilities and benefits from at least the same Security which secures the Facilities (ignoring, where relevant for the purposes of assessing such equivalency, any hardening periods or guarantee limitations) and is designated as “Senior Secured Creditor Liabilities” under (and as defined in) the Intercreditor Agreement less the aggregate amount at that time of Cash and Cash Equivalent Investments held by members of the Group.

“Consolidated Total Net Cash Interest Expenses” for any period and in relation to the Group, means:

- (a) the aggregate of interest, commitment or non-utilisation fees, annual agency fees and other recurring fees (other than as excluded in paragraph (g) below) relating to the Facilities and the Second Lien Facility accruing (whether or not paid) during a period plus or minus net amounts receivable or payable or accrued by the Group under the Hedging Agreements or other Treasury Transactions in respect of interest but excluding any one-off cash payments, premia fees, costs or expenses in connection with the purchase of a Treasury Transaction or which arise upon maturity, close-out or termination of any Treasury Transaction and any unrealised gains or losses on any Treasury Transactions;
- (b) **plus** interest, commitment fees and other fees on any other Borrowings (including the interest element of any Finance Leases) accruing (whether or not paid) during a period;
- (c) **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;
- (d) **less** interest income accrued (whether or not paid) for the account of a member of the Group;
- (e) **excluding** the non-cash element of interest on any Permitted Financial Indebtedness and any Investor Loans during that period;
- (f) **excluding** any amortisation of Acquisition Costs, Amendment Costs or Permitted Acquisition Costs;
- (g) **excluding** all one-off agency, arrangement, underwriting, amendment, consent or other front end, one-off or similar non-recurring fees (and any amortisation thereof); repayment and prepayment premiums, fees or costs; any deemed finance charges or notional interest in relation to pension liabilities and any withholding tax (or gross up obligation) on interest receivable, received, payable or paid.

“Consolidated Total Net Debt” means the principal amount of all Borrowings of the Group less the aggregate amount at that time of Cash and Cash Equivalent Investments held by members of the Group.

“Excess Cash Flow” means in relation to any Financial Year of the Group, the result (if positive) of Consolidated Cash Flow for such period less the aggregate of:

- (a) Consolidated Debt Service for such Financial Year;
- (b) any mandatory prepayments (to the extent such proceeds constitute Consolidated Cash Flow) or (to the extent not available for redrawing and to the extent the prepayment is not funded by other Permitted Financial Indebtedness) voluntary prepayments of Permitted Financial Indebtedness made during such period;
- (c) to the extent included in Consolidated Cash Flow, the cash proceeds of any subscription (to the extent paid in cash) for common and/or preference shares of the Group by way of

any capital contribution to the Group or any raising of funds by way of private placement of ordinary or preference share capital;

- (d) to the extent included in Consolidated Cash Flow, the cash proceeds of New Investor Loans;
- (e) any Net Cash Proceeds of any disposal referred to in paragraph (n) of Consolidated Cash Flow;
- (f) any Pending Acquisition Amount (except to the extent that the Pending Acquisition Amount is funded or refinanced from the proceeds of an Additional Facility) and any Pending Restructuring Amount (except to the extent that the Pending Restructuring Amount is funded or refunded to the extent funded from the proceeds of an Additional Facility);
- (g) any amount excluded from the definition of Consolidated Cash Flow for that year by operation of paragraph (ii) of the proviso to that definition; and
- (h) amounts claimed under loss of profit, business interruption or equivalent insurance in respect of such period to the extent not received in cash during that Financial Year;
- (i) the amount of any committed Capital Expenditure contracted for during that Financial Year for application in the following Financial Year ("**Pending Capital Expenditure Amount**");
- (j) tax accrued and/or payable during or in respect of such Financial Year but not overdue (save if under dispute) and not paid ("**Pending Tax Amount**"); and
- (k) any cash amounts attributable to a person, property, business or material fixed asset that a member of the Group has committed to transfer or otherwise dispose of during such Financial Year and that is to be transferred or otherwise disposed of in the immediately following Financial Year ("**Pending Disposal Cash**"),

plus any Pending Acquisition Amount, Pending Capital Expenditure Amount, Pending Restructuring Amount, Pending Tax Amount or Pending Disposal Cash already subtracted from Excess Cash Flow in respect of the previous Financial Year and which has not been so utilised in the current Financial Year or where utilised, has resulted in a corresponding deduction to Consolidated Cash Flow in the current Financial Year or, in relation to Pending Disposal Cash, in respect of which a disposal has not occurred.

"Financial Quarter" means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

"Financial Year" means the annual accounting period of the Group or the Group, as relevant, ending on the Accounting Reference Date in each year.

"Pending Acquisition Amount" means, in respect of any Financial Year (the **"Relevant Financial Year"**), the aggregate cash amounts to be paid in respect of the consideration for Permitted Acquisitions for which a member of the Group has entered into a commitment before the end of the Relevant Financial Year.

"Pending Restructuring Amount" means, in respect of any Financial Year, the aggregate cash amounts to be paid in respect of any Restructuring Costs for which a member of the Group has entered into a commitment before the end of the Financial Year.

"Pension Items" means the current cash service costs attributable to any income or charge attributable to a post-employment benefit scheme.

“Permitted Acquisition Costs” means all fees, commissions, costs and expenses, stamp, registration and other Taxes incurred by the Parent or any other member of the Group in connection with any Permitted Acquisition, or Permitted Joint Venture and the negotiation, preparation, execution, notarisation and registration of related documentation together with all fees, commissions, costs and expenses incurred by the target entity in connection with such acquisition or related documentation (including for the avoidance of doubt any costs relating to the hedging arrangements of the target entity).

“Quarter Date” means each of 31 March, 30 June, 30 September and 31 December or such other dates which correspond to the quarter end dates within the Financial Year of the Group.

“Quarter Period” means the period commencing on the day immediately following a Quarter Date and ending on the next occurring Quarter Date.

“Relevant Period” means each period of four consecutive Quarter Periods ending on a Quarter Date (which for the avoidance of doubt may include periods prior to the Closing Date in accordance with paragraph (a) of Clause 26.4 (*Calculations*)).

“Restructuring Costs” means costs or expenses relating to employee relocation, retraining, severance and termination, business interruption, reorganisation and other restructuring or cost-cutting measures, the rationalisation, re-branding, start-up, reduction or elimination of product lines, assets or businesses, the consolidation, relocation, or closure of retail, administrative or production locations and other similar items (for the avoidance of doubt, excluding any related Capital Expenditure).

“Retained Acquisition Proceeds” means the Net Cash Proceeds of any Recovery Claim (excluding for this purpose any claim against the provider of any Report) referred to in paragraph (i) of Excluded Recovery Proceeds.

“Retained Cash” means, at any time and from time to time to the extent allocated as such at the option of the Parent and to the extent not previously applied or allocated for a particular purpose, Retained Excess Cash; Closing Overfunding; Net Cash Proceeds; any amounts received or receivable from any person which is not a member of the Group for the purpose of, or with the intention that such amounts are available to be used for, the relevant expenditure (including under the Acquisition Documents or agreements governing any Permitted Acquisitions (by way of indemnity, compensation or otherwise)); prepayments under any relevant contractual arrangements; investment grants; and capital contributions received from landlords in relation to real property).

“Retained Cash Flow” means (i) Excess Cash Flow, if positive, not required to be applied in prepayment of the Facilities, Second Lien Facility, any Additional Facility and Second Lien Additional Facility including for the avoidance of doubt all Excess Cash Flow generated in the Financial Year ended 31 December 2015 and (ii) (without double counting), the Excess Cash Flow De Minimis (to the extent deducted in determining the amount of Excess Cash Flow required to be prepaid).

“Retained Excess Cash” means accumulated unspent Retained Cash Flow from previous years identified in the Compliance Certificates delivered with the annual audited accounts of the Group to the extent not utilised or applied in accordance with the terms of the Finance Documents and shall for the avoidance of doubt include all Excess Cash Flow generated in any Financial Year which ends after the Closing Date but which is not required to be prepaid.

“Senior Secured Leverage Ratio” means the ratio of Consolidated Senior Secured Net Debt as at the last day of the Relevant Period ending on such Quarter Date to Consolidated Pro Forma EBITDA in respect of that Relevant Period.

“**Trapped Cash**” means any cash, cash equivalents or other amounts that would, if it constituted an applicable mandatory prepayment proceed, be exempt from being required to be applied in a mandatory prepayment as per paragraph (d) of Clause 12.4 (*Application of prepayments*), for reasons of unlawfulness, inability to upstream to applicable Borrowers and otherwise.

“**Working Capital**” means trade and other debtors in relation to operating items of any member of the Group plus prepayment in relation to operating items, inventory and stock, less trade and other creditors in relation to operating items (but not including sums payable in respect of any Borrowings) of any member of the Group and less accrued expenses and accrued costs of any member of the Group excluding taxes and liabilities and claims in relation to the Acquisition.

26.2 Financial condition

The undertaking in this Clause 26 (*Financial Covenant*) shall continue for so long as any sum remains payable or capable of becoming payable under the Finance Documents or any Commitment is in force.

26.3 Leverage financial covenant

Leverage: Beginning on the first Quarter Date to occur after two full Quarter Periods have elapsed following the Closing Date, the Parent shall ensure that on each Quarter Date specified in Column (1) below the ratio of Consolidated Total Net Debt as at the last day of the Relevant Period ending on such Quarter Date to Consolidated Pro Forma EBITDA (each as shown in the relevant Compliance Certificate) (the “**Leverage Ratio**”) shall not exceed the ratio set opposite such Quarter Date in Column (2).

Column (1) Quarter Date	Column (2) Leverage Ratio
31 March 2016 (to the extent tested)	7.50:1
30 June 2016 (to the extent tested) and 30 September 2016	8.50:1
31 December 2016	8.25:1
31 March 2017	8.00:1
30 June 2017 and 30 September 2017	7.75:1
31 December 2017 and 31 March 2018	7.50:1
30 June 2018	7.25:1
30 September 2018	7.00:1
30 December 2018 and 31 March 2019	6.75:1
30 June 2019 and 30 September 2019	6.50:1
30 December 2019	6.25:1
31 March 2020	6.00:1
Each Quarter Date thereafter	5.80:1

26.4 Calculations

- (a) The covenant contained in this Clause 26 (*Financial Covenant*) will be tested by reference to the relevant Quarterly Financial Statements for the relevant Quarter Date unless in any such case the consolidated audited statements required to be delivered to the Agent pursuant to Clause 25.4 (*Financial Statements*) for the Relevant Period or any part thereof are available on the relevant date on which any such covenant is tested, in which case such consolidated audited accounts shall be used instead.
- (b) The components of each definition in this Clause 26.1 (*Financial definitions*) will be calculated in accordance with the Finance Documents and as applicable with the Accounting Principles (with any impact from purchase price accounting being excluded) after taking into account any adjustment to the financial statements necessary to reflect the information delivered to the Agent pursuant to paragraph (a)(iv) of Clause 25.8 (*Agreed Accounting Principles*), if any.
- (c) For a Relevant Period ending less than twelve (12) Months after the Closing Date, the Leverage Ratio shall be calculated using Consolidated Total Net Debt as at the end of that Relevant Period and Consolidated Pro Forma EBITDA shall be calculated on an actual basis over the Relevant Period (whereby, for any part of the applicable Relevant Period falling prior to the date on which the Target Group became part of the Group, such amount shall be calculated based on actual historical data for the corresponding period as if references to Group were references to Target Group in the definition of Consolidated EBITDA).
- (d) For the purpose of this Clause 26 (*Financial Covenant*) and to the extent the Leverage Ratio or any financial definition contained in this Clause 26 (*Financial Covenant*) is used as the basis (in whole or in part) for permitting any transaction or making any determination under this Agreement (including on a *pro forma* basis) no item shall be included or excluded more than once in any calculation.
- (e) For the purposes of this Clause 26 (*Financial Covenant*) in respect of any Relevant Period and to the extent the Leverage Ratio or any financial definition contained in this Clause 26 (*Financial Covenant*) is used as the basis (in whole or in part) for permitting any transaction or making any determination under this Agreement (including on a *pro forma* basis) the exchange rates (including for the purposes of determining any interest rate) used for determination of Consolidated Total Net Debt and Consolidated Total Net Cash Interest Expenses for that Relevant Period shall be:
 - (i) with respect to Financial Indebtedness for which the Group has entered into interest rate and/or cross currency derivatives, the rate or level adjusted to take into account the effect of such derivative; and
 - (ii) with respect to all other Financial Indebtedness, the interest rate and/or exchange rate calculated in accordance with paragraph (f) below.
- (f) Subject to paragraph (e) above, for the purposes of this Clause 26 (*Financial Covenant*) in respect of any Relevant Period, the exchange rates (including for the purposes of determining any interest rate) used in the calculation of Consolidated EBITDA, Consolidated Pro Forma EBITDA and Consolidated Total Net Cash Interest Expenses shall be the weighted average exchange rates for the Relevant Period or otherwise consistent with the exchange rate methodology applied in the financial statements delivered pursuant to Clause 25.4 (*Financial Statements*) to this Agreement, in each case as selected and determined by the Parent.
- (g) (i) The financial covenant contained in Clause 26 (*Financial Covenant*) and definitions in this Clause 26 (*Financial Covenant*) including the definition of

Consolidation Pro Forma EBITDA tested at any time for all purposes in this Agreement (other than to the extent such definitions are used for the purposes of calculating Excess Cash Flow) shall be calculated to give *pro forma* effect to any acquisitions, Disposals or restructuring, reorganisation or cost saving initiatives (such initiatives being “**Group Initiatives**”) for the financial covenant and definitions and for each applicable Relevant Period (including the portion thereof (or for the entire period) to the extent occurring prior to the relevant event) and taking into account throughout (without double counting any synergies and cost savings actually achieved) Pro Forma Acquisition Cost, Savings, Pro Forma Disposal Cost Savings and Pro Forma Group Initiative Cost Savings (but, for the avoidance of doubt, not including any such amount of synergies and cost savings attributable to such acquisitions, dispositions or Group Initiatives in respect of any portion of a Relevant Period which is more than eighteen (18) months after the relevant event) and to give *pro forma* effect to any related incurrence, assumption or repayments of Financial Indebtedness.

- (ii) For the purposes of Consolidated Pro Forma EBITDA (other than to the extent such definition is used for the purposes of calculating Excess Cash Flow), the aggregate earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA but on an unconsolidated bases (except to the extent that the entity or business acquired itself has Subsidiaries) (“**EBITDA**”) of any entity, business, material fixed assets that is acquired during a Relevant Period shall be included for the full Relevant Period (as adjusted by any Pro Forma Acquisition Cost, Savings, Pro Forma Disposal Cost Savings and Pro Forma Group Initiative Cost Savings as set out above)) and shall exclude any non-recurring costs and other expenses related to such acquisitions or investments or Group Initiatives.
- (iii) For the purposes of Consolidated Pro Forma EBITDA and (for the purposes of calculating Excess Cash Flow) Consolidated Cash Flow, the EBITDA and cashflow (calculated on the same basis as Consolidated Cash Flow but on an unconsolidated basis (except to the extent that the entity or business sold itself has Subsidiaries) (“**Cashflow**”) of any entity, business or material fixed assets that is sold (in the case of Consolidated Pro Forma EBITDA) during the Relevant Period ending on or at any time after the first testing date for the financial covenant or (in the case of Consolidated Cash Flow) at any time shall be excluded, in the case of Consolidated EBITDA, for the full Relevant Period and in the case of Cashflow, from the date on which it is agreed that the Cashflow of the relevant entity, business or material fixed assets is transferred to or held for the benefit of the buyer (including without limitation under any lock-box arrangements involving an economic transfer occurring prior to a legal transfer of the relevant entity, business or assets) (in the case of Consolidated Pro Forma EBITDA, as adjusted by any reasonably expected synergies and cost savings arising from such sale, transfer or disposition as well as any related Group Initiatives as set out above) and shall exclude any non-recurring costs and other expenses related to such sales, transfers, dispositions or Group Initiatives.
- (iv) Consolidated Total Net Debt and Consolidated Total Net Cash Interest Expenses shall be adjusted to give *pro forma* effect to any incurrence, assumption or repayment of Financial Indebtedness (including any reduction in Consolidated Total Net Debt from the proceeds of any asset sales) arising from any acquisitions, investments, and any dispositions if a related adjustment has been made to Consolidated Pro Forma EBITDA.
- (v) To the extent the Leverage Ratio or any financial definition contained in this Clause 26 (*Financial Covenant*) is used as the basis (in whole or part) for permitting any transaction or making any determination under this Agreement

(including on a pro-forma basis) at any time after a Quarter Date, Consolidated Total Net Debt shall be reduced to take into account any repayment of Financial Indebtedness made on or before the relevant date and shall be increased to take into account any incurrence or assumption of Financial Indebtedness made on or before the relevant date.

- (vi) Where any Pro Forma Acquisition Costs Savings, Pro Forma Group Initiatives Costs Savings, Pro Forma Disposal Costs Savings or synergies are included in any calculations:
 - (A) a confirmation of the aggregate amount of such cost savings and synergies will be provided by the CEO or CFO to the extent greater than five per cent. (5%) of Consolidated Pro Forma EBITDA; and
 - (B) if the amount of any Pro Forma Acquisition Cost Savings, Pro Forma Group Initiatives Costs Savings or Pro Forma Disposal Costs Savings taken into account in any applicable calculation in respect of any individual acquisition, Disposal or Group Initiative is greater than ten per cent. (10%) of Consolidated Pro Forma EBITDA, those Pro Forma Acquisition Cost Savings, Pro Forma Group Initiatives Costs Savings or (as the case may be) Pro Forma Disposal Costs Savings shall be commented on as not being unreasonable by one of the “Big 4” accountancy firms (or such other firm approved by the Majority Lenders) (which commentary may be provided in any accompanying accountants’ due diligence report).
- (vii) The aggregate amount of all Pro Forma Acquisition Costs Savings, Pro Forma Group Initiatives Costs Savings and Pro Forma Disposal Costs Savings taken into account in respect of all such acquisitions, Disposals or Group Initiatives shall be capped for any Relevant Period at twenty per cent. (20%) of Consolidated Pro Forma EBITDA for that Relevant Period.
- (h) Notwithstanding anything to the contrary (including anything in the financial definitions set out in the Agreement), when calculating any financial definition or ratio under the Finance Documents (excluding for the avoidance of doubt, Excess Cashflow), the Parent shall be permitted to exclude all or any part of any expenditure or other negative item (and/or the impact thereof) directly or indirectly relating to or resulting from:
 - (i) the Acquisition or the impact from purchase price accounting; and/or
 - (ii) start-up costs for new businesses and branding or re-branding of existing businesses; and
 - (iii) Restructuring Costs.
- (i) In relation to operational leases, to the extent such operational leases are required to be treated under the Accounting Principles as finance leases as opposed to operating leases, such obligations shall be treated in accordance with the Accounting Principles as at the date of this Agreement.

27 GENERAL UNDERTAKINGS

The undertakings in this Clause 27 shall unless otherwise indicated continue for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

27.1 Authorisations and Consents

Each Obligor will promptly apply for, obtain and promptly renew from time to time and maintain in full force and effect all Authorisations and consents and comply with the terms of all such Authorisations and consents, and promptly make and renew from time to time all such filings, as may be required under any applicable law or regulation to enable it to enter into, and perform its obligations under the Finance Documents to which it is party and to:

- (a) carry out the transactions contemplated by the Finance Documents to which it is a party and to ensure that, subject to the Legal Reservations and Perfection Requirements, its obligations under the Finance Documents to which it is party are valid, legally binding and enforceable and each of the Transaction Security Documents to which it is party constitutes valid security ranking, subject to the Legal Reservations and Perfection Requirements, in accordance with its terms; and
- (b) carry on its business save to the extent failure to do so would not reasonably be expected to have a Material Adverse Effect.

27.2 Maintenance of status and authorisation

Each Obligor will, and will ensure that each of its Subsidiaries will:

- (a) ensure that it has the right to conduct its business and will obtain and maintain all material consents and make all material filings necessary for the conduct of such business and take all steps necessary to ensure that the same are in full force and effect, save where non-compliance would not reasonably be expected to have a Material Adverse Effect; and
- (b) comply with all laws and regulations binding upon it save where non-compliance would not reasonably be expected to have a Material Adverse Effect.

27.3 Pari passu Ranking

Each Obligor will ensure that (except pursuant to a Notifiable Debt Purchase Transaction) at all times any unsecured and unsubordinated claims of a Finance Party against it under each of the Finance Documents rank at least *pari passu* with the claims of all its other present and future unsecured and unsubordinated creditors except creditors whose claims are mandatorily preferred by laws of general application to companies.

27.4 Insurances

- (a) Each Obligor will, and will ensure that each of its Subsidiaries will effect and thereafter maintain at its own expense such insurances in respect of its material assets and business of an insurable nature which:
 - (i) provide cover against risks which are normally insured against by other companies in the relevant jurisdiction owning, possessing or leasing similar assets and carrying on similar businesses; and
 - (ii) are at levels usual for a business of its size and nature as may be reasonably available in the insurance market.
- (b) No member of the Group shall be required to maintain any key-man life insurance or to ensure that any insurance arrangements include any loss payee endorsements or arrangements in favour of the Finance Parties.

27.5 Taxes

Each Obligor will, and will ensure that each of its Subsidiaries will duly and punctually pay and discharge all Taxes imposed by any agency of any state upon it or any of them or any of its or their assets, income or profits or any transactions undertaken or entered into by it or any of them due and payable by it or that Subsidiary within the time period allowed therefor without imposing material penalties where failure to do so could reasonably be expected to have a Material Adverse Effect.

27.6 Hedging Agreements

The Parent will enter into or ensure that its Subsidiaries enter into Hedging Agreements with Hedge Counterparties in accordance with the Hedging Letter.

27.7 Pension Schemes

Each Obligor will (and will ensure that each of its Subsidiaries shall) ensure that all pension schemes for the time being operated by members of the Group are fully funded to the extent required by law, where failure to do so would reasonably be expected to have a Material Adverse Effect.

27.8 Intellectual Property

Each Obligor will and each Obligor will ensure that each of its Subsidiaries will:

- (a) observe and comply with all obligations and laws to which it in its capacity as registered proprietor, beneficial owner, user, licensor or licensee of the Intellectual Property which is required to conduct the business of the Group and where failure to do so would reasonably be expected to have a Material Adverse Effect;
- (b) do all acts as are necessary to preserve, maintain, protect and safeguard such Intellectual Property as is required to conduct the business of the Group where failure to do so would reasonably be expected to have a Material Adverse Effect and not change, terminate or discontinue the use of any of such Intellectual Property nor allow it to be infringed or used in such a way that it is put at risk by becoming generic or by being identified as disreputable if in each case to do so would reasonably be expected to have a Material Adverse Effect; and
- (c) not grant any licence to any person to use the Intellectual Property required to conduct the Business if to do so would have or could be reasonably expected to have a Material Adverse Effect.

27.9 Environmental Undertakings

Each Obligor will, and each Obligor will ensure that each of its Subsidiaries will obtain, monitor and comply with the terms and conditions of all Environmental Permits and all Environmental Laws applicable to it where failure so to do would reasonably be expected to have a Material Adverse Effect.

27.10 Amalgamations and Change of Business

No Obligor will and each Obligor will ensure that none of its Subsidiaries will:

- (a) amalgamate, merge, demerge or consolidate with or into any other person or undertake any corporate reorganisation or other reorganisation except for any Permitted Transaction or Permitted Reorganisation; or

- (b) substantially change the general nature of the business of the Target Group taken as a whole at the date of this Agreement.

27.11 Disposals

No Obligor will and each Obligor will procure that none of its Subsidiaries will, (whether by a single transaction or a number of related or unrelated transactions and whether at the same time, and whether voluntary or involuntary or over a period of time) sell, transfer, lease out, lend or otherwise dispose of any of its assets except pursuant to a Permitted Transaction or Permitted Disposal.

27.12 Arm's Length Transactions

No Obligor will and each Obligor will ensure that none of its Subsidiaries will, enter into any material arrangement or transaction with an Affiliate other than on an arm's length basis (or better), save for:

- (a) loans between members of the Group which are Permitted Loans;
- (b) any other transaction or arrangement entered into between (i) an Obligor and another Obligor or (ii) a non-Obligor and another non-Obligor;
- (c) any disposal by an Obligor to a member of the Group who is not an Obligor under paragraph (q) of Permitted Disposal;
- (d) any Permitted Payment; or
- (e) a Permitted Transaction.

27.13 Negative Pledge

No Obligor will, and each Obligor will ensure that none of its Subsidiaries will, create or permit to subsist any Security or Quasi Security on or over the whole or any part its undertaking or assets (present or future) except for Permitted Security or a Permitted Transaction.

27.14 Sale and Leasebacks / Factoring

No Obligor will, and each Obligor will ensure that none of its Subsidiaries will:

- (a) sell or otherwise dispose of any asset on terms whereby such asset is or may be leased back to or re-acquired by it or any other member of the Group except to the extent that the aggregate cash consideration for all such assets disposed (and which have not been reacquired by the Group at the end of the applicable lease) does not exceed EUR 17,000,000 (a "**Permitted Sale and Leaseback**"); or
- (b) sell or otherwise dispose of any receivable to any person who is not a member of the Group except for recourse or non-recourse sales or disposals pursuant to factoring, receivables financings or similar arrangements on arm's length terms for cash payable at the time of disposal **provided that:**
 - (i) if such arrangements are on a recourse basis, the maximum aggregate amount of cash consideration for such receivables which have been sold or disposed of and which remain outstanding (other than as a result of a default by the relevant debtor) does not (without double counting) pursuant to such factoring or similar arrangements exceed the greater of EUR 7,000,000 and an amount equal to fifteen per cent. (15%) of the Consolidated Pro Forma EBITDA for the Relevant

Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time; and

- (ii) if such arrangements are on a non-recourse basis, (other than where recourse pursuant to such arrangements is limited to customary indemnities, warranties and/or security), the maximum aggregate amount of cash consideration for such receivables which have been sold or disposed of and which remain outstanding (other than as a result of a default by the relevant debtor) does not (without double counting) pursuant to such factoring or similar arrangements exceed the greater of EUR 12,000,000 and an amount equal to twenty-five per cent. (25%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time,

(each of (i) and (ii) above a “**Permitted Factoring**”) and, in each case, other than a Permitted Transaction.

27.15 Indebtedness

No Obligor will, and each Obligor will ensure that none of its Subsidiaries will, incur or permit to subsist or remain outstanding any Financial Indebtedness other than Permitted Financial Indebtedness or a Permitted Transaction.

27.16 Guarantees

No Obligor will, and each Obligor will ensure that none of its Subsidiaries will, grant or permit to subsist or remain outstanding any guarantee other than a Permitted Transaction or a Permitted Guarantee.

27.17 Loans

No Obligor will, and each Obligor will ensure that none of its Subsidiaries will, make or agree to make or permit to be outstanding any loans or be a creditor in respect of any Financial Indebtedness other than Permitted Transactions and Permitted Loans.

27.18 Leasing Arrangements

No Obligor will, and each Obligor will ensure that none of its Subsidiaries will, except with the prior written consent of the Majority Lenders or as a Permitted Transaction, enter into or permit to subsist any Finance Lease, **provided that** members of the Group may enter into or permit to subsist any Finance Leases which are either Existing Leases or where the aggregate capital element of all rentals under such other Finance Leases and agreements does not exceed the greater of EUR 17,500,000 and an amount equal to twenty-five per cent. (25%) of the Consolidated Pro Forma EBITDA for the Relevant Period ending on the most recent Quarter Date for which Quarterly Financial Statements have been delivered to the Agent at any time (“**Permitted Finance Lease**”).

27.19 Equity and Acquisition Documents

- (a) The Company shall take all reasonable and practical action to preserve and enforce its rights under the Acquisition Documents and to enforce all other rights and entitlements it may have under the Acquisition Documents, if and to the extent that the managers of the Company (acting reasonably) believe that it is commercially advantageous for the Group and appropriate to do so.
- (b) No Obligor shall, and the Parent shall ensure that no member of the Group will, amend, vary, novate, supplement, supersede, waive or terminate any terms of a Constitutional

Document or any document evidencing an Investor Loan, in each case in any respect which is materially adverse to the interests of the Lenders (otherwise than with the consent of the Majority Lenders).

- (c) Except with the prior consent of the Majority Lenders, no Obligor shall, and the Parent shall ensure that no member of the Group will, amend, vary, novate, supplement, supersede, waive or terminate any terms of any constitutional documents of any Obligor or Material Subsidiary or any other member of the Group whose shares are the subject of Transaction Security governed by the laws of the jurisdiction of incorporation of such Obligor or Material Subsidiary, in a manner that could reasonably be expected to prejudice the validity or enforceability of the Transaction Security, **provided that** nothing in this Agreement shall prevent or restrict (i) the re-registration of a member of the Group as a public company for the purposes of acting as an issuer of any additional financing constituting notes which it is permitted by this Agreement to issue, (ii) a change to the financial year of any member of the Group in accordance with the provisions of Clause 25.8 (*Agreed Accounting Principles*) or (iii) any amendment or step required in connection with a Listing.
- (d) Except with the prior consent of the Majority Lenders, the Company shall not waive, amend or withdraw from the terms of the Acquisition Documents in a way which would materially adversely affect the position of the Finance Parties under the Finance Documents.

27.20 Treasury Transactions

- (a) No Obligor will, and each Obligor will ensure that none of its Subsidiaries will, enter into any Treasury Transaction other than:
 - (i) any Hedging Agreement entered into for the purposes of hedging interest rate liabilities under any Permitted Financial Indebtedness with a floating interest rate (including, without limitation, any hedging entered into pursuant to the Hedging Letter) and any arrangement replacing or extending such Hedging Agreement on terms permitted by the Finance Documents; or
 - (ii) any Hedging Agreement entered into for the purposes of hedging exchange rate liabilities in respect of any amount outstanding under any Permitted Financial Indebtedness which is not denominated in the Base Currency (including, without limitation, both the interest and principal liabilities and any hedging entered into pursuant to the Hedging Letter) and any arrangement replacing or extending such Hedging Agreement on terms permitted by the Finance Documents; or
 - (iii) any Treasury Transactions entered into in the ordinary course of business not for speculative purposes.
- (b) The Parent shall ensure that all interest rate hedging arrangements required by the Hedging Letter are implemented in accordance with the terms of the Hedging Letter and that such arrangements are not terminated, varied or cancelled without the consent of the Agent (acting on the instructions of the Majority Lenders), save as contemplated by the Hedging Letter but subject always to the provisions of the Intercreditor Agreement.

27.21 Joint Ventures

No Obligor will, and each Obligor will ensure that none of its Subsidiaries will enter into, invest in, acquire or permit to subsist any Joint Venture, or transfer any assets to or lend to or give any guarantee, indemnity or Security for or on behalf of a Joint Venture other than a Permitted Joint Venture.

27.22 Acquisitions and Investments

No Obligor will and each Obligor will ensure that none of its Subsidiaries will:

- (a) acquire any entity, shares, securities or a business or undertaking or in each case, any ownership interest in any of them; or
- (b) own any interest in any share or equity related investment or debt or equity security or make any capital contribution to any person,

other than any Permitted Acquisition or Permitted Transaction, pursuant to a Permitted Share Issue, or to the extent such acquisition or investment falls within paragraph (a) of the definition of Permitted Holding Company Activity.

27.23 Centre of Main Interests

No Obligor incorporated in the European Union shall without the prior written consent of the Agent deliberately cause or allow its centre of main interests (as that term is used in Article 3(1) of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings) to change.

27.24 Control and Share Issues

No Obligor shall (and each Obligor will ensure that none of its Subsidiaries will), issue any shares or grant any conditional or unconditional option, warrant or other right to call for the issue or allotment of, subscribe for, purchase or otherwise acquire any share of any member of the Group except pursuant to a Permitted Share Issue or a Permitted Transaction.

27.25 Restriction on Redemption of Capital Contribution

No Obligor will, and each Obligor will procure that none of its Subsidiaries will, directly or indirectly redeem, purchase, retire or otherwise withdraw any capital contributions made to the capital reserves, convert such capital contributions into shareholder loans or redeem, purchase, retire, repay or otherwise acquire for consideration any shares or warrants issued by it or set apart any sum for any such purpose or otherwise reduce its capital (together, a “**Redemption**”), except where such Redemption:

- (a) is made by a Subsidiary of the Company to its direct shareholders;
- (b) constitutes a Permitted Payment; or
- (c) is a Permitted Transaction,

subject (in each case) to the terms of the Intercreditor Agreement.

27.26 Restriction on Payment of Dividends

No Obligor will, and each Obligor will ensure that none of its Subsidiaries will declare or pay, directly or indirectly, any dividends or make any other distribution or pay any interest or other amounts, whether in cash or otherwise, on or in respect of its share capital or any class of its share capital (together a “**Dividend**”) until the Facilities have been repaid in full except, (i) payment of a Dividend by a Subsidiary of the Company to its direct shareholders either *pro rata* to their shareholdings or to members of the Group, (ii) payment of a Dividend by a Permitted Joint Venture in accordance with its joint venture arrangements (iii) a Permitted Payment, (iv) payments (other than payments by the Parent or the Company) as a result of a Permitted Transaction.

27.27 Permitted Payments

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent will ensure that no other member of the Group will):
 - (i) pay, repay or prepay any principal, interest, fee, charge or other amount on or in respect of, or redeem, purchase or defease, any Investor Loans or Parent Liabilities (including, for the avoidance of doubt, New Investor Loans);
 - (ii) purchase, redeem, defease or discharge, exchange or enter into any sub-participation arrangements in respect of any amount outstanding under the any Investor Loans or Parent Liabilities (including, for the avoidance of doubt, New Investor Loans); or
 - (iii) pay or allow any member of the Group to pay any management, advisory or other fee to or to the order of the Parent or any of the shareholders of the Parent; or
 - (iv) declare, make or pay any dividend, charge, fee or other distribution (whether in cash or in kind) on or in respect of its share capital in favour of a Restricted Person.
- (b) Paragraph (a) above does not apply to:
 - (i) any transaction permitted under a Finance Document including, for the avoidance of doubt, the transactions permitted under Clauses 27.25 (*Restriction on Redemption of Capital Contribution*) and 27.26 (*Restriction on Payment of Dividends*) but **provided that** the right to receive dividends under Section 3:246 of the Dutch Civil Code shall, in and of itself, not constitute a transaction permitted under a Finance Document;
 - (ii) a Permitted Transaction;
 - (iii) any other transaction contemplated in the Tax Structure Report; or
 - (iv) a Permitted Payment.

27.28 Holding Company

Neither the Parent or the Company shall trade, carry on any business, own any assets or incur any liabilities or grant any Security except for a Permitted Holding Company Activity.

27.29 Guarantees and Security

- (a) The Parent shall ensure that, subject to the Agreed Security Principles:
 - (i) each Borrower and each Holding Company of a Borrower which is a member of the Group, is a Guarantor, (**provided that** to the extent any Borrower on the Closing Date is a member of the Target Group, each Holding Company shall only be obliged to become a Guarantor within ninety (90) days of the Closing Date);
 - (ii) each member of the Group which is listed in Schedule 11 (*Material Subsidiaries*) shall, as soon as reasonably practicable (and in any event within ninety (90) days after the Closing Date) become a Guarantor;
 - (iii) each member of the Group which is a Material Subsidiary (by reference to the most recent Annual Financial Statements delivered to the Agent under this Agreement commencing with the Annual Financial Statements delivered for the

Financial Year ending 31 December 2015) shall as soon as reasonably practicable (and in any event within ninety (90) days of delivery of the Annual Financial Statements for the relevant Financial Year demonstrating that it has become a Material Subsidiary), become a Guarantor;

- (iv) on the date which is ninety (90) days after the Closing Date (by reference to the Original Financial Statements) and thereafter when tested on the date on which the Annual Financial Statements are required to be delivered to the Agent in each Financial Year commencing with the Annual Financial Statements delivered for the Financial Year ending 31 December 2015, by reference to such Annual Financial Statements, the aggregate (without double counting) earnings before interest, tax, depreciation and amortisation (calculated on a LTM basis on the same basis as Consolidated EBITDA) (but taking each entity on an unconsolidated basis and excluding all intra-Group items, goodwill and investments in Subsidiaries of any member of the Group (to the extent applicable)) of the Guarantors is equal to or exceeds eighty per cent. (80%) of the Consolidated EBITDA of the Group (the “**Guarantor Coverage Test**”) **provided that**, if on the relevant test date specified above, the Guarantor Coverage Test is not satisfied, within ninety (90) days of such test date, such other members of the Group shall accede as Additional Guarantors to ensure that the Guarantor Coverage Test is satisfied (calculated as if such Additional Guarantors had been Guarantors for the purposes of the relevant test and **provided that**, if the Guarantor Coverage Test is satisfied within such time period, no Default, Event of Default or other breach of the Finance Documents shall arise in respect thereof).

- (b) For the purpose of calculating:

- (i) the Guarantors contribution to the Guarantor Coverage Test under paragraph (a)(iv) above, any entity having negative earnings before interest, tax, depreciation and amortisation shall be deemed to have zero earnings before interest, tax, depreciation and amortisation; and
- (ii) the Guarantor Coverage Test, each member of the Group incorporated in India, China, Vietnam and/or South Korea and any other entity which cannot become a Guarantor in accordance with the provisions of the Agreed Security Principles (each, an “**Excluded Entity**”) any earnings, before interest, tax, depreciation and amortisation of each Excluded Entity shall solely for this purpose be excluded (x) as a Guarantor from the numerator and (y) as a member of the Group from the denominator for the purposes of calculating the Guarantor Coverage Test.

27.30 Further Assurance

- (a) Subject to the Agreed Security Principles and the terms of each applicable Transaction Security Document, each Obligor shall (and the Parent shall ensure 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 and the terms of each applicable Transaction Security Document, each Obligor shall (and the Parent shall ensure that each member of the Group shall) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.
- (c) In relation to any provision of this Agreement which requires the Obligors or any member of the Group to deliver any document for the purposes of granting any guarantee or Security for the benefit of all or any of the Finance Parties, the Security Agent agrees to execute as soon as reasonably practicable any such agreed form document which is presented to it for execution.

27.31 Intercreditor Agreement

The Parent shall ensure that each member of the Group which is not an Obligor and which is or becomes a creditor in respect of any Financial Indebtedness of an Obligor in an aggregate principal amount outstanding exceeding the greater of EUR 2,000,000 enters into or accedes to the Intercreditor Agreement as an Intra-Group Lender or Debtor (each as defined in the Intercreditor Agreement), in accordance with the Intercreditor Agreement.

27.32 Anti-corruption law/Sanctions

- (a) Neither the Parent nor any 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 the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) The Parent and each other 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 laws.
- (c) Neither the Parent nor any Obligor shall (and the Parent shall ensure that no other member of the Group will):
- (i) knowingly contribute or otherwise make available all or any part of the proceeds of the Facilities, directly or indirectly, to, or for the benefit of, any Person (whether or not related to any member of the Group) for the purpose of financing the activities or business of, other transactions with, or investments in, any Restricted Party;
 - (ii) knowingly fund all or part of any repayment or prepayment of the Facilities out of proceeds derived from any transaction with or action involving a Restricted Party; or

- (iii) knowingly engage in any transaction, activity or conduct that would violate Sanctions, that would cause any Finance Party to be in breach of any Sanctions or that could reasonably be expected to result in it or any other member of the Group or any Finance Party being designated as a Restricted Party.
- (d) Each Obligor shall (and the Parent shall procure that each other member of the Group will):
 - (i) use all reasonable endeavours to ensure compliance with Sanctions; and
 - (ii) to the extent permitted by law and promptly upon becoming aware of them, supply to the Agent details of any claim, action, suit, proceedings or investigations against it or any other member of the Group with respect to Sanctions.
- (e) The undertakings contained in this Clause 27.32 are made only insofar as they do not result in a violation of or conflict with Section 7 of the German Foreign Trade Ordinance (§ 7 *Außenwirtschaftsverordnung*) or a violation of the European Council Regulation 2271/96 by any German Obligor.

27.33 Qualifying Listing / Ratings Trigger

- (a) Notwithstanding anything to the contrary in this Agreement or any other Finance Document, during the period (if any) that a Release Condition (as defined in paragraph (d) below) is satisfied:
 - (i) the following obligations and restrictions shall be suspended and shall not apply:
 - (A) the requirement to make mandatory prepayments under Clause 12.2 (*Disposal, insurance and recovery proceeds*) and Clause 12.3 (*Excess Cash Flow*);
 - (B) the requirement to deliver monthly management accounts as contemplated in paragraph (a)(iii) of Clause 25.4 (*Financial Statements*);
 - (C) the requirement to deliver an annual budget under paragraph (a)(iv) of Clause 25.4 (*Financial Statements*) to this Agreement;
 - (D) the Leverage financial covenant in Clause 26.3 (*Leverage financial covenant*);
 - (E) the restrictions under Clause 27.4 (*Insurances*);
 - (F) the restrictions under Clause 27.7 (*Pension Schemes*);
 - (G) the restrictions under Clause 27.11 (*Disposals*);
 - (H) the restrictions under Clause 27.12 (*Arm's Length Transactions*);
 - (I) the restrictions under Clause 27.15 (*Indebtedness*);
 - (J) the restrictions under Clause 27.16 (*Guarantees*);
 - (K) the restrictions under Clause 27.17 (*Loans*);
 - (L) the restrictions under Clause 27.21 (*Joint Ventures*);

- (M) the restrictions under Clause 27.22 (*Acquisitions and Investments*);
 - (N) the restrictions under Clause 27.24 (*Control and Share Issues*);
 - (O) the restrictions under Clause 27.25 (*Restriction on Redemption of Capital Contribution*), Clause 27.26 (*Restriction on Payment of Dividends*) and Clause 27.27 (*Permitted Payments*) together with any other restriction under this Agreement or any other Finance Document on the distribution of dividends, return of share capital or other type of shareholder, Investor or an Affiliate of an Investor remuneration or payment;
 - (P) the restrictions under Clause 27.28 (*Holding Company*);
 - (ii) the amount of each basket for which a fixed amount is set out in this Agreement and any definitions used therein (including all “annual”, “life of Facilities” and “at any time” and “aggregate” baskets) shall be increased by fifty per cent.
- (b) If at any time after a Release Condition has been satisfied and a Release Condition subsequently ceases to be satisfied, any breach of this Agreement or any other Finance Documents that arises as a result of any of the obligations, restrictions or other terms referred to in paragraph (a) above ceasing to be suspended or amended shall not (**provided that** it did not constitute an Event of Default at the time the relevant event or occurrence took place) constitute (or result in) a breach of any term of this Agreement or any other Finance Documents, a Default or an Event of Default.
- (c) In respect of any amount which has not been applied in mandatory prepayment of the Facilities in accordance with Clause 12 (*Mandatory Prepayment*) as a result of the Release Condition being satisfied (the “**Released Amounts**”), if the Release Condition subsequently ceases to be satisfied after the date the prepayment would have been required had the Release Condition not been satisfied, the failure to apply the Released Amounts in prepayment shall not result in a breach of any term of this Agreement or any other Finance Document.
- (d) For the purposes of this Clause 27.33, the “**Release Condition**” means satisfaction of the following conditions:
- (i) a Listing has occurred which does not constitute a Change of Control and the Leverage ratio for the Relevant Period ending on the most recent Quarter Date for which a Compliance Certificate has been delivered (adjusted as if the proceeds of that Listing that have been or will be applied in prepayment of the Facilities had been applied in prepayment of the Facilities on the last day of that Relevant Period) is equal to or less than 3.00:1 (the “**Qualifying IPO Condition**”); or
 - (ii) the long-term corporate credit rating of the Parent (or, as the case may be, any Affiliate of the Parent given such a rating) is equal to or better than Baa3 according to Moody's Investor Services Limited or BBB according to Standard & Poor's Rating Services.

27.34 Reliance Letter

From the date of this Agreement, or, if later, from the date on which the final version of a Report is delivered to the Mandated Lead Arrangers or the Agent, the Parent shall use reasonable endeavours for a period of not more than twenty (20) Business Days to procure the delivery of reliance letters in favour of the Agent in relation to the Reports described in paragraph (b) and (c) of such definition (it being acknowledged that any such reliance letter shall only be given in a form and to the extent customarily provided by any report provider).

27.35 Rating

If and to the extent that the Parent (or the Company) obtains a corporate rating for the Facilities and the Company from Standard & Poor's Rating Services or Moody's Investor Services Limited, it will use reasonable endeavours to maintain such rating to the extent Standard & Poor's Rating Services or Moody's Investor Services Limited will provide a corporate rating for the Facilities or the Company.

27.36 Junior Debt Payments

The Parent shall not, and shall ensure that no member of the Group will, repay, prepay, purchase, defease, redeem or repurchase or otherwise retire for value, or make any payment in respect of, any Second Lien Liabilities (as defined in the Intercreditor Agreement) or any Senior Subordinated Liabilities (as defined in the Intercreditor Agreement) other than any repayment, prepayment, purchase, defeasance, redemption, repurchase, retirement for value or payment which is a Permitted Payment or a Permitted Junior Debt Payment or which is otherwise permitted or not prohibited by the Intercreditor Agreement.

27.37 Financial assistance

In respect of Spanish Guarantors, each Spanish Guarantor shall comply in all respects with sections 143 and 150 of the Spanish Capital Companies Law including in relation to the execution of the Transaction Security Documents and payment of amounts due under this Agreement.

27.38 Acknowledgment of Debt

(a) Without prejudice to the provisions of this Agreement, the Spanish Guarantors hereby undertake to grant a Spanish Public Document of acknowledgement of debt (*documento público de reconocimiento deuda*) in respect of the debt owing to each of the Lenders under this Agreement on the date on which each Spanish Guarantor accedes to this Agreement. The Parties agree that this undertaking will be fulfilled if such acknowledgement of debt is provided by the Spanish Guarantors in the same public deed to which this Agreement will be raised to a Spanish Public Document.

(b) In addition, the Agent may request the Spanish Guarantors to grant additional Spanish Public Documents acknowledging the due debt (*documento público de reconocimiento deuda*) owing to each of the Lenders under this Agreement if any Default or Event of Default has occurred and is continuing or the Agent has reasonable grounds to understand that a Default or Event of Default may occur in the short term. Such deed of acknowledgement of debt shall be granted before the Notary of Madrid designated by the Spanish Guarantor (in consultation with the Agent) and within the period of twenty (20) days from the date of the request made by the Agent on this regard. If required by the Agent, each Spanish Guarantor undertakes to request to any third party pledgor or grantor of Transaction Security to appear in the relevant deed of acknowledgement of debt in its condition as third party grantor of Transaction Security.

Upon the granting of a Spanish Public Document acknowledging the due debt, the Obligors hereby undertake to immediately request from the Notary the issuance to the Agent and each Lender, on request from the Agent, an enforcement copy of such deed (*copia con fuerza ejecutiva*).

(c) All costs and expenses arising from the granting of the aforementioned Spanish Public Documents acknowledging the due debt (and any enforcement copy in respect thereof) shall be paid as follows:

(i) in respect of the Spanish Public Document referred to in paragraph (a), by the Spanish Guarantors; and

- (ii) in respect of the Spanish Public Document referred to in paragraph (b), by the Lenders (or the Agent acting on behalf of the Lenders), except if the relevant document is requested by the Agent as a result of the occurrence of any Default or Event of Default, in which case the Spanish Guarantors shall be obliged to pay the costs of the granting of the Spanish Public Document of acknowledgement of debt (*documento público de reconocimiento deuda*) no more than once every twelve (12) Months.

27.39 Segregation of assets or revenues under the Italian Civil Code

No Italian Obligor may segregate assets or revenues for the purpose of article 2447-bis, letter (a) or letter (b), of the Italian Civil Code, by creating any *patrimonio destinato ad uno specifico affare* or incurring any *finanziamento destinato ad uno specifico affare*.

27.40 No use of proceeds in Switzerland

Each Obligor shall (and shall ensure that each member of the Group will) ensure that no proceeds of any Loan shall be on-lent, directly or indirectly, to any member of the Group incorporated in Switzerland and/or having its registered office in Switzerland and/or qualifying as a Swiss resident pursuant to article 9 of the Swiss Withholding Tax Act or will otherwise be used, directly or indirectly, in a manner which would constitute a “use of proceeds in Switzerland” (*Mittelverwendung in der Schweiz*) as interpreted by the Swiss Federal Tax Administration for purposes of Swiss Withholding Tax, unless and until such time as a written confirmation or countersigned tax ruling application from the Swiss Federal Tax Administration has been obtained (in form and substance satisfactory to the Agent) confirming that such use of proceeds is permitted without payments under the Finance Documents becoming subject to Swiss Withholding Tax.

27.41 Conditions subsequent

- (a) Subject to the Agreed Security Principles, the Company shall, on the Closing Date and in accordance with the Agreed Security Principles, grant a pledge of shares in the Target under the law of The Netherlands, and carry out any action to protect, perfect or give priority to such Transaction Security in accordance with the relevant Transaction Security Document.
- (b) The Company shall procure as soon as reasonably practicable and in any event within ninety (90) days of the Closing Date that each member of the Group identified in Schedule 11 (*Material Subsidiaries*) accedes as an Additional Obligor and subject to and in accordance with the Agreed Security Principles, grants Transaction Security as required pursuant to the Annex of Part 2 of Schedule 2 (*Conditions Precedent to be delivered by an Additional Obligor*) in respect of each such member of the Group) and carries out any action to protect, perfect or give priority to the Transaction Security in accordance with the relevant Transaction Security Document.
- (c) The Company shall deliver (or cause to be delivered) to the Agent, within 10 Business Days from the Amendment Effective Date, evidence that the shareholder resolutions of the Belgian Obligor for the purpose of Article 556 of the Belgian Companies Code have been filed with the component commercial court.

27.42 ERISA

The U.S. Obligor will deliver to the Agent for delivery by the Agent to each Lender: promptly upon any Responsible Officer of the U.S. Obligor becoming aware of the occurrence of any ERISA Event that could reasonably be expected to have a Material Adverse Effect, a written notice specifying the nature thereof.

28 RESTRICTED LENDER

- (a) In relation to each Lender that is incorporated in Germany (*Inländer*) or otherwise notifies the Facility Agent that it is a “Restricted Lender” for the purpose of this Clause 28 (each a “**Restricted Lender**”), the representations and undertakings under Clause 24.26 (*Anti-corruption law/Sanctions*) and Clause 27.32 (*Anti-corruption law/Sanctions*) (together, the “**Sanctions Provisions**”) shall only apply for the benefit of that Restricted Lender to the extent that it would not result in any violation of, conflict with or liability under (i) section 7 of the German Foreign Trade Regulation (*Außenwirtschaftsverordnung*) (in conjunction with section 4 paragraph 1 a no 3 German Foreign Trade Law (*Außenwirtschaftsgesetz*), (ii) any provision of the Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom and/or (iii) any other applicable anti-boycott laws or regulations.
- (b) In connection with any amendment, waiver, determination or direction relating to any part of a Sanctions Provision of which a Restricted Lender does not have the benefit pursuant to paragraph (a) above, the Commitments of that Restricted Lender will be excluded for the purpose of determining whether the consent of the Majority Lenders has been obtained or whether the determination or direction by the Majority Lenders has been made.

29 EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 29 (save for Clause 29.18 (*Acceleration*) and Clause 29.19 (*Clean-Up Period*)) shall constitute an Event of Default whether or not the occurrence of the event concerned is outside the control of the Parent or any other member of the Group.

29.1 Payment Default

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless:

- (a) in the case of principal and interest, such non-payment is due solely to administrative error or technical delays in the transmission of funds and payment is made within three (3) Business Days of its due date; or
- (b) in the case of any other amount, payment is made within five (5) Business Days of the due date.

29.2 Financial covenant

- (a) Subject to paragraph (b) below, the Parent does not comply with its obligations under Clause 26.3 (*Leverage financial covenant*).
- (b) No Event of Default will occur under paragraph (a) above if, on or prior to the twentieth (20th) Business Day after the date that the Quarterly Financial Statements for the Relevant Period in which such failure to comply was first evidenced (the “**Applicable Period**”) are due to be delivered in accordance with Clause 25.4 (*Financial Statements*), the Group received the proceeds of New Shareholder Injections, in an amount at least sufficient to ensure that the financial covenant in Clause 26 (*Financial Covenant*) would be complied with if tested again as at the last day of the same Relevant Period on the basis that the full amount of any New Shareholder Injections so provided in accordance with this paragraph (b) shall be included for the Relevant Period as if provided immediately prior to the last date of such Relevant Period (at the election of the Parent) by reducing Consolidated Total Net Debt (a “**Net Debt Cure**”) or by increasing the amount of

Consolidated Pro Forma EBITDA (an “**EBITDA Cure**”) by the amount of the New Shareholder Injections **provided that**, in relation to any such New Shareholder Injections so provided in accordance with this Clause:

- (i) the Parent shall not be entitled to exercise:
 - (A) any Net Debt Cure rights it may have to prevent or cure breaches of the financial covenant on more than two (2) occasions from the Closing Date in addition to the EBITDA Cure described in the sub-paragraph below;
 - (B) any EBITDA Cure rights it may have to prevent or cure breaches of the financial covenant on more than two (2) occasions from the Closing Date in addition to the Net Debt Cure described in the sub-paragraph above; and
 - (C) any Net Debt Cure rights and/or any EBITDA Cure rights it may have to prevent or cure breaches of the financial covenant in consecutive Quarter Periods;
- (ii) any New Shareholder Injections so provided and any adjustments made to Consolidated Total Net Debt under this Clause shall not apply when calculating the applicable Margin for the Applicable Period;
- (iii) any New Shareholder Injections so provided and any adjustments to Consolidated Pro Forma EBITDA pursuant to this sub-paragraph will be taken into account for the Applicable Period and each of the next three successive Relevant Periods;
- (iv) in relation to any New Shareholder Injections allocated or applied as an EBITDA Cure, the amount of Cash and Cash Equivalents taken into account for the purposes of calculating Consolidated Total Net Debt shall be reduced by an amount equal to any such New Shareholder Injections so provided (but not to less than zero) on the last Quarter Date of each of the next three (3) successive Relevant Periods;
- (v) other than for the purpose of calculating or adjusting Consolidated Total Net Debt or Consolidated Pro Forma EBITDA in accordance with the provisions of this Clause, any New Shareholder Injections allocated or applied as a Net Debt Cure or an EBITDA Cure in such manner shall not count towards any other permission or usage (for example, in respect of an Approved Acquisition) under or in respect of the Finance Documents;
- (vi) in relation to any New Shareholder Injections so provided prior to the date of delivery of the relevant Compliance Certificate for the Relevant Period:
 - (A) the Compliance Certificate for that Relevant Period shall set out the revised financial covenant for the Relevant Period by giving effect to the adjustments to Consolidated Total Net Debt or Consolidated Pro Forma EBITDA under this paragraph (b) and confirming that such New Shareholder Injections have been provided; and
 - (B) if such New Shareholder Injections are provided on or prior to the last date of that Relevant Period, the unspent amount of such New Shareholder Injections will not be double-counted with the amount of such New Shareholder Injections deemed provided in accordance with sub-paragraph above; and

(vii) in relation to any such New Shareholder Injections so provided, following the date of delivery of the relevant Compliance Certificate for the Relevant Period, immediately following the proceeds of those New Shareholder Injections being provided to it, the Parent provides a revised Compliance Certificate to the Agent (signed by the CEO or CFO) setting out the revised financial covenant for the Relevant Period by giving effect to the adjustments under this paragraph (b).

(c) **Provided that** the Parent has complied with the obligations of Clause 25.5 (*Compliance Certificates*), if a financial covenant set out in Clause 26 (*Financial Covenant*) has been breached, but is complied with when tested in the next Relevant Period (the “**Second Period**”), then, the prior breach of such financial covenant(s) or any Event of Default arising therefrom shall no longer be outstanding or continuing for the purposes of the Finance Documents unless the Agent has taken any action referred to in paragraphs (a) or (b) of Clause 29.18 (*Acceleration*) before delivery of the Compliance Certificate in respect of the Second Period.

29.3 Other obligations

- (a) An Obligor fails to observe or perform any of its obligations or does not comply with any provision of the Finance Documents (other than those referred to in Clause 29.1 (*Payment Default*) and Clause 29.2 (*Financial Covenant*)).
- (b) No Event of Default will occur under paragraph (a) above if such failure to observe or perform or comply is capable of remedy and is remedied within twenty (20) Business Days from the earlier of (i) the Parent becoming aware of the failure to comply and (ii) the giving of notice by the Agent in respect of such failure.

29.4 Misrepresentation

- (a) Any representation, warranty or written statement made or deemed to be made by any Obligor in any of the Finance Documents or any other document delivered by or on behalf of any Obligor under or pursuant to any of the Finance Documents is or proves to be incorrect or misleading when made or deemed to be made (or when repeated or deemed to be repeated).
- (b) No Event of Default will occur under paragraph (a) above if the circumstances giving rise to that misrepresentation are capable of remedy and are remedied within twenty (20) Business Days of the earlier of (i) the Parent becoming aware of such misrepresentation and (ii) the giving of notice by the Agent in respect of such misrepresentation.

29.5 Invalidity and Unlawfulness

- (a) Any provision of any Finance Document is or becomes invalid or (subject to the Legal Reservations) unenforceable for any reason or shall be repudiated or the validity or enforceability of any provision of any Finance Document shall at any time be contested by any Obligor and this, individually or cumulatively, could reasonably be expected to materially adversely affect the interests of the Finance Parties under the Finance Documents.
- (b) At any time it is or becomes unlawful for any Obligor or any other member of the Group to perform any of its obligations under any of the Finance Documents or any Transaction Security created or expressed to be created by the Transaction Security Documents ceases to be effective or any subordination under the Intercreditor Agreement is or becomes unlawful, and this individually or cumulatively could reasonably be expected to materially adversely affect the interests of the Finance Parties under the Finance Documents.

- (c) Any obligation or obligations of any Obligor under any Finance Document is or are not or cease or ceases to be (subject to the Legal Reservations) legal, valid, binding or enforceable and the cessation individually or cumulatively could reasonably be expected to materially adversely affect the interests of the Finance Parties under the Finance Documents.

29.6 Cross Default

- (a) Any Financial Indebtedness of any member or members of the Group is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any member or members 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 creditor of any member or members 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) other than with respect to any Financial Indebtedness arising under a Hedging Agreement.
- (d) Any event of default (howsoever described) occurs in relation to any Additional Facility.
- (e) No Event of Default will occur under this Clause 29.6 if the aggregate amount of Financial Indebtedness falling within paragraphs (a) to (d) above is less than EUR 5,000,000 (or its equivalent in any other currency or currencies), and excluding in each case any Permitted Financial Indebtedness to the extent (A) owed by one member of the Group to another member of the Group or (B) of the Parent under Investor Loans or (C) to the extent supported by a Letter of Credit or bank guarantee or letter of credit issued under an Ancillary Facility.

29.7 Insolvency

- (a) Any Obligor or Material Subsidiary (each a “**Relevant Entity**”);
 - (i) is unable (or deemed or declared to be unable under any applicable law) or admits inability to pay its debts as they fall due (and in particular a Relevant Entity incorporated in Germany is unable to pay its debts as they fall due (*zahlungsunfähig*) within the meaning of section 17 of the German Insolvency Code (*Insolvenzordnung*)) (in each case other than solely as a result of its balance sheet liabilities exceeding its balance sheet assets except where the same would result in or require the taking of any corporate action, legal proceedings, insolvency filing, cessation of trading and/or any other procedure or steps referred to in Clauses (b) (*Insolvency Proceedings*) to (a) (*Similar events elsewhere*) (each inclusive));
 - (ii) ceases or suspends making payment on any of its debts or publicly announces an intention to do so; or
 - (iii) by reason of actual or anticipated financial difficulties commences negotiations with, or makes a proposal to do so, with its financial creditors generally (other than negotiations with the Finance Parties) with a view to the general readjustment or rescheduling of its indebtedness or makes a general assignment for the benefit of or a composition with its creditors; or
 - (iv) a Relevant Entity incorporated in Germany is over-indebted within the meaning of section 19 of the German Insolvency Code (*Insolvenzordnung*), in a state of

impending illiquidity (*drohender Zahlungsunfähigkeit*) or the managing directors of the person being required by law to file for insolvency.

- (b) A moratorium (including, without limitation, a moratorium under a conciliation procedure in accordance with articles L. 611-4 to L. 611-15 of the French Commercial Code) is declared in respect of the indebtedness of any Obligor or any other Material Subsidiary.

29.8 Insolvency Proceedings

- (a) Any formal corporate action or legal proceeding is taken in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding up, dissolution, bankruptcy, administration or reorganisation (by way of voluntary arrangement, scheme or plan of arrangement or otherwise) of any Material Subsidiary or any Obligor;
 - (ii) a composition, compromise, assignment or arrangement with financial creditors generally (other than any Finance Party) of any Material Subsidiary or any Obligor in connection with or as a result of any financial difficulty on the part of the Material Subsidiary or Obligor;
 - (iii) the appointment of a liquidator, receiver, receiver-manager, administrative receiver, administrator, compulsory manager or other similar officer in respect of, or all or any part of the business or assets of any Obligor or any Material Subsidiary;
 - (iv) the enforcement of any Security over all or any part of the business or assets of an Obligor or any other Material Subsidiary; or
 - (v) any analogous procedure or step is taken in any jurisdiction.
- (b) Paragraph (a) above shall not apply to:
 - (i) any proceedings which are frivolous or vexatious and which, if capable of remedy, are discharged, stayed or dismissed within twenty (20) Business Days of commencement or, if earlier, the date on which it is advertised (or such other period as agreed between the Parent and the Majority Lenders); or
 - (ii) (in the case of an application to appoint an administrator or commence proceedings) any proceedings which the Agent is satisfied (acting on the instructions of the Majority Lenders) will be withdrawn before it is heard or will be unsuccessful; or
 - (iii) any step or procedure contemplated in relation to merger that is permitted under Clause 27.10 (*Amalgamations and Change of Business*) of this Agreement or any Permitted Transaction.

29.9 Attachment or process

- (a) Any attachment, distress, execution, possession, diligence, arrestment, joinder, sequestration, preliminary attachment, executory attachment, or other analogous process in any jurisdiction (other than Belgium) is levied or enforced upon or sued out against any asset or assets of any Material Subsidiary (other than a Belgian Obligor) or any Obligor (other than a Belgian Obligor), having in the case of assets an aggregate value in excess of EUR 5,000,000 and is not, if capable of remedy, discharged within twenty (20) Business Days after commencement.

- (b) Any attachment (whether a *bewarend beslag / saisie conservatoire* or a *uitvoerend beslag / saisie exécution*), distress, execution, possession, diligence, arrestment, joinder, sequestration, preliminary attachment, executory attachment, or other analogous process in Belgium is levied or enforced upon or sued out against any asset or assets of any Material Subsidiary which is incorporated in Belgium or any Belgian Obligor, having in the case of assets an aggregate value in excess of EUR 5,000,000 and is not, if capable of remedy, discharged within forty-five (45) Business Days after commencement (or, in the case of a *bewarend beslag / saisie conservatoire*, within sixty (60) Business Days).

29.10 Similar events elsewhere

There occurs in relation to any Obligor or any other Material Subsidiary or any of their respective assets in any country or territory in which it is incorporated or carries on business or to the jurisdiction of whose courts it or any of its assets is subject any event which corresponds in that country or territory with any of those mentioned in Clauses 29.7 (*Insolvency*) to 29.9 (*Attachment or process*) (each inclusive) (in each case subject to equivalent qualifications, materiality and exceptions).

29.11 Cessation of Business

The Group taken as a whole or any Obligor or any Material Subsidiary suspends or ceases to carry on, or threatens or proposes to cease to carry on, all or substantially all of its business other than as a result of a Permitted Transaction, an amalgamation under paragraph (a) of Clause 27.10 (*Amalgamations and Change of Business*) to this Agreement or a Permitted Disposal.

29.12 Compulsory Acquisition

All or part of the assets of any member of the Group are seized, nationalised, expropriated or compulsorily acquired by, or by the order of, any agency of any state (or any analogous process by relevant authorities in any jurisdiction) and such event has or would reasonably be expected to have a Material Adverse Effect.

29.13 Litigation

Any litigation, arbitration, or administrative or regulatory proceeding, Environmental Claim or action or labour dispute is commenced by or against a member of the Group or any of its assets which is reasonably likely to be adversely determined by a body of competent jurisdiction, and if adversely determined has or would reasonably be expected to have a Material Adverse Effect.

29.14 Auditor's Qualification

The Auditors qualify their report on the audited consolidated financial statements of the Group (in any manner which is or could reasonably be expected to be (individually or cumulatively) materially adverse to the interests of the Finance Parties in the context of the Finance Documents), in respect of the Group continuing as a going concern or by reason of failure to disclose information.

29.15 Intercreditor

- (a) Any member of the Group or Investor (in each case as defined in the Intercreditor Agreement) fails to comply in any material respect with the provisions of, or does not perform its obligations under, the Intercreditor Agreement.
- (b) No Events of Default will occur under paragraph (a) above if such failure is capable of remedy, and is remedied within twenty (20) Business Days from the earlier of (i) that Party becoming aware of the failure to comply and (ii) the giving of notice by the Agent in respect of such failure,

29.16 Material Adverse Change

At any time any event or circumstance occurs (other than any circumstances where it is reasonably likely that the financial covenant set out in Clause 26 (*Financial Covenant*) may not be complied with or is not complied with as at the relevant testing date) which has a Material Adverse Effect.

29.17 Minimum share capital requirements in respect of any Italian Obligor

- (a) The occurrence of the circumstances set forth in Article 2447 or 2482-*ter*, as applicable, of the Italian Civil Code in relation to any Italian Obligor unless, without delay and in any event no later than thirty (30) days from the date on which an updated internal financial report (in any form whatsoever) of that Italian Obligor evidences the occurrence of such circumstance, a shareholders' meeting duly pass a resolution approving a capital increase to comply with the minimum capital requirements under Italian law and setting a reasonable deadline for the shareholders to underwrite and pay up such capital increase (the "**Share Capital Increase Resolution**").
- (b) The share capital increase approved by the Share Capital Increase Resolution has not been fully paid up in accordance with and within the deadline set forth in the Share Capital Increase Resolution.

29.18 Acceleration

- (a) 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 written notice to the Parent:
 - (i) terminate the availability of the Facilities and cancel the Total Commitments whereupon the Facilities shall cease to be available for utilisation, the undrawn portion of the Commitments of each of the Lenders shall be cancelled and no Lender shall be under any further obligation to make Loans under this Agreement and no further Letters of Credit may be requested under this Agreement, **provided that** upon the occurrence of an event with respect to any U.S. Obligor described in Clause 29.8, any such Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of such U.S. Obligor accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by such U.S. Obligor, in each case without further action of the Agent or any Lender and/or
 - (ii) declare that all or part of the Utilisations together with accrued interest thereon 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; and/or
 - (iii) declare that all or part of the Utilisations be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders; and/or
 - (iv) declare that cash cover in an amount equal to the outstanding amount in respect of any Letter of Credit is immediately due and payable, at which time it shall become immediately due and payable; and/or
 - (v) declare that cash cover in an amount equal to the outstanding amount in respect of any Letter of Credit is payable on demand, whereupon it shall immediately become due and payable on demand by the Agent on the instructions of the Majority Lenders; and/or

- (vi) declare all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities be immediately due and payable, at which time they shall become immediately due and payable; and/or
 - (vii) declare 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 due and payable on demand by the Agent on the instructions of the Majority Lenders; and/or
 - (viii) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.
- (b) Notwithstanding paragraph (a) above, no action otherwise permitted pursuant to paragraph (a) above shall be taken in respect of a Danish Obligor (or any Transaction Security granted by a Danish Obligor) if it would be unlawful by reason of Danish financial assistance restrictions to take such action against that Danish Obligor (or Transaction Security granted by that Danish Obligor).

29.19 Clean-Up Period

- (a) For the purpose of this Agreement, for the period from the date of completion of the Acquisition or, as appropriate, an Approved Acquisition until the date falling one hundred and twenty (120) days after the Acquisition or, as appropriate until the date falling ninety (90) days after the Approved Acquisition (the “**Clean-Up Period**”), the occurrence of any Event of Default will be deemed not to be a breach of representation or warranty or a breach of covenant or an Event of Default (as the case may be) if it would have been (but for this provision) a breach of representation or warranty or a breach of covenant or an Event of Default only by reason of circumstances relating exclusively to the Target or any of its Subsidiaries **provided that** such breach or Event of Default:
- (i) is capable of being remedied within the Clean-Up Period and the Parent is taking appropriate steps to remedy such breach or Event of Default;
 - (ii) does not have a Material Adverse Effect; and
 - (iii) was not procured or approved by the Parent.

Notwithstanding the above, if the relevant circumstances are continuing after the expiry of the Clean-Up Period, there shall be a breach of representation or warranty, breach of covenant or Event of Default, as the case may be (and without prejudice to any rights and remedies of the Finance Parties).

- (b) The Parent shall promptly notify the Agent upon becoming aware of the occurrence or existence of any event or circumstance which, but for this Clause 29.19, would constitute an Event of Default and the steps, if any, being taken to remedy it.

29.20 Excluded Matters

Notwithstanding any other term of the Finance Documents: (i) none of the steps or events set out in, or reorganisations specified in or contemplated by, the Tax Structure Report (or the actions or intermediate steps necessary to implement any of those steps, actions or events) (other than any steps or events set out in, or reorganisations specified in or contemplated by (or the actions or intermediate steps necessary to implement any of those steps, actions or events) the section titled “Exit Considerations” of the Tax Structure Report); and (ii) no breach of any representation, warranty, undertaking or other term of a Transaction Security Document resulting from a transaction expressly permitted under the terms of the Facilities Agreement shall, in any case, constitute, or result in, (x) a breach of any representation, warranty, (y) a breach of undertaking or

other term in the Finance Documents or (z) a Default or an Event of Default (other than where an Obligor fails to pay on the due date, after the expiry of any applicable grace period, any amount payable by it to a Finance Party under a Finance Document in accordance with the payment default provisions).

30 CHANGES TO THE LENDERS

30.1 Successors

The Finance Documents shall be binding upon and enure to the benefit of each party hereto and its or any subsequent successors, transferees, assigns and any New Lender and each such successor, transferee, assignee and any New Lender undertakes to carry out any actions required including the actions contemplated in this Clause 29 or the other provisions of this Agreement.

30.2 Assignments and Transfers by Lenders

Subject to this Clause 29 and to Clause 31 (*Restriction on Debt Purchase Transactions*), any Lender (an “**Existing Lender**”) may:

- (a) assign any of its rights; or
- (b) transfer (including by way of novation) any of its rights and obligations,

under any Finance Document to a bank or financial institution or to any fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in or securitising loans, securities or other financial assets or as otherwise agreed by the Parent (a “**New Lender**”), **provided that** such New Lender (i) until the competent authority publishes its interpretation of the term “public” (as referred to in article 4.1(1) of the Capital Requirements Regulation (EU/575/2013)), is a professional market party (*professionele marktpartij*) under the Dutch Act on Financial Supervision (*Wet op het financieel toezicht*) or (ii) as soon as the competent authority publishes its interpretation of the term “public”, is not considered to be part of the public on the basis of such interpretation.

30.3 Conditions of assignment or transfer

- (a) An assignment or transfer of part of a Lender’s Commitments for a Facility shall be in a minimum amount of EUR 1,000,000 and must be in an amount such that the Base Currency Amount of that Lender’s remaining Commitments (when aggregated with its Affiliates’ and Related Funds’ Commitments) is in a minimum amount of EUR 1,000,000 **provided that**:
 - (i) if an Existing Lender is a fund, it may assign its rights to (and its corresponding obligations may be released and equivalent obligations acceded to by) another fund that is either an Existing Lender or a related fund of a fund that is an Existing Lender in any amount; and
 - (ii) in the case of concurrent assignments, release and accessions by an Existing Lender to two or more related funds, the Commitments of these related funds shall, at the option of the relevant Lender(s), be aggregated.
- (b) The prior written consent of the Parent (not to be unreasonably withheld or delayed) is required for any assignment or transfer or sub-participation or sub-contract (but only if any voting rights under the Finance Documents pass or may pass as a result of such sub-participation or sub-contract) unless such assignment, transfer, sub-participation or sub-contract is:

- (i) to another Lender or an Affiliate of a Lender or, in the case of a Lender which is a fund, a Related Fund of such Lender;
- (ii) to an entity included on the Approved List; or
- (iii) made at a time when an Event of Default is continuing,

provided that:

- (A) in the case of a transfer, assignment, sub-participation or sub-contract to an assignee, transferee or sub-participant under sub-paragraphs (i) and (ii) above, the Existing Lender informs the Parent prior to the relevant transfer, assignment, sub-participation or sub-contract (other than in relation to a sub-participation or sub-contract with an Affiliate);
- (B) no transfer, assignment, sub-participation or sub-contract shall be made to an Industry Competitor or a Defaulting Lender unless the prior written consent of the Parent (in its sole discretion) is obtained;
- (C) if the assignment, transfer, sub-participation or sub-contract is in respect of a Facility B Loan or Facility B Commitments the prior written consent of the Parent (in its sole discretion) is required for any assignment, transfer, sub-participation or sub-contract of any of its rights and obligations under a Facility B Loan and Facility B Commitments on or prior to the Closing Date unless such assignment, transfer, sub-participation or sub-contract is in accordance with (and subject to) the provisions of the Senior Syndication Letter;
- (D) if the assignment, transfer, sub-participation or sub-contract is in respect of a Revolving Facility Utilisation or the Revolving Facility Commitments:
 - (1) the prior written consent of the Parent (in its sole discretion) is required for any assignment, transfer, sub-participation or sub-contract of any of its rights and obligations under a Revolving Facility Utilisation and Revolving Facility Commitments (as applicable) on or prior to the Syndication Date; and
 - (2) to the extent the Syndication Date has occurred prior to the Closing Date, the prior written consent of the Parent (in its sole discretion) is also required for any assignment, transfer, sub-participation or sub-contract of any of its rights and obligations under a Revolving Facility Utilisation and Revolving Facility Commitments (as applicable) on or prior to the Closing Date unless such assignment, transfer, sub-participation or sub-contract is in accordance with (and subject to) the provisions of the Senior Syndication Letter; and
 - (3) an assignee, transferee or sub-participant under sub-paragraphs (b)(i) and (b)(ii) above must be a deposit taking financial institution authorised by a financial services regulator and have a long term credit rating of BBB+ or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd. or Baa1 or higher by Moody's Investors Service Limited;
- (E) if the transfer, assignment, sub-participation or sub-contract is in respect of an Additional Facility Utilisation or the Additional Facility

Commitments, the restrictions (if any) specified in the relevant Additional Facility Notice establishing such Additional Facility Commitments are complied with; and

- (F) if the Parent fails to respond to a request for consent to a transfer, assignment, sub-participation or sub-contract within five (5) Business Days of such request, such consent shall be deemed as granted **provided that** the request was communicated to the Parent and to Giles Reaney at Advent International, 111 Buckingham Palace Road, London, SW1W 0SR or such other person notified to the Agent by the Parent (the “**Relevant Contacts**”) at least five (5) Business Days prior to such consent being deemed granted and provided for the avoidance of doubt that the inability to deliver such communications to the Relevant Contacts at the email addresses stated above by reason of it having changed or being inactive and/or the inability to deliver such communication to any Relevant Contact by reason of that Relevant Contact not being at Advent International plc shall not invalidate the communication or prevent such five (5) Business Day period from commencing.

The Parent and the Agent may, each acting reasonably, by agreement amend or revise the Approved List from time to time.

In addition to the foregoing, the Company may unilaterally remove up to two (2) names from the Approved List in any twelve (12) Month period following the Closing Date by notice to the Agent, but there shall be no ability to remove existing Lenders or their Affiliates or Related Funds from the Approved List.

- (c) Any assignment or transfer, and any sub-participation referred to in paragraph (b) above, and the identity of the proposed New Lender (or, as the case may be, sub-participant or sub-contractor) shall be notified separately to the Parent by the Agent promptly upon completion.
- (d) An assignment under Clause 30 (*Changes to the Lenders*) will only be effective upon:
 - (i) receipt by the Agent (in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that it will assume the same obligations to each of the other Finance Parties and the other Secured Parties as it would have been under had it been 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) performance by the Agent of all “*know your customer*” or other similar checks under all applicable laws and regulations relating to any person that the Agent is required to carry out in relation to such assignment or transfer to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.
- (e) 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 30.7 (*Procedure for transfers*) is complied with.
- (f) Any assignment or transfer under the Revolving Facility must result in an assignment or transfer of a rateable amount of a Lender’s participation in Utilisations and Available Commitments thereunder.

- (g) The consent of the Issuing Bank is required for an assignment or transfer of any Lender's rights or obligations under the Revolving Facility.
- (h) Without prejudice to this Clause 30.3 (*Conditions of assignment or transfer*), the Parent and each other Obligor hereby expressly consents to each assignment, transfer and/or novation of rights or obligations pursuant to this Clause 30 (*Changes to the Lenders*). The Parent and each Obligor also accepts and confirms that all guarantees, indemnities and Security granted by it under any Finance Document will, notwithstanding any such assignment, transfer or novation, continue and be preserved for the benefit of the New Lender and each of the other Finance Parties in accordance with the terms of the Finance Documents.
- (i) 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, the Parent or an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 14.9 (*Minimum Interest*), Clause 18 (*Taxes*) or Clause 19 (*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.
- (j) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.
- (k) If any assignment, transfer, sub-participation or sub-contract occurs in breach of the provisions of this Clause 30 (*Changes to the Lenders*), that assignment, transfer, sub-participation or sub-contract (as applicable) shall not be effective.
- (l) If, notwithstanding the terms of this Agreement, an Original Lender transfers any or all of its Commitments to a New Lender on or prior to Completion (the “**Pre-Closing Transferred Commitments**”), provided the Lenders are obliged to comply with Clause 5.4 (*Lenders' participation*) pursuant to Clause 4.5 (*Utilisations during the Certain Funds Period*), that Original Lender shall remain obligated to fund and will fund the Pre-Closing Transferred Commitments on the Closing Date if that New Lender has failed to so fund (or has confirmed that it will not be able to fund) on the Closing Date in respect of the relevant Facility or Facilities in circumstances where such New Lender is contractually obliged to do so under this Agreement.

30.4 Assignments by Lenders

Upon an assignment becoming effective, the Existing Lender will be released from its obligations under the Finance Documents to the extent they are assumed by the New Lender.

30.5 Assignment or transfer fee

- (a) Unless the Agent agrees otherwise and excluding an assignment or transfer (i) to an Affiliate of a Lender, (ii) to a Related Fund or (iii) made in connection with primary syndication of the Facilities, the New Lender shall, on or before the date upon which an assignment or transfer to it takes effect pursuant to this Clause 30 (*Changes to the Lenders*), pay to the Agent (for its own account) a fee of EUR 3,000.
- (b) Neither the Company, any member of the Group, nor the Obligors, shall be obliged to pay any taxes, costs or expenses in connection with any assignment or transfer pursuant to this Clause 30 (*Changes to the Lenders*).

30.6 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 the Parent or any Obligor or any other member of the Group;
 - (iii) the performance and observance by the Parent or 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 or information (whether written or oral) made or supplied 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 and 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 the Parent and each other Obligor and its related entities and all other risks arising in connection with its participation in the Finance Documents 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 the Parent and each other Obligor and its related entities whilst any amount is or may be outstanding under the Finance 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 by such Existing Lender under this Clause 30 (*Changes to the Lenders*); or
 - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non performance by the Parent or any Obligor of its obligations under the Transaction Documents or otherwise.

30.7 Procedure for transfers

- (a) Subject to the conditions set out in Clause 30.3 (*Conditions of assignment or transfer*) and Clause 42.5 (*Replacement of Lender*), a transfer by novation is effected in accordance with paragraph (e) below of this Clause 30.7 when the Agent executes an otherwise duly completed Transfer Certificate executed and delivered to it by the Existing Lender and the New Lender.
- (b) The Agent shall, subject to paragraph (c) below, as soon as reasonably practicable after receipt of a duly completed Transfer Certificate which appears on its face to comply with the terms of this Agreement and appears to be delivered in accordance with the terms of this Agreement, execute that Transfer Certificate and record the transfer in the Register.
- (c) The Agent shall only be obliged to execute a Transfer Certificate delivered to it in accordance with the provisions of this Clause once it is satisfied it has complied with all necessary “*know your customer*” or similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (d) Each party to this Agreement (other than the Existing Lender and the New Lender) irrevocably authorises the Agent to execute any duly completed Transfer Certificate on its behalf.
- (e) On the Transfer Date:
 - (i) to the extent that in such 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 Parent or the Obligors and such Existing Lender shall be released from further obligations towards one another (and the Existing Lender and any Issuing Bank shall be released from any further obligations toward each other) 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 (such rights and obligations being referred to in this Clause 30.7 (*Procedure for transfers*) as “**discharged rights and obligations**”);
 - (ii) the Parent and 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 the Parent or that Obligor or other member of the Group and that New Lender have assumed and/or acquired the same in place of the Parent, that Obligor and such Existing Lender;
 - (iii) the Agent, each Mandated Lead Arranger, the New Lender and the other Finance Parties shall acquire the same rights and benefits and assume the same obligations between themselves as they would have acquired and assumed had such New Lender been an original party hereto as a Lender with the rights, benefits and/or obligations acquired or assumed by it as a result of such transfer and to that extent the Agent, each Mandated Lead Arranger and the relevant Existing Lender and the other Finance Parties (other than the New Lender) shall each be released from further obligations to each other under the Finance Documents; and
 - (iv) such New Lender shall become a party hereto as a Lender.
- (f) In the event any Transfer Certificate is notarised before a Spanish notary public at the request of the Existing Lender or the New Lender, it shall be done so at the cost and expense of the Existing Lender and/or New Lender.

- (g) For the purposes of article 1407, paragraph 1, of the Italian Civil Code, each of the Parties provides its consent to the transfer (*cessione*), in whole or in part, by any Existing Lender of its contractual position (i.e. its rights and obligations) under this Agreement and the other Finance Documents (including as a secured creditor (*creditore garantito*) under the Transaction Security Documents governed by Italian law) in favour of any New Lender in accordance with the provisions of this Clause 30 and agrees that upon transfer, in accordance with a Transfer Certificate, an Assignment Agreement and this Clause 30, the guarantees and security interests created under the Finance Documents shall be preserved, without novation (*novazione*), for the benefit of any New Lender. Each Obligor acknowledges and agrees that the notice to be sent by the Agent to the Parent pursuant to paragraph (c) of Clause 30.3 above shall constitute an adequate notice of the transfer for the purposes of article 1407, paragraph 1, of the Italian Civil Code.

30.8 Procedure for assignment

- (a) Subject to the conditions set out in Clause 30.3 (*Conditions of assignment or transfer*) and Clause 42.5 (*Replacement of Lender*), an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
- (b) The Agent shall only be obliged to execute an Assignment Agreement delivered to it in accordance with the provisions of this Clause once it is satisfied it has complied with all necessary “*know your customer*” or similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) 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) In the event any Assignment Agreement is notarised before a Spanish notary public at the request of the Existing Lender or the New Lender, it shall be done so at the cost and expense of the Existing Lender and/or New Lender.

30.9 Sub-participation and sub-contracts

- (a) In relation to any sub-participation or sub-contract other than with an Affiliate, subject to paragraph (b) of Clause 30.3 (*Conditions of assignment or transfer*), nothing in this Agreement shall restrict the ability of a Lender to sub participate or sub-contract any or all of its obligations hereunder so long as such Lender remains liable under this Agreement in relation to those obligations.
- (b) Other than in relation to (i) a sub-participation or sub-contract with an Affiliate, or (ii) a sub-participation or sub-contract in respect of which voting rights under the Finance

Documents will not pass as a result of such sub-participation or sub-contract, a Lender shall promptly notify the Parent of any sub-participation or sub-contract entered into by it.

30.10 The Register

- (a) The Agent, acting for this purpose as the agent of the Parent and the Obligors, shall maintain at its address referred to in Clause 38.2 (*Addresses*):
 - (i) each Transfer Certificate referred to in Clause 30.7 (*Procedure for transfers*) and each Assignment Agreement referred to in Clause 30.8 (*Procedure for assignment*) each Increase Confirmation and each Additional Facility Notice delivered to and accepted by it; and
 - (ii) with respect to each Facility, a register for the recording of the names and addresses of the Lenders and the Commitment of, and principal and interest amounts owing to, each Lender from time to time (the “**Register**”) under such Facility, which may be kept in electronic form.

The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Obligors, the Parent, the Agents and the Lenders shall treat each person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement. The Agent shall provide the Parent with a copy of the Register within five (5) Business Days of request.

- (b) Each party to this Agreement irrevocably authorises the Agent to make the relevant entry in the Register (and which the Agent shall do promptly) on its behalf for the purposes of this Clause 30.10 (*The Register*) without any further consent of, or consultation with, such Party.
- (c) The Agent shall, upon request by an Existing Lender (as defined in Clause 30.2 (*Assignments and Transfers by Lenders*)) or a New Lender, confirm to that Existing Lender or New Lender whether a transfer or assignment from that Existing Lender or (as the case may be) to that New Lender has been recorded on the Register (including details of the Commitment of that Existing Lender or New Lender in each Facility).

30.11 Copy of Transfer Certificate, Assignment Agreement, Increase Confirmation, Additional Facility Notice or Additional Facility Lender Accession Notice to Parent

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate, an Assignment Agreement, Additional Facility Notice, Additional Facility Lender Accession Notice or an Increase Confirmation, send to the Parent, a copy of that Transfer Certificate, Assignment Agreement, Additional Facility Notice, Additional Facility Lender Accession Notice or Increase Confirmation. The Agent shall provide, upon the request of the Parent, in relation to any specified Transfer Certificate, Assignment Agreement, Additional Facility Notice, Additional Facility Lender Accession Notice or Increase Confirmation, a copy of such document to the Parent within five (5) Business Days of receipt of such request.

30.12 Security over Lenders’ rights

In addition to the other rights provided to Lenders under this Clause 30.12, each Lender may without consulting with or obtaining consent from the Parent or 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; 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 the Parent 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.

30.13 Procedure for transfer or assignment (Belgian law provisions)

For the purpose of articles 1278 et seq. of the Belgian Civil Code, each Party expressly agrees that upon transfer by way of novation or otherwise, the security and/or guarantee of each Obligor and the Security granted by such Obligor shall be preserved for the benefit of the Security Agent, the New Lender and other Secured Parties.

30.14 Procedure for transfer or assignment (French law provisions)

- (a) Within the meaning of articles 1271 et seq. of the French Civil Code, each Party agrees that upon a transfer under Clause 30.2 (*Assignments and Transfers by Lenders*) the Security created under the French law governed Transaction Security Documents shall be preserved (*réservée*) and maintained in full force and effect for the benefit of the Security Agent, the New Lender and the remaining Finance Parties pursuant to articles 1278 and seq. of the French Civil Code.
- (b) The New Lender may, in case of an assignment of rights by an Existing Lender hereunder, if it considers it necessary to make such transfer effective as against third parties, arrange for the Assignment Agreement or the Transfer Certificate to be notified by way of signification to any French Obligor in accordance with article 1690 of the French Civil Code.

30.15 Procedure for transfer or assignment (Spanish law provisions)

For the purpose of article 1,528 of the Spanish Civil Code, each Party expressly agrees that upon transfer by way of novation or otherwise, the security and/or guarantee of each Obligor and the Security granted by such Obligor shall be preserved for the benefit of the Security Agent, the New Lender and other Secured Parties.

30.16 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 21.9 (*Creditor/Agent Accession Undertaking*) of the Intercreditor Agreement.

30.17 Accession of Additional Facility Lender

Any person which provides Additional Facility Commitments or an Additional Facility Loan shall become a party to the Intercreditor Agreement as a Lender and shall, at the same time, become a Party to this Agreement as a Lender by executing an Accession Agreement.

30.18 Belgian Waiver

Each Finance Party expressly waives any priority of ranking or payment it may have against any other Finance Party pursuant to Article 4 of the Belgian law of 3 August 2012 on various measures to facilitate the mobilisation of receivables in the financial sector (*Wet van 3 augustus 2012 betreffende diverse maatregelen ter vergemakkelijking van de mobilisering van schuldvorderingen in de financiële sector/ Loi du 3 août 2012 relative à des mesures diverses pour faciliter la mobilisation de créances dans le secteur financier*) or Article 51ter, §4 of the Belgian law of 4 August 1992 on mortgage credit (*Wet van 4 augustus 1992 op het Hypothecair krediet/Loi du 4 août 1992 sur le crédit hypothécaire*).

31 RESTRICTION ON DEBT PURCHASE TRANSACTIONS

31.1 Permitted Debt Purchase Transactions

- (a) No member of the Group shall (i) enter into any Debt Purchase Transaction other than in accordance with the other provisions of this Clause 31 or (ii) be, or beneficially own all or any part of the share capital of an entity 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.
- (b) No member of the Group may enter into any Debt Purchase Transaction other than in accordance with the other provisions of this Clause 31.
- (c) A member of the Group (a “**Purchaser**”) may purchase by way of assignment, pursuant to Clause 30 (*Changes to the Lenders*), a participation in any Term Loan and any related Commitment where:
 - (i) such purchase is made for a consideration of less than par;
 - (ii) such purchase is made using one of the processes set out at paragraphs (d) and (e) below;
 - (iii) such purchase is made at a time when no Default is continuing; and
 - (iv) the consideration for such purchase is funded from Acceptable Funding Sources under paragraphs (b), (d), (e), (f) and/or (g) of the definition thereof.
- (d)
 - (i) Any Debt Purchase Transaction entered into by a member of the Group shall be entered into initially pursuant to a solicitation process (a “**Solicitation Process**”) which is carried out as follows.
 - (ii) Prior to 11.00 a.m. on a given Business Day (the “**Solicitation day**”), the relevant Purchaser or a financial institution acting on its behalf (the “**Purchase Agent**”) will approach at the same time each Lender which participates in the relevant Term Facilities to invite them to offer to sell to the relevant Purchaser, an amount of their participation in one or more Term Facilities. Any Lender wishing to make such an offer shall, by 11.00 a.m. on the second Business Day following such Solicitation day, communicate to the Purchase Agent details of the amount of its participations, and in which Term Facilities, it is offering to sell and the price at which it is offering to sell such participations. Any such offer shall be irrevocable until 11.00 a.m. on the third Business Day following such Solicitation day and shall be capable of acceptance by the relevant Purchaser on or before such time by communicating its acceptance in writing to the Purchase Agent or, if it is the Purchase Agent, the relevant Lenders. The Purchase Agent (if someone

other than the Purchaser) will communicate to the relevant Lenders which offers have been accepted by 12 noon on the third Business Day following such Solicitation day. In any event by 11.00 a.m. on the fourth Business Day following such Solicitation day, the Purchaser shall notify the Agent of the amounts of the participations purchased through the relevant Solicitation Process and the identity of the Term Facilities to which they relate. The Agent shall disclose such information to any Lender that requests such disclosure.

- (iii) If it chooses to accept any offers made pursuant to a Solicitation Process the Purchaser shall be free to select which offers and in which amounts it accepts but on the basis that in relation to a participation in a particular Facility it accepts offers in inverse order of the price offered (with the offer or offers at the lowest price being accepted first) and that if in respect of participations in a particular Facility it receives two or more offers at the same price it shall only accept such offers on a *pro rata* basis.
- (iv) Any purchase of participations in the Term Facilities pursuant to a Solicitation Process shall be completed and settled on or before the fifth Business Day after the relevant Solicitation day.
- (v) In accepting any offers made pursuant to a Solicitation Process the Parent shall be free to select which offers and in which amounts it accepts.

(e)

- (i) Following the completion of a Solicitation Process, a Debt Purchase Transaction referred to in paragraph (b) above may also be entered into pursuant to a bilateral process (a “**Bilateral Process**”) which is carried out as follows.
- (ii) A Purchaser may by itself or through the same or another Purchase Agent, at any time during the period commencing on the expiry of the relevant Solicitation Process and ending thirty (30) days thereafter, purchase participations from Lenders pursuant to secondary market purchases and/or pursuant to such bilateral arrangements with any Lenders as the Purchaser shall see fit, **provided that** the purchase rate on such market purchases and bilateral arrangements during that thirty (30) day period may not exceed the lowest purchase rate tendered by the Lenders during the Solicitation Process which was not accepted by that Purchaser.
- (iii) Any purchase of participations in the Term Facilities pursuant to a Bilateral Process shall be completed and settled by the relevant Purchaser on or before the second Business Day after the expiry of the Bilateral Process period referred to in paragraph (ii) above.
- (iv) A Purchaser shall promptly notify the Agent of the amounts of each participation purchased through such Bilateral Process and the identity of the Term Facilities to which they relate. The Agent shall disclose such information to any Lender that requests the same.

- (f) For the avoidance of doubt, there is no limit on the number of occasions a Solicitation Process or Bilateral Process may be implemented.

- (g) In relation to any Debt Purchase Transaction entered into pursuant to this Clause 31.1, notwithstanding any other term of this Agreement or the other Finance Documents:

- (i) on completion of the relevant assignment pursuant to Clause 30 (*Changes to the Lenders*), the portions of the Term Loans to which it relates shall, unless there

would be a material adverse tax impact on the Group as a result of such cancellation, be extinguished if the purchaser is the relevant Borrower;

- (ii) such Debt Purchase Transaction and the related extinguishment referred to in paragraph (i) above shall not constitute a prepayment of the Facilities;
- (iii) for the purpose of testing compliance with the financial covenant in Clause 26 (*Financial Covenant*), any impact of any Debt Purchase Transaction on Consolidated EBIT or Consolidated EBITDA shall be ignored;
- (iv) the Parent, the Obligor or Purchaser which is the assignee shall be deemed to be an entity which fulfils the requirements of Clause 30.2 (*Assignments and Transfers by Lenders*) to be a New Lender (as defined in such Clause);
- (v) no member of the Group shall be deemed to be in breach of any provision of Clauses 27.22 (*Acquisitions and Investments*), 27.28 (*Holding Company*), Clause 27.15 (*Indebtedness*) or 27.17 (*Loans*) solely by reason of such Debt Purchase Transaction;
- (vi) Clause 35 (*Sharing among the Finance Parties*) shall not be applicable to the consideration paid under such Debt Purchase Transaction;
- (vii) for the avoidance of doubt, any extinguishment of any part of the Term Loans shall not affect any amendment or waiver which prior to such extinguishment had been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement;
- (viii) unless all amounts owing to the other Lenders under this Agreement will be paid in full at the same time as such prepayment, neither the Parent or an Obligor or Purchaser will be entitled to receive any prepayment pursuant to this Agreement and the amount of any such prepayment which would have been so received by it shall be applied *pro rata* to prepay all other Lenders in the relevant Facility;
- (ix) any enforcement proceeds or other amount received by the Parent or an Obligor as a result of a Debt Purchase Transaction (in the case of such other amount, in circumstances where the Parent or the Obligors have failed to pay to the Lenders all amounts otherwise due and payable (the amount not so paid being a “**shortfall**”)) shall be held on trust for distribution to the other Finance Parties and such Purchaser shall promptly (and in any event within ten (10) Business Days) pay an amount equal to such enforcement proceeds or such shortfall, as the case may be, to the Security Agent for application in accordance with clause 16 (*Application of proceeds*) of the Intercreditor Agreement;
- (x) any amount that is due to the Parent or an Obligor or Purchaser that enters into a Debt Purchase Transaction and which is received by the Agent pursuant to Clause 36.6 (*Partial payments*) shall be applied as if such payment were due under paragraph (a)(iv) of Clause 36.6 (*Partial payments*);
- (xi) neither the Parent nor any Obligor which completes a Debt Purchase Transaction shall be permitted at any time to sell, transfer or otherwise dispose of the subject matter of such Debt Purchase Transaction; and
- (xii) neither the Parent nor any Obligor which completes a Debt Purchase Transaction or Purchaser shall be entitled to exercise any rights or be entitled to any payment pursuant to Clause 18 (*Taxes*) and Clause 19 (*Increased costs*).

- (h) Each Obligor or other Purchaser that becomes a Lender pursuant to this Clause 31 agrees that (for so long as it remains a member of the Group):
 - (i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, unless the Agent otherwise agrees, it shall not attend or participate in the same or be entitled to receive the agenda or any minutes of the same;
 - (ii) in its capacity as Lender, unless the Agent agrees otherwise, it shall not be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Agent or one or more of the Lenders;
 - (iii) in ascertaining the Majority Lenders or the Super Majority Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments or the agreement of any specified group of Lenders has been obtained to give an instruction or approve any request for a consent, waiver, amendment, or other vote under the Finance Documents such Commitment owned by an Obligor or other Purchaser shall be deemed to be zero; and
 - (iv) for the purposes of Clause 42.3 (*Exceptions*), such Obligor or other Purchaser shall be deemed not to be a Lender.
- (i) Each Lender shall, unless the 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 member of the Group or a Sponsor Affiliate (a “**Notifiable Debt Purchase Transaction**”), such notification to be substantially in the form set out in Part 1 of Schedule 14 (*Forms of Notifiable Debt Purchase Transaction Notice*).
- (j) A Lender shall promptly notify the Agent if a Notifiable Debt Purchase Transaction to which it is a party is terminated or ceases to be with a member of the Group or a Sponsor Affiliate, such notification to be substantially in the form set out in Part 2 of Schedule 14 (*Forms of Notifiable Debt Purchase Transaction Notice*).

31.2 Disenfranchisement on Debt Purchase Transactions entered into by a Sponsor Affiliate

- (a) For so long as a Sponsor Affiliate (i) beneficially owns a Commitment or (ii) has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated:
 - (i) in ascertaining the Majority Lenders, the Super Majority Lenders or whether any given percentage (including for the avoidance of doubt, unanimity) of the Total Commitments (or the agreement of any specified group of Lenders) has been obtained to approve any request for a consent, waiver, amendment or other vote or to give instructions under the Finance Documents, such Commitment shall be deemed to be zero; and
 - (ii) for the purposes of Clause 35.5 (*Exceptions*), such Sponsor Affiliate or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Lender (unless in the case of a person not being a Sponsor Affiliate it is a Lender by virtue otherwise than by beneficially owning the relevant Commitment).
- (b) Paragraph (a) above does not apply to any request for a consent, waiver, amendment or other vote or instruction under the Finance Documents which would result in the Commitment of the relevant Sponsor Affiliate under a Facility being treated in any manner which is objectively less favourable to it (in its capacity as a Lender) than the

treatment proposed to be applied to any Commitment of another Lender under that Facility.

- (c) 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 Notifiable Debt Purchase Transaction with a Sponsor Affiliate, such notification to be substantially in the form set out in Part 1 of Schedule 14 (*Forms of Notifiable Debt Purchase Transaction Notice*).
- (d) 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 2 of Schedule 14 (*Forms of Notifiable Debt Purchase Transaction Notice*).
- (e) Each Sponsor Affiliate that is a Lender agrees that:
 - (i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, it shall not attend or participate in the same if so requested by the Agent or, unless the Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and
 - (ii) in its capacity as Lender, unless the Agent otherwise agrees, it shall not be entitled to receive any report or other document prepared at the request of, or on the instructions of, the Agent or one or more of the Lenders (save for interest rate notifications and other communications or documents relating to the administration of the Term Loans under this Agreement).

32 CHANGES TO THE OBLIGORS

32.1 Assignment and transfers by Obligors

Subject to Clause 32.7 (*Debt Pushdown*), neither the Parent nor any Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

32.2 Additional Borrowers

- (a) Subject to compliance with Clause 25.10 (*"Know your customer" checks*), the Parent may request that:
 - (i) any of its Subsidiaries becomes an Additional Borrower; and
 - (ii) the Debt Pushdown Borrower becomes a Borrower of Facility B following the Closing Date but on or prior to the Debt Pushdown Date.
- (b) A member of the Group referred to in paragraph (a) above shall become a Borrower under a Facility if:
 - (i)
 - (A) in the case of any Facility it is incorporated in a jurisdiction:
 - (I) that is the same jurisdiction as an existing Borrower; or

- (2) approved by all Lenders participating in the relevant Facility (acting reasonably); or
 - (B) in the case of the Revolving Facility only, it is incorporated in The Netherlands;
- (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 or contemporaneously with becoming a Borrower; and
- (iv) the Agent has received all of the documents and other evidence set out in Part 2 of Schedule 2 (*Conditions Precedent to be delivered by an Additional Obligor*) in relation to that Additional Borrower, each in form and substance satisfactory to the Agent (acting reasonably).
- (c) The Agent shall notify the Parent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory) to it (acting reasonably) all of the documents and other evidence set out in Part 2 of Schedule 2 (*Conditions Precedent to be delivered by an Additional Obligor*) in relation to that Additional Borrower.
- (d) Upon the Agent's confirmation to the Parent that it has received all documents referred to in paragraph (b) of Clause 32.2 (*Additional Borrowers*) in respect of an Additional Borrower, such Additional Borrower, the Obligors and the Finance Parties shall each assume such obligations towards one another and/or acquire such rights against each other party as they would have assumed or acquired had such Additional Borrower been an original Party to this Agreement as a Borrower and the Intercreditor Agreement as a Debtor and such Additional Borrower shall become a Party to this Agreement as a Borrower and as a Guarantor and to the Intercreditor Agreement as a Debtor.

32.3 Additional Guarantors

- (a) Subject to compliance with Clause 25.10 (*"Know your customer" checks*), the Parent may request that any of its Subsidiaries becomes a Guarantor. That Subsidiary shall become a Guarantor if:
 - (i) the Parent and that Subsidiary deliver to the Agent a duly completed and executed Accession Deed; and
 - (ii) the Agent has received all of the documents and other evidence set out in Part 2 of Schedule 2 (*Conditions Precedent to be delivered by an Additional Obligor*) in relation to that Additional Guarantor, 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 (acting reasonably) all of the documents and other evidence set out in Part 2 of Schedule 2 (*Conditions Precedent to be delivered by an Additional Obligor*) in relation to that Additional Guarantor.
- (c) Upon the Agent's confirmation to the Parent that it has received all documents referred to in paragraph (a) of Clause 32.3 (*Additional Guarantors*) in respect of an Additional Guarantor, such Additional Guarantor, the other Obligors and the Finance Parties shall each assume such obligations towards one another and/or acquire such rights against each other party as they would have assumed or acquired had such Additional Guarantor been an original Party to this Agreement as a Guarantor and to the Intercreditor Agreement as a

Debtor and such Additional Guarantor shall become a Party to this Agreement as a Guarantor and to the Intercreditor Agreement as a Debtor.

32.4 Resignation of an Obligor

- (a) In this Clause 32.4, “**Third Party Disposal**” means the direct or indirect disposal of an Obligor to a person which is not a member of the Group and which is permitted by the terms of this Agreement (and the Parent has confirmed in writing this is the case) or made with the approval of the Majority Lenders.
- (b) The Parent may request that an Obligor (other than the Parent and the Company) ceases to be a Borrower and/or a Guarantor by delivering a Resignation Letter to the Agent if:
 - (i) that Obligor is the subject of a Third Party Disposal, or that Obligor is only a Borrower (and not a Guarantor), or that Obligor or any member of the Group which is its Holding Company is the subject of a transaction not prohibited by this Agreement (a “**Permitted Activity**”) pursuant to which that Obligor or its Holding Company will cease to be a member of the Group; or that Obligor is the subject of a Permitted Activity pursuant to which it is to be liquidated, wound up or dissolved (or pursuant to which it will otherwise cease to exist) or the resignation is required to give effect to any step, reorganisation or action described in or pursuant to the provisions of Clause 29.20 (*Excluded Matters*); or
 - (ii) the Guarantor Coverage Test based on the most recent Annual Financial Statements (taking into account any members of the Group which have or will become Additional Guarantors on or prior to the date on which the resignation will become effect) would have been complied excluding that applicable Obligor as a “Guarantor”; or
 - (iii) the Super Majority Lenders have consented to the resignation of that Obligor.
- (c) 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 Event of Default is continuing or would result from the acceptance of the Resignation Letter;
 - (ii) in the case of a Borrower, no amounts utilised by it as a Borrower remain outstanding under this Agreement (or will be outstanding at the time of resignation), and in the case of a Guarantor no payment is due and payable from that Guarantor under Clause 23 (*Guarantees and indemnity*);
 - (iii) in the case of a Borrower which is also a Guarantor (unless it is simultaneously resigning as a Guarantor in accordance with this Clause 32.4), 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) or any release contemplated under Clause 42.4 (*Transaction Security and Guarantees*) whether or not requiring a consent thereunder); and
 - (iv) the Parent has confirmed to the Agent that any Disposal Proceeds will be applied in accordance with Clause 12.2 (*Disposal, insurance and recovery proceeds*) (in each case if and to the extent required by that Clause).
- (d) Upon notification by the Agent to the Parent of its acceptance of the resignation of a Borrower or a Guarantor, that entity shall cease to be a Borrower or a Guarantor (as applicable) and shall have no further rights or obligations under the Finance Documents as a Borrower or a Guarantor (as applicable). For the avoidance of doubt, if an Obligor

ceases to be a member of the Group pursuant to a transaction not prohibited by this Agreement, that Obligor shall automatically cease to be an Obligor for all purposes and shall have no further rights or obligations under the Finance Documents as an Obligor, except that, where the Borrower or Guarantor is the subject of a Third Party Disposal, the resignation shall not take effect (and the Borrower or Guarantor will continue to have rights and obligations under the Finance Documents) until the date on which the Third Party Disposal takes effect.

32.5 Repetition of Representations

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the Repeating Representations 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.

32.6 Release of Security

- (a) If an Obligor disposes of any asset (or any member of the Group disposes of shares in an Obligor or any Holding Company of an Obligor) in a manner not prohibited by the terms of this Agreement (including pursuant to a Permitted Reorganisation, a Permitted Structural Adjustment, the implementation of other actions permitted under the Finance Documents or any release contemplated under Clause 42.4 (*Transaction Security and Guarantees*) whether or not requiring a consent thereunder) or with the prior consent of the Agent (pursuant to the terms of this Agreement) and such asset (or shares) is subject to Transaction Security, the Security Agent and/or the relevant Secured Party(ies) (as applicable) shall, at the cost and request of the Parent, release Transaction Security over that asset (or shares) and, in the case of any such disposal of shares in an Obligor or a Holding Company of an Obligor to a person who is not a member of the Group, over the respective assets of such Obligor and its Subsidiaries (and the shares in any such Obligor and/or Subsidiary), issue any certificate of non-crystallisation of any floating charge and carry out any other action (including notification and filings for cancelling any registration) that may reasonably be required or considered necessary or desirable in connection with that disposal and that release, **provided that**, in the case of any Permitted Reorganisation, the requirements of the definition of Permitted Reorganisation are complied with.
- (b) In relation to any Transaction Security over a bank account of an Obligor, the Security Agent is hereby authorised by the Secured Parties to release any Security granted in favour of the Security Agent and held over any bank account of an Obligor (a “**Pledged Account**”) **provided that** prior to such release the relevant Obligor has transferred the balance standing to the credit of such Pledged Account to another bank account held by it (a “**Recipient Account**”) and the Security Agent is satisfied (acting reasonably) that the relevant Obligor has valid and effective Transaction Security over such Recipient Account consistent with the Agreed Security Principles or there is no credit balance on such Pledge Account.
- (c) The Security Agent is permitted, authorised and (if requested by the Parent) shall enter into amendment agreements in relation to the relevant Transaction Security Documents to facilitate (if permitted by law) the automatic release of Transaction Security over assets which are disposed of in connection with a Permitted Factoring.

32.7 Debt Pushdown

- (a) In this Clause 32.7:

“**Book-entry Refinancing**” means a Debt Pushdown achieved by way of the Lenders under Facility B Tranche 2 making available an intra-day facility to the Debt Pushdown Borrower in an amount not greater than the Loans outstanding under Facility B Tranche 2,

the Debt Pushdown Borrower utilising such facility in full and upstreaming the proceeds of such utilisation to the Company by way of repayment of the intercompany loan made by the Company to the Target and such proceeds being used in full by the Company in prepayment of a corresponding amount of Facility B Tranche 2, all of which steps are effected intra-day and simultaneously on a cash-less basis.

“Debt Pushdown Certificate” means a certificate substantially in the form set out in Schedule 16 (*Form of Debt Pushdown Certificate*).

“Debt Pushdown Date” means the later of:

- (i) the proposed Debt Pushdown Date specified in the relevant Debt Pushdown Certificate; and
 - (ii) the date on which the Agent executes the relevant Debt Pushdown Certificate.
- (b) The Company may elect to effect the Debt Pushdown by way of novation pursuant to paragraph (c) below, or by way of Book-entry Refinancing.
- (c) Subject to paragraphs (d) and (e) below, on the Debt Pushdown Date the rights and obligations under the Finance Documents of the Company as Original Borrower under Facility B Tranche 2 as specified in such Debt Pushdown Certificate will be transferred by way of novation as specified in such Debt Pushdown Certificate in the amounts and to the extent specified therein. On that Debt Pushdown Date:
 - (i) the Company as Original Borrower will be released from its obligations and will cease to own any rights as a Borrower under Facility B to the extent, and in the amounts (the **“Debt Pushdown Amounts”**) specified in such Debt Pushdown Certificate (the **“Discharged Borrower Rights and Obligations”**); and
 - (ii) the Debt Pushdown Borrower shall assume obligations and acquire rights under the Finance Documents in relation to Facility B as identified as being transferred to it in the Debt Pushdown Certificate, which will differ from the Discharged Borrower Rights and Obligations in respect of such Loan (or portion of each such Loan) only insofar as the Debt Pushdown Borrower has assumed the same in place of the Original Borrower.
- (d) A transfer by way of novation is effected in accordance with paragraph (c) above with effect from the Debt Pushdown Date when the Agent executes an otherwise duly completed Debt Pushdown Certificate delivered to it by the Parent. The Agent shall, subject to paragraph (e) below, as soon as reasonably practicable after receipt by it of a duly completed Debt Pushdown 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 Debt Pushdown Certificate.
- (e) A transfer by way of book-entry pursuant to paragraph (b) above or novation pursuant to paragraph (c) above will only be effective if:
 - (i) such transfer is made to the Debt Pushdown Borrower in accordance with the steps set out under the heading *“Step Five – Debt pushdown (Optional Step)”* of the Tax Structure Report and otherwise in accordance with all applicable laws;
 - (ii) the Debt Pushdown Borrower is a Borrower or has become an Additional Borrower in accordance with Clause 32.2 (*Additional Borrowers*);
 - (iii) the Security Agent (acting reasonably) is satisfied that the guarantees and Transaction Security securing the obligations of the Obligors in respect of the

Loans which are the subject of the proposed Debt Pushdown will continue in full force and effect following the Debt Pushdown; and

- (iv) no Event of Default is continuing on the date of delivery of the Debt Pushdown Certificate and the Debt Pushdown Date or would occur as a result of the Debt Pushdown.
- (f) A transfer by way of Book-entry Refinancing will only be effective if the Debt Pushdown Borrower is a Borrower or has become an Additional Borrower in accordance with Clause 32.2 (*Additional Borrowers*), and the Lenders hereby consent to any amendments required to effect the Book-entry Refinancing.
- (g) For the avoidance of doubt, the rights and obligations of the Original Obligors and any Transaction Security granted by the Original Obligors shall remain in full force and effect irrespective of the transfer described above. Each Obligor undertakes to execute any documents and undertakes any actions considered by the Security Agent (acting reasonably) to be necessary to ensure the continuous validity of such guarantee or Transaction Security.

33 ROLE OF THE AGENT, THE MANDATED LEAD ARRANGERS, THE ISSUING BANK AND OTHERS

33.1 Appointment of the Agent

- (a) Each other Finance Party appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each other Finance Party hereby exempts, to the extent legally possible, the Agent from the restrictions of section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*). A Finance Party which is barred by its constitutional documents or by-laws from granting such exemption shall notify the Agent accordingly.
- (c) The Agent has the power to grant sub-power of attorney including, to the extent legally possible, the release from the restrictions set out in section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*).
- (d) Each other Finance Party authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions (even if it involves self-contracting (*autocontratación*), multi-representation or conflict of interest), including, without limitation, to enter and raise into Spanish public status before a Spanish public notary any document related to this mandate and, specifically, those deemed necessary or appropriate according to the mandate received (including, but not limited to, documents of formalisation, acknowledgement, confirmation, modification or release, acceptance of any security interest and acceptance of acknowledgement of debts by Obligors).
- (e) Each other Finance Party and Secured Party confirms that each of the Mandated Lead Arrangers and the Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Mandated Lead Arrangers or Agent) the terms of any reliance letter or engagement letters relating to the Reports or any reports or letters provided by any person in connection with the Transaction Documents or the transactions contemplated in the Transaction 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.

- (f) In relation to the Finance Documents governed by Italian law each of the Finance Parties irrevocably:
 - (i) appoints the Agent to be its agent (*mandatario con rappresentanza*) for the purpose of executing in its name and on its behalf any Finance Document which is expressed to be governed by Italian law;
 - (ii) grants the Agent the powers to negotiate and approve the terms and conditions of such Finance Documents, execute any other agreement or instruments, give or receive any notice and take any other action in relation to the creation, perfection, maintenance, confirmation, extension, enforcement and release, in whole or in part, of the security created thereunder, in each case in the name and on behalf of it and the other Finance Parties; and
 - (iii) consents that the Agent may act as its agent (*mandatario con rappresentanza*) in all cases of conflict of interest and self-dealing, in accordance with Article 1394 and execute each Finance Documents expressed to be executed by the relevant Agent on its behalf including to execute any document with itself (*contratto con se stesso*) in accordance with Article 1395 of the Italian Civil Code.

33.2 Duties of the Agent

- (a) Subject to paragraph (b) 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.
- (b) Without prejudice to Clause 30.10 (*The Register*) and paragraph (e) of Clause 7.4 (*Cash collateral by Non-Acceptable L/C Lender*), paragraph (a) shall not apply to any Lender Undertaking, Transfer Certificate, Assignment Agreement or Increase Confirmation.
- (c) 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.
- (d) 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.
- (e) 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 Mandated Lead Arrangers or the Security Agent) under this Agreement it shall promptly notify the other Finance Parties.
- (f) The Agent shall provide to the Parent, within five (5) Business Days of a request by the Parent (but no more frequently than once per calendar month), a list (which may be in electronic form) setting out the names of the Lenders as at the date of that request, their respective Commitments, the address and fax number (and the department or officer, if any, for whose attention any communication is to be made) of each Lender for any communication to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the sending and receipt of information by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the 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.

- (g) The Agent shall provide to the Company, within one (1) Business Day of a request by the Company, details of any responses received from Lenders to any amendment or other consent request made by the Company and each Lender hereby consents to the disclosure of such information by the Agent to the Company.
- (h) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (i) Upon the Agent becoming an Impaired Agent the Parent shall provide a copy of the list of all the Lenders to each Finance Party.
- (j) 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).

33.3 Role of the Mandated Lead Arrangers

Except as specifically provided in the Finance Documents, no Mandated Lead Arranger has obligations of any kind to any other Party under or in connection with any Finance Document.

33.4 No fiduciary duties

- (a) Nothing in any Finance Document constitutes the Agent, any Mandated Lead Arranger, any Underwriter and/or Issuing Bank as a trustee or fiduciary of any other person.
- (b) None of the Agent, the Security Agent, any Mandated Lead Arranger, the Issuing Bank or any Ancillary Lender shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

33.5 Business with the Group

The Agent, the Security Agent, the Mandated Lead Arrangers, the Issuing Bank and each Ancillary Lender may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

33.6 Rights and discretions

- (a) The Agent and the Issuing Bank may:
 - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
 - (ii) assume that:
 - (A) any instructions received by it from the Majority Lenders, any Lenders or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
 - (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

(B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.

- (b)** The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
- (i)** no Default has occurred (unless it has actual knowledge of a Default arising under Clause 29.1 (*Payment Default*));
 - (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:
 - (A)** has been entered into;
 - (B)** has been terminated; or
 - (C)** has ceased to be with a Sponsor Affiliate or a member of the Group.
- (c)** The Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d)** Without prejudice to the generality of paragraph (c) above or paragraph (e) 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.
- (e)** 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.
- (f)** 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
 - (ii)** be bound to supervise, or be in any way responsible for, any loss incurred by reason of misconduct, omission or default on the part of any such person,
- unless such error or such loss was directly caused by the Agent's gross negligence or wilful misconduct.
- (g)** 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.
- (h)** Without prejudice to the generality of paragraph (g) 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.

- (i) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent, Arranger or the Issuing Bank is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or a duty of confidentiality.
- (j) 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.
- (k) The Agent is not obliged to disclose to any Finance Party any details of the rate notified to the Agent by any Lender for the purpose of paragraph (a)(ii) of Clause 16.3 (*Market disruption*).

33.7 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:
 - (A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision;
 - (B) the Super Majority Lenders if the relevant Finance Document stipulates the matter is a Super Majority Lender decision; and
 - (C) in all other cases, the Majority Lenders; and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) 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 paragraph (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.

33.8 Responsibility for documentation

None of the Agent, the Issuing Bank, any Mandated Lead Arranger 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, a Mandated Lead Arranger, the Issuing Bank, 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, 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.

33.9 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.

33.10 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to the provisions of paragraph (e) of Clause 36.11 (*Disruption to Payment Systems etc.*)), none of the Agent, the Issuing Bank or any Ancillary Lender will be liable (including, without limitation, for negligence or any other category of liability whatsoever) for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any 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 unless directly caused by its gross negligence or wilful misconduct; or

(iii) without prejudice to the generality of paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:

(A) any act, event or circumstance not reasonably within its control; or

(B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

(b) No Party (other than the Agent, the Issuing Bank or an Ancillary Lender (as applicable)) may take any proceedings against any officer, employee or agent of the Agent, the Issuing Bank or any Ancillary Lender, in respect of any claim it might have against the Agent, the Issuing Bank or an Ancillary Lender or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent, the Issuing Bank or any Ancillary Lender may rely on this Clause subject to Clause 1.13 (*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 a Mandated Lead 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 Mandated Lead Arrangers that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or any Mandated Lead 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.

33.11 Lenders' indemnity to the Agent

- (a) Subject to paragraph (b) below, each Lender shall (in proportion to its Available Commitments, Available Ancillary Commitment and participations in the Utilisations and utilisations of the Ancillary Facilities then outstanding to the Available Facilities and all the Utilisations and utilisations of the Ancillary Facilities then outstanding) indemnify the Agent, within three (3) 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 its gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 35.11 (*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 it has been reimbursed by the Parent or an Obligor pursuant to a Finance Document).
- (b) If the Available Facilities are then zero, each Lender's indemnity under paragraph (a) above shall be in proportion to its Available Commitments to the Available Facilities immediately prior to their reduction to zero, unless there are then any Utilisations and utilisations of the Ancillary Facilities outstanding, in which case it shall be in proportion to its participations in the Utilisations and utilisations of the Ancillary Facilities then outstanding to all the Utilisations and utilisations of the Ancillary Facilities then outstanding.

33.12 Resignation of the Agent

- (a) The Agent may resign and appoint one of its Affiliates (but such Affiliate shall not be incorporated or acting through an office situated in a Non-Cooperative Jurisdiction or whose account is opened in its name or for its benefit in a financial institution situated in a Non-Cooperative Jurisdiction), as successor by giving notice to the Lenders and the Parent.
- (b) Alternatively the Agent may resign by giving thirty (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 which shall not be incorporated or acting through an office situated in a Non-Cooperative Jurisdiction or whose account is opened in its name or for its benefit in a financial institution situated in a Non-Cooperative Jurisdiction.
- (c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within twenty (20) days after notice of resignation was given, the retiring Agent (after consultation with the Parent) may appoint a successor Agent which shall not be incorporated or acting through an office situated in a Non-Cooperative Jurisdiction or whose account is opened in its name or for its benefit in a financial institution situated in a Non-Cooperative Jurisdiction.
- (d) If the Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Agent is entitled to appoint a successor Agent under paragraph (c) above, the Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent to become a party to this Agreement as Agent) agree with the proposed successor Agent amendments to this Clause 33 and any other term of this Agreement dealing with the rights or

obligations of the Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this Agreement which are consistent with the successor Agent's normal fee rates and those amendments will bind the Parties.

- (e) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (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 but shall remain entitled to the benefit of Clause 20.3 (*Indemnity to the Agent*) and this Clause 33 (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 (3) 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 18.9 (*FATCA Information*) and the Parent or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
 - (ii) the information supplied by the Agent pursuant to Clause 18.9 (*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 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.

33.13 Replacement of the Agent

- (a) After consultation with the Parent, the Majority Lenders may by giving thirty (30) days' notice to the Agent (or, at any time the Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Lenders) replace the Agent by appointing a successor Agent.
- (b) The retiring Agent shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Lenders) make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (c) The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Lenders (or as applicable the Parent) to the retiring Agent. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of Clause 20.3

(*Indemnity to the Agent*) and this Clause 33 (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.

33.14 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 any Mandated Lead Arranger is obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

33.15 Relationship with the Lenders

- (a) 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 (5) 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 38.6 (*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 38.2 (*Addresses*) and paragraph (a) of Clause 38.6 (*Electronic communication*) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

33.16 Credit appraisal by the Lenders, Issuing Bank and Ancillary Lenders

Without affecting the responsibility of the Parent or any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender, Issuing Bank and Ancillary Lender confirms to the Agent, the Mandated Lead Arrangers, the Issuing Bank and each Ancillary Lender that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any 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 Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, 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;
- (d) the adequacy, accuracy and/or completeness of the Information Memorandum, the Reports and any other information provided by the Agent, any Party or by any other person under or in connection with any 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 or the Transaction Security; 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.

33.17 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.

33.18 Reliance and engagement letters

Each Finance Party and Secured Party confirms that each of the Arranger and the Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the 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.

33.19 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 Base 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 Base Reference Bank Quotation, and any officer, employee or agent of each Base Reference Bank may rely on this Clause 33.19 subject to Clause 1.13 (*Third party rights*) and the provisions of the Third Parties Act.

33.20 Third party Base Reference Banks

A Base Reference Bank which is not a Party may rely on Clause 33.19 (*Role of Base Reference Banks*), paragraph (e) of Clause 42.3 (*Exceptions*) and Clause 44 (*Confidentiality of Funding Rates and Base Reference Bank Quotations*) subject to Clause 1.13 (*Third party rights*) and the provisions of the Third Parties Act.

33.21 Resignation of a Hedge Counterparty

- (a) A Hedge Counterparty may resign in its capacity as such by giving written notice to the Agent and the Parent **provided that** (i) it is not party to any outstanding hedging transactions under a Hedging Agreement and (ii) any prior existing hedging transactions under a Hedging Agreement have been terminated or closed-out (and any associated payments thereunder made) in accordance with the terms of the Finance Documents.
- (b) If the conditions referred to in (a) above are satisfied, (i) a Hedge Counterparty's resignation shall take effect upon receipt of the written notice by the Agent and the Parent and (ii) the retiring Hedge Counterparty shall have no further rights and shall be discharged from any further obligation in respect of the Finance Documents.

34 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.

35 SHARING AMONG THE FINANCE PARTIES

35.1 Payments to Finance Parties

- (a) Subject to paragraph (b) below, if a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from the Parent or an Obligor other than in accordance with Clause 36 (*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 (3) 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 36 (*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 (3) 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 36.6 (*Partial payments*).
- (b) Paragraph (a) above shall not apply to any amount received or recovered by an Issuing Bank or an Ancillary Lender in respect of any cash cover provided for the benefit of that Issuing Bank or that Ancillary Lender.

35.2 Redistribution of payments

The Agent shall treat the Sharing Payment as if it had been paid by the Parent or the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) (the “**Sharing Finance Parties**”) in accordance with Clause 36.6 (*Partial payments*) towards the obligations of the Parent or that Obligor to the Sharing Finance Parties.

35.3 Recovering Finance Party’s rights

On a distribution by the Agent under Clause 35.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from the Parent or an Obligor, as between the Parent or 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 the Parent or that Obligor.

35.4 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 Parent and 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 the Parent or that Obligor.

35.5 Exceptions

- (a) This Clause 35 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 Parent or 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.
- (c) A Recovering Finance Party is not obliged to share any amount recovered with any other Finance Party which is regarded as a related party (*persona especialmente relacionada*) to the Spanish Guarantor upon its insolvency for the purposes of the Spanish Insolvency Law.

35.6 Ancillary Lenders

- (a) This Clause 35 shall not apply to any receipt or recovery by a Lender in its capacity as an Ancillary Lender at any time prior to service of notice under Clause 29.18 (*Acceleration*).
- (b) Following service of notice under Clause 29.18 (*Acceleration*), this Clause 35 shall apply to all receipts or recoveries by Ancillary Lenders except to the extent that the receipt or recovery represents a reduction from the Designated Gross Amount for an Ancillary Facility to its Designated Net Amount.

36 PAYMENT MECHANICS

36.1 Payments to the Agent

- (a) On each date on which the Parent or 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, the Parent or 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) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London), with such bank as the Agent specifies, **provided that**, with respect to payments made by a French Obligor, such account shall not be opened in a Non-Cooperative Jurisdiction.

36.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 36.3 (*Distributions to the Parent or an Obligor*) and Clause 36.4 (*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 (5) Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London), **provided that**, with respect to payments made by a French Obligor, such account shall not be opened in a Non-Cooperative Jurisdiction.

36.3 Distributions to the Parent or an Obligor

The Agent may (with the consent of the Parent or the Obligor or in accordance with Clause 37 (*Set-off*)) apply any amount received by it for the Parent or that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Parent or that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

36.4 Clawback

- (a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

36.5 Impaired Agent

- (a) If, at any time, the Agent becomes an Impaired Agent, the Parent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Agent in accordance with Clause 36.1 (*Payments to the Agent*) may instead either pay that amount direct to the required recipient or pay that amount to an interest bearing account held with an Acceptable Bank within the meaning of paragraph (a) of the definition of Acceptable Bank and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Parent or the Obligor or the Lender making the payment and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents. 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 beneficiaries of that trust account *pro rata* to their respective entitlements.
- (c) A Party which has made a payment in accordance with this Clause 36.5 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 32.12 (*Replacement of the Agent*), each Party which has made a payment to a trust account in accordance with this Clause 36.5 shall give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution in accordance with Clause 36.2 (*Distributions by the Agent*).

36.6 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 the Parent or an Obligor under those Finance Documents, the Agent shall apply that payment towards the obligations of the Parent or 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, the Issuing Bank 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 any amount due but unpaid under Clause 7.2 (*Claims under a Letter of Credit*) and Clause 7.3 (*Indemnities*); 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 the Majority 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 the Parent or an Obligor.

36.7 Set-off by the Parent or Obligors

All payments to be made by the Parent or 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.

36.8 Business Days

- (a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

36.9 Currency of account

- (a) Subject to paragraphs (b) and (e) below, the Base Currency is the currency of account and payment for any sum due from the Parent or an Obligor under any Finance Document.
- (b) A repayment of a Utilisation or Unpaid Sum or a part of a Utilisation or Unpaid Sum shall be made in the currency in which that Utilisation or Unpaid Sum is denominated on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.
- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

36.10 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 Interbank Market and otherwise to reflect the change in currency.

36.11 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) 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) 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 42 (*Amendments and Waivers*);
- (e) the Agent shall not be liable for any damages, costs or losses 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 36.11; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d).

37 SET-OFF

- (a) A Finance Party may set-off any matured obligation due from the Parent or 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 the Parent or 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.

38 NOTICES

38.1 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 fax or letter.

38.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of the Parent, that identified with its name below;
- (b) in the case of each Lender, the Issuing Bank, each Ancillary Lender or any Obligor, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and
- (c) in the case of the Agent and the Security Agent, that identified with its name below,

or any substitute address, fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five (5) Business Days' notice.

38.3 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 fax, when received in legible form; or
 - (ii) if by way of letter, when it has been left at the relevant address or five (5) 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 38.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's or Security Agent's signature below (or any substitute department or officer as the Agent or Security Agent shall specify for this purpose).
- (c) All notices from or to the Parent or an Obligor shall be sent through the Agent.
- (d) Any communication or document made or delivered to the Parent in accordance with this Clause 38.3 will be deemed to have been made or delivered to each of the Obligors.

38.4 Notification of address and fax number

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 38.2 (*Addresses*) or changing its own address or fax number, the Agent shall notify the other Parties.

38.5 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.

38.6 Electronic communication

- (a) Any communication to be made under or in connection with the Finance Documents may be made by electronic mail or other electronic means if the Parties:
 - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication (with such agreement to be deemed to be given by each person which is a Party unless otherwise notified to the contrary by the Agent, Security Agent and the Parent);
 - (ii) 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
 - (iii) notify each other of any change to their address or any other such information supplied by them.
- (b) Any electronic communication made between Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party 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.

38.7 Use of websites

- (a) The Parent may satisfy its obligations 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 paragraph (c)(i) or paragraph (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 within ten (10) Business Days.

38.8 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.

39 CALCULATIONS AND CERTIFICATES

39.1 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.

39.2 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, prima facie evidence of the matters to which it relates.

39.3 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 360 days or, in

any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

40 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.

41 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 the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

42 AMENDMENTS AND WAIVERS

42.1 Intercreditor Agreement

This Clause 42 is subject to the terms of the Intercreditor Agreement.

42.2 Required consents

- (a) Subject to the other provisions of this Clause 42, any term of the Finance Documents (other than the Fee Letters which may be amended or waived in accordance with their terms) 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 amendment or waiver permitted by this Clause 42.
- (c) Each Obligor agrees to any such amendment or waiver permitted by this Clause 42 which is agreed to by the Parent. This includes any amendment or waiver which would, but for this paragraph (c), require the consent of all of the Obligors.

42.3 Exceptions

- (a) In this Clause 42, “**Structural Adjustment**” means:
 - (i) an amendment or waiver that has the effect of changing or which relates to:
 - (A) an extension to the availability or date of payment of or redenomination of any amount under the Finance Documents;
 - (B) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission or other amounts payable;
 - (C) the currency of payment of any amount under the Finance Documents;
 - (D) a redenomination of a Commitment into another currency;
 - (E) a re-tranching of any or all of the Facilities;

- (F) an increase in, addition of, or an extension of any Commitment or the Total Commitments;
- (G) the introduction of an additional loan, commitment, tranche or facility into the Finance Documents ranking *pari passu* or subordinate to the Facilities; or

in each case, other than in respect of an Additional Facility established pursuant to Clause 2.2 (*Additional Facility*); or

- (ii) an amendment or waiver of a term of a Finance Document that is consequential on, incidental to, or required to implement or reflect any of the amendments or waivers lists in paragraph (i) above.

(b) An amendment or waiver that has the effect of changing or which relates to:

- (i) the definition of “Majority Lenders” and “Super Majority Lenders” in Clause 1.1 (*Definitions*) and “Structural Adjustment” in Clause 42.3(a) (*Exceptions*);
- (ii) the introduction of an additional loan, tranche, commitment or facility into the Finance Documents ranking senior to the Facilities;
- (iii) any provision which expressly requires the consent of all the Lenders;
- (iv) the order of priority or the subordination set out in the Intercreditor Agreement to the extent such amendment or waiver (or any consent or release be agreed thereunder or in relation thereto) would adversely affect the interests of the Lenders under this Agreement (in their capacity as such) **provided that** any Permitted Structural Adjustment or the introduction of an Additional Facility, any Second Lien Additional Facility or any Permitted Alternative Debt (to the extent otherwise permitted by this Agreement) and related intercreditor position and intercreditor rights and position as contemplated or set out in the Intercreditor Agreement, shall not be deemed to adversely affect the interests of the Lenders,
- (v) Clause 2.4 (*Finance Parties’ rights and obligations*), Clause 30 (*Changes to the Lenders*) to the extent restricting the rights of the Lenders to assign, transfer or sub-participate their rights or obligations under the Finance Documents, Clause 35 (*Sharing among the Finance Parties*) or this Clause 42 (*Amendments and Waivers*);
- (vi) a change to the Borrowers or Guarantors other than in accordance with the terms of the Finance Documents,

in each case (other than, in each case, any amendment, waiver, consent or release required to implement or reflect any Permitted Structural Adjustment or an Additional Facility, any Second Lien Additional Facility or any Permitted Alternative Debt (to the extent otherwise permitted by this Agreement) and related intercreditor position and related intercreditor rights and position), shall not be made without the prior consent of all the Lenders.

(c) A Structural Adjustment shall not be made without:

- (i) in the case of a Structural Adjustment under paragraph (i)(A) of the definition thereof (except in so far as it relates to a redenomination) and paragraph (i)(B) of the definition thereof, each Lender that is participating in that extension or reduction; or

- (ii) in the case of any other Structural Adjustment, the prior consent of the Majority Lenders and each Lender that is participating in that existing or additional tranche or facility or increasing, extending or re denominating its commitments or, as applicable, extending or redenominating or reducing any amount due to it, in each case as contemplated within the definition of Structural Adjustment set out in (a) above.
- (d) No consent from any Lenders shall be required in connection with the implementation of (and any related amendment or waiver as part of the implementation of) an Additional Facility pursuant to Clause 2.2 (*Additional Facility*), any Second Lien Additional Facility pursuant to Clause 2.2 (*Additional Facility*) of the Second Lien Facility Agreement or any Permitted Alternative Debt and any Additional Facility Notice (other than the consent of the relevant Additional Facility Lender(s) or person(s) providing the Second Lien Additional Facility or Permitted Alternative Debt).
- (e) Any amendment or waiver which relates adversely to the specific rights or obligations of the Agent, any Mandated Lead Arranger, any Issuing Bank, any Ancillary Lender, Additional Facility Lender, a Hedge Counterparty, a Base Reference Bank or the Security Agent (in each case in such capacity) respectively may not be effected without the consent of the Agent, each Mandated Lead Arranger, the relevant Issuing Bank, the relevant Ancillary Lender, Additional Facility Lender, a Hedge Counterparty, a Base Reference Bank or the Security Agent (as the case may be). For the avoidance of doubt, this Clause 42.3 shall not entitle any Party to refuse its consent to any release of a guarantee or Transaction Security which would otherwise be permitted under Clause 42.4 (*Transaction Security and Guarantees*) or another provision of the Finance Documents.
- (f) Any amendment or waiver which relates to the rights or obligations applicable to a particular Utilisation, Facility or class of Lenders and which does not materially and adversely affect the rights or interests of Lenders in respect of other Utilisations, Facilities or another class of Lender shall only require the consent of the Majority Lenders, Super Majority Lenders or all Lenders (as applicable) as if references in this paragraph (f) to “**Majority Lenders**”, “**Super Majority Lenders**” or “**Lenders**” were only to Lenders participating in that Utilisation, Facility or forming part of that affected class. For the avoidance of doubt, this paragraph (f) is without prejudice to the ability to effect, make or grant any amendment, waiver, consent or release pursuant to or in accordance with paragraph (e) above.
- (g) The right of a Lender to be prepaid following a Change of Control or a Sale or a Listing pursuant to Clause 12.1 (*Exit and Listing*) may only be amended or waived with the consent of the Majority Lenders. For the avoidance of doubt, any amendment to Clause 12.2 (*Disposal, insurance and recovery proceeds*) (including a waiver of a right of prepayment) may be approved with the consent of the Majority Lenders.
- (h) Any amendment or waiver which relates only to the provisions governing transfers by Lenders and which makes such provisions more restrictive for any of the Lenders shall only require the consent of each Lender who will be subject to the resulting additional restrictions.
- (i) Notwithstanding anything to the contrary in the Finance Documents, a Finance Party may unilaterally waive, relinquish or otherwise irrevocably give up all or any of its rights under any Finance Document with the consent of the Parent.
- (j) Subject to the provisions of the Intercreditor Agreement, no amendment or waiver of a term of the Hedging Agreement shall require the consent of any Finance Party other than the relevant Hedge Counterparty.

- (k) Subject to compliance with Clause 9.3 (*Terms of Ancillary Facilities*), no amendment or waiver of a term of any Ancillary Document shall require the consent of any Finance Party other than the relevant Ancillary Lender unless such amendment or waiver would require an amendment or waiver of this Agreement (including, for the avoidance of doubt Clause 9 (*Ancillary Facilities*)), in such case the other provisions of this Clause shall apply.
- (l) If the Parent or the Agent (at the request of the Parent) has requested the Finance Parties (or any of them) to give a consent in relation to, or to agree a release, waiver or amendment of, any provision of the Finance Documents or other vote of Lenders under the terms of this Agreement, then in the case of (I) any Finance Party who has delivered a consent or agreement to such request, on and from the date of notification thereof to the Agent; (II) any Excluded Lender, on and from the Exclusion Date; and (III) any other Non-Consenting Lender and its applicable participation, (without prejudice to paragraph (II) above), on and from the date such Lender is replaced in accordance with the provisions of Clause 42.5 (*Replacement of Lender*), a consent or agreement to such request shall be treated and deemed as having been made by such Non-Consenting Lender and received by the Agent, and (unless otherwise agreed by the Parent), such consent or agreement shall from such time be irrevocable and binding on such Finance Party, Excluded Lender and Non-Consenting Lender (as applicable) and any permitted assignee, transferee or counterparty to a sub-participation.
- (m) Any Finance Party (not being an Excluded Lender) or its permitted assignee or transferee that has expressly not consented or not agreed to a request for an amendment, waiver, consent or release shall always have the right to change or revoke their decision and subsequently deliver to the Agent a consent or agreement to such request at any time during the period for which the vote and request process is open for consents and acceptances as notified by the Agent to such Lender (and subject to any extension of such period as agreed between the Parent and the Agent).
- (n) No amendment or waiver of a term of a Syndication Letter, or any Fee Letter or the Hedging Letter or other side letter shall require the consent of any Finance Party other than any such person which is party to such letter.
- (o) Notwithstanding anything to the contrary, any amendment, waiver, consent or release of a Finance Document made in accordance with Clause 2.2 (*Additional Facility*), Clause 2.3 (*Increase*), Clause 32.6 (*Release of Security*), Clause 42.4 (*Transaction Security and Guarantees*), Clause 42.5 (*Replacement of Lender*) and Clause 42.8 (*Additional Facilities and Permitted Alternative Finance Documentation*) shall be binding on all Parties without further consent of any Party.
- (p) Any term of the Finance Documents (other than any Hedging Agreement or any Ancillary Document) may be amended or waived by the Parent and the Agent (or, if applicable, the Security Agent) without the consent of any other Party if that amendment or waiver is to cure defects or omissions; resolve ambiguities or inconsistencies; reflect changes of a minor, technical or administrative nature or manifest error; is otherwise only for the benefit of all or any of the Lenders; or (**provided that** such waiver or amendment does not adversely affect the interests of the other Lenders whose consent is not required for the applicable amendment) is consequential on, incidental to, or required to implement an amendment, waiver, consent or release set about above.
- (q) Any amendment, waiver, consent or release made or effected in accordance with any of paragraphs (a) to (p) above, or in accordance with any other term of any of the Finance Documents, shall be binding on all Parties. Each Secured Party irrevocably and unconditionally authorises and instructs the Agent (for the benefit of the Agent and the Parent) to execute any documentation relating to a proposed amendment or waiver as soon as the requisite Lender consent is received (or on such later date as may be agreed by

the Agent and Parent). Without prejudice to the foregoing, the Finance Parties shall enter into any documentation necessary to implement an amendment or waiver once that amendment or waiver has been approved by the requisite number of Lenders determined in accordance with this Clause 42.

- (r) Any Declared Default, a Default or an Event of Default applicable to all Lenders may be revoked or, as the case may be, waived with the consent of the Majority Lenders. Any notice, demand, declaration or other step or action taken under or pursuant to Clause 29.18 (*Acceleration*) may be revoked with the consent of the Majority Lenders.
- (s) The Commitment and/or participation of any member of the Group or any Sponsor Affiliate shall not be included for the purpose of calculating the Total Commitments or participations under the relevant Facility or Facilities when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments and/or participations has been obtained to approve that request.

42.4 Transaction Security and Guarantees

- (a) The release of any, all or substantially all of:
 - (i) the Transaction Security; or
 - (ii) the guarantees given by the Guarantors pursuant to Clause 23 (*Guarantees and Indemnity*),shall require the consent of the Super Majority Lenders, in each case unless:
 - (A) that release is to become effective on or following repayment in full of the Facilities;
 - (B) that release is otherwise contemplated under the Intercreditor Agreement or this Agreement (including Clause 2.2 (*Additional Facility*), Clause 2.3 (*Increase*), Clause 32.4 (*Resignation of an Obligor*), Clause 32.6 (*Release of Security*), Clause 42.3 (*Exceptions*), this Clause 42.4, Clause 42.5 (*Replacement of Lender*) and Clause 42.8 (*Additional Facilities and Permitted Alternative Finance Documentation*)) and/or made or permitted in accordance with another provision of the Finance Documents;
 - (C) the relevant Obligors and/or assets are directly or indirectly the subject of a Disposal which is a Permitted Disposal; or
 - (D) that release is required to implement or facilitate any Additional Facility, any Second Lien Additional Facility or any Permitted Alternative Debt and related Permitted Structural Adjustment or intercreditor position,

in which case approval for any item referred to in paragraph (a)(i) and (a)(ii) above will be automatic. Any amendment, change or waiver of this paragraph 42.4(a) shall also require the prior consent of the Super Majority Lenders.

- (b) **Provided that** such arrangement:
 - (i) is legally possible; and
 - (ii) the operation of the following provisions are not reasonably likely to have an adverse effect on: the borrowing, incurring, underwriting, placing, distribution or any other similar action; obtaining any consent, approval, release or waiver or

agreement to any amendment in connection with; or obtaining the best market terms (in the good faith judgment of the board of directors of the Parent (for which it can conclusively rely on advice and market feedback of the arrangers of the Permitted Debt)) (sub-paragraphs (i) and (ii) together, the “**Security Condition**”), for any Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment to rank in accordance with the intercreditor position, Intercreditor Class or other position set out in the Additional Facility Notice,

then, to the extent any Permitted Refinancing, any Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment cannot be secured by the then existing Transaction Security Documents (the “**Initial Security Documents**”) without the Security under such Initial Security Documents first being released (and such release is not permitted by Clause 32.6 (*Release of Security*)), the Parties agree that any such Liabilities arising from any Permitted Refinancing, any Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment may (to the extent permitted by applicable law, the Security Condition and the Agreed Security Principles) be secured pursuant to the execution of additional security documents (the “**Additional Security Documents**”) on a second or lesser ranking basis but will nonetheless be deemed and treated for the purpose of this Agreement and the Intercreditor Agreement (including Clause 16 (*Application of Proceeds*)) as secured by the Initial Security Documents and the Additional Security Documents *pari passu* with other Liabilities which would otherwise have the same ranking as contemplated by such Permitted Refinancing, Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment.

- (c) In addition, notwithstanding any other term, condition or restriction in any other Finance Document, the Parties agree that in order to:
 - (i) give effect to the terms of any Permitted Refinancing; or
 - (ii) facilitate the establishment of any Permitted Debt or Permitted Structural Adjustment entered into in compliance with this Agreement and implementation of any intercreditor position,

each Obligor is and the Security Agent is authorised to enter into any new Transaction Security Document and/or amend or waive any terms of an existing Transaction Security Document and/or release any asset from Transaction Security subject to the following conditions:

- (A) any new Transaction Security which:
 - (1) gives effect to the terms of any Permitted Refinancing; or
 - (2) facilitates the establishment of any Permitted Debt or Permitted Structural Adjustment entered into in compliance with this Agreement and implementation of any intercreditor position,

shall be (x) subject to the Agreed Security Principles and applicable law, granted in favour of the Security Agent for and on behalf of the relevant Lenders (as applicable) and other creditors (as the case may be) and the then existing Secured Parties; (y) (if applicable) on terms substantially the same (except that it shall also secure the relevant Liabilities arising from any such Permitted Refinancing, Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment) as the terms of the existing Transaction

Security over equivalent asset(s); and (z) for the purposes of this Agreement, treated as securing amounts not in priority to the then existing Transaction Security; and

- (B)** (if the Security Condition is not satisfied) any amendment or waiver of a Transaction Security Document or release or release and re-grant of Transaction Security shall only be undertaken (I) if required as a result of the Permitted Refinancing or under the terms of the Permitted Debt and any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment or to the extent necessary under applicable law to ensure that any Permitted Refinancing, Permitted Debt and any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment ranks in accordance with the intercreditor position, Intercreditor Class or other position set out in the Additional Facility Notice; and (II) if any asset is to be released from Transaction Security, promptly upon giving effect to that release, subject to the Agreed Security Principles and applicable law, replacement Transaction Security is granted in favour of the Security Agent for and on behalf of the relevant Lenders and other creditors (as the case may be) and the existing Secured Parties on substantially the same terms of the Transaction Security released (except that it shall also secure the relevant Liabilities arising from any such Permitted Refinancing, Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment).
- (d)** The Transaction Security Documents may be amended, varied, waived or modified with the agreement of the relevant Obligor and the Security Agent acting in accordance with the Intercreditor Agreement.
- (e)** Nothing shall restrict the Secured Parties benefiting from any existing Transaction Security Document from enforcing and/or releasing the existing Transaction Security Documents in accordance with, and to the extent permitted by, this Agreement and the Intercreditor Agreement and subject to the terms of such existing Transaction Security Document.
- (f)** Each of the Secured Parties agrees not to take any action to challenge the validity or enforceability of any additional Transaction Security Documents by reason of it being expressed to be second ranking (or any other lower ranking).
- (g)** Any decision to enforce any Transaction Security Document shall be taken in accordance with the provisions of the Intercreditor Agreement regardless of the ranking of the relevant Transaction Security.
- (h)** No Secured Party benefiting from any existing Transaction Security Document shall incur any liability to the beneficiaries of the additional Transaction Security Documents for the manner of exercise or any non-exercise of their rights, remedies, powers, authority or discretions under such already existing Transaction Security or for any waivers, consents or releases.

42.5 Replacement of Lender

- (a)** If at any time:

 - (i)** any Finance Party becomes or is a Non-Consenting Lender (as defined in paragraph (d) below); or

- (ii) any Obligor becomes obliged to repay any amount in accordance with Clause 11.1 (*Illegality*) following the delivery of an Illegality Notice or to pay any amounts pursuant to Clause 18.3 (*Tax Gross Up*), Clause 18.4 (*Tax Indemnity*) or Clause 19.1 (*Increased costs*) to any Finance Party; or
- (iii) any Finance Party invokes the benefit of Clause 16.3 (*Market disruption*); or
- (iv) any Finance Party becomes or is a Non-Acceptable L/C Lender or otherwise a Defaulting Lender,

then the Parent may, on no less than five (5) Business Days' prior written notice (a "**Replacement Notice**") to the Agent and such Finance Party (a "**Replaced Lender**"):

- (A) replace a participation of such Replaced Lender by requiring such Replaced Lender to (and such Replaced Lender shall) transfer pursuant to Clause 30 (*Changes to the Lenders*) on such dates as specified in the Replacement Notice all or part of its rights and obligations under this Agreement to a Lender constituting a New Lender under Clause 30.2 (*Assignments and Transfers by Lenders*) (a "**Replacement Lender**") selected by the Parent and (solely in the case of any transfer or assignment of any Revolving Facility Commitment or participation in a Revolving Facility Utilisation to a Replacement Lender which does not have a long term credit rating of BBB+ or higher by Standard & Poor's Rating Service or Fitch Ratings Ltd. or Baa1 or higher by Moody's Investors Service Limited) the Issuing Bank, which confirms its (or their) willingness to assume and does assume all or part of the obligations of the Replaced Lender (including the assumption of the Replaced Lender's participations or unfunded or undrawn participations (as the case may be) on the same basis as the Replaced Lender) for a purchase price in cash payable at the time of transfer in an amount equal to the applicable outstanding principal amount of such Replaced Lender's participation in the outstanding Utilisations or Ancillary Outstandings and all related accrued interest and/or Letter of Credit fees, Break Costs and other amounts payable in relation thereto under the Finance Documents in respect of such transferred participation; and/or
 - (B) prepay (or procure that another member of the Group prepays) on such dates as specified in the Replacement Notice, **provided that**, where a prepayment is made to a Non-Consenting Lender, such prepayment is funded directly or indirectly from any Acceptable Funding Sources (or such other source as approved by the Majority Lenders) all or any part of such Lender's participation in the outstanding Utilisations or Ancillary Outstandings and all related accrued interest and/or Letter of Credit fees, Break Costs and other amounts payable in relation thereto under the Finance Documents in respect of such participation; and/or
 - (C) cancel all or part of the undrawn Commitments or Ancillary Commitments of that Replaced Lender on such dates as specified in the Replacement Notice.
- (b) Any notice delivered under paragraph (a) above (or any subsequent notice for this purpose, as applicable) may be accompanied by a Transfer Certificate complying with Clause 30.7 (*Procedure for transfers*), and/or an Assignment Agreement complying with Clause 30.8 (*Procedure for assignment*) and any other related documentation to effect the transfer or assignment, which Transfer Certificate, Assignment Agreement and any other related documentation to effect the transfer or assignment (if attached) shall be promptly (and by no later than three (3) Business Days from receiving such Transfer Certificate,

Assignment Agreement and any other related documentation) executed by the relevant Replaced Lender and returned to the Parent. Notwithstanding the requirements of Clause 30 (*Changes to the Lenders*) or any other provisions of the Finance Documents, if a Replaced Lender does not execute and/or return a Transfer Certificate, an Assignment Agreement and any other related documentation to effect the transfer or assignment as required by this paragraph (b) within three (3) Business Days of delivery by the Parent, the relevant transfer or transfers or assignment and assignments shall automatically and immediately be effected for all purposes under the Finance Documents on payment of the replacement amount to the Agent for the account of the relevant Replaced Lender, and the Agent may (and is authorised by each Finance Party to) execute, without requiring any further consent or action from any other party, a Transfer Certificate, Assignment Agreement and any other related documentation to effect the transfer or assignment on behalf of the relevant Replaced Lender which is required to transfer its rights and obligations or assign its rights under this Agreement pursuant to paragraph (a) above which shall be effective for the purposes of Clause 30.7 (*Procedure for transfers*) and Clause 30.8 (*Procedure for assignment*). The Agent shall not be liable in any way for any action taken by it pursuant to this paragraph (b) and, for the avoidance of doubt, the provisions of Clause 33.10 (*Exclusion of liability*) shall apply in relation thereto.

- (c) Unless otherwise agreed by the Majority Lenders or provided pursuant to another provision of this Agreement, the replacement of a Lender pursuant to this Clause 42.5 shall be subject to the following conditions:
 - (i) the Parent must ensure that all (and not part only) of a Lender's rights and obligations under this Agreement are replaced, prepaid or cancelled in full in accordance with the provisions of paragraphs (A) to (C) of Clause 42.5(a) above notwithstanding that the Parent may exercise of its rights under such provisions in whole or in part;
 - (ii) the Parent shall have no right to replace the Agent or Security Agent in its capacity as such;
 - (iii) the Parent may only exercise its replacement or prepayment rights (pursuant to paragraph (a)(i) above in respect of any Non-Consenting Lender), at any time prior to the date falling ninety (90) days after the Non-Consenting Lender notifies the Parent and the Agent of its refusal to give a consent to any requested release, waiver or amendment; or (in the case of sub-paragraph (a)(ii) or (iii) above) within ninety (90) days of becoming entitled to do so; or (in the case of sub-paragraph (a)(iv) above) within ninety (90) days of the delivery of the Replacement Notice.
 - (iv) neither the Agent nor the Lender shall have any obligation to the Parent to find a Replacement Lender;
 - (v) in no event shall the Lender replaced under this Clause 42.5 be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents.
- (d) If the Parent or the Agent (at the request of the Parent) has requested the Lenders to give a consent in relation to, or to agree to a release, waiver or amendment of, any provisions of the Finance Documents or other vote of the Lenders under the terms of this Agreement, where the requested consent, release, waiver or amendment is one which requires greater than Majority Lender consent (including for the avoidance of doubt, in relation to any Structural Adjustment) pursuant to this Agreement and has been agreed to by the Majority Lenders (or the Majority Lenders under the relevant Facility as the case may be), then any Lender who has not consented or agreed (or fails to reject) to such request by the end of the period of ten (10) Business Days (or any other period of time notified by the Parent,

with the prior agreement of the Agent if the period for this provision to operate is less than ten (10) Business Days) of a request being made such Lender shall be deemed a “**Non-Consenting Lender**”.

42.6 Excluded Commitments

If:

- (a) a Lender does not accept or reject a request from a member of the Group (or the Agent on behalf of that member of the Group) for any consent or agreement in relation to a release, waiver or amendment of any provisions of the Finance Documents or other vote of Lenders under the terms of the Finance Documents within ten (10) Business Days, or if such Lender is a Defaulting Lender, five (5) Business Days (or any other period of time specified by that member of the Group but if shorter than ten (10) Business Days, agreed by the Agent) of the date of such request being made (the last day of such period, the “**Exclusion Date**”); or
- (b) any Non-Consenting Lender fails to assist with any step required to implement the Parent’s right to prepay that Non-Consenting Lender or to replace that Non-Consenting Lender pursuant to Clause 42.5 (*Replacement of Lender*) within three (3) Business Days of a request to do so by the Parent,

then, in each case;

- (i) that Lender (an “**Excluded Lender**”) shall be automatically excluded from participating in that vote, and its participations, Commitments and vote (as the case may be) shall not be included (or, as applicable, required) with the Total Commitments or otherwise when ascertaining whether the approval of Majority Lenders, the Super Majority Lenders, all Lenders, or any other class of Lenders (as applicable) has been obtained with respect to that request for a consent or agreement; and
- (ii) for the purposes of paragraph (b) above only, its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement or any specified group of Lenders has been obtained to approve the request.

42.7 Disenfranchisement of Defaulting Lenders

- (a) In ascertaining the Majority Lenders, the Super Majority Lenders or any other class of Lenders (as applicable) or whether any given percentage (including, for the avoidance of doubt, unanimity) of any of the Total Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents, a Defaulting Lender’s Commitments and participations will be deemed to be zero.
- (b) For the purposes of this Clause 42.7, 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; and
 - (ii) any Lender in relation to which it is aware that any of the events or circumstances referred to in 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.

42.8 Additional Facilities and Permitted Alternative Finance Documentation

- (a) The Agent and/or the Security Agent, as the case may be, shall, on behalf of the Secured Parties (unless a Secured Party is required under applicable law to do so in its own name, in which case the relevant Secured Party shall) and is hereby authorised to enter into such agreement or agreements with the Obligors and/or the holders of the Liabilities pursuant to any Permitted Refinancing and/or their agents and trustees to enter into any confirmation, amendment, replacement of or supplement to the Finance Documents (including without limitation, any amendment, waiver or release in respect of any Transaction Security Document or any grant of Transaction Security pursuant to a new Transaction Security Document) and/or take any other action (subject to the Agreed Security Principles) as is necessary or appropriate in order to:
 - (i) give effect to the terms of any Permitted Refinancing; or
 - (ii) facilitate the establishment of any Permitted Debt or Permitted Structural Adjustment entered into in compliance with this Agreement.
- (b) The Agent and the Security Agent are irrevocably obligated, authorised and instructed by each other Secured Party (without the requirement for any further authorisation or consent from any other Secured Party) to enter into such documentation and take any such action and shall do so promptly on request and at the expense of the Parent. Except where otherwise required by applicable law, any such amendment shall not require the consent of any Secured Party and shall be effective and binding on all Parties upon the execution thereof by the Obligors, each Agent and the Security Agent.
- (c) Each Obligor confirms:
 - (i) the authority of the Parent to:
 - (A) give effect to the terms of any Permitted Refinancing; and
 - (B) agree, implement and establish any Permitted Debt or Permitted Structural Adjustment in accordance with this Agreement; and
 - (ii) that its guarantee and indemnity set out in Clause 23 (*Guarantees and indemnity*) (or any applicable Accession Deed or other Finance Document), Clause 23 (*Guarantees and indemnity*) (or any applicable Accession Deed or other Second Lien Finance Document) of the Second Lien Facility Agreement, any equivalent provision of any other Permitted Debt, and all Security granted by it will (to the extent provided pursuant to the terms of the relevant Permitted Debt or Permitted Structural Adjustment) entitle the Lenders under any Additional Facility and the persons providing the Permitted Debt or Permitted Structural Adjustment to benefit from such guarantee and indemnity and such Security (subject only to any applicable limitations on such guarantee and indemnity set out in Clause 23 (*Guarantees and indemnity*) or any Accession Deed or other document pursuant to which it became an Obligor) and extend to include all obligations arising under or in respect of any Permitted Debt or Permitted Structural Adjustment as applicable.
- (d) Notwithstanding the foregoing, nothing in this Clause 42.8 shall oblige the Security Agent, the Agent or any other Secured Party to execute any document if it would impose personal liabilities or obligations on, or adversely affect the rights, duties or immunities of the Security Agent, the Agent or such Secured Party (**provided that** the incurrence of such Permitted Debt or Permitted Structural Adjustment shall not be deemed to adversely affect the rights of any Secured Party) and nothing in this Clause 42.8 shall be construed as a commitment to advance or arrange any Permitted Debt or Permitted Structural

Adjustment. The Agent and the Security Agent are authorised and instructed by the Secured Parties to execute any document or take any other action set out in this Clause 42 behalf of the Secured Parties.

42.9 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 (5) Business Days' prior written notice to the Agent and such Lender:

- (i) replace such Lender by requiring such Lender to (and such Lender shall) transfer pursuant to Clause 30 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement;
- (ii) require such Lender to (and such Lender shall) transfer pursuant to Clause 30 (*Changes to the Lenders*) all (and not part only) of the undrawn Revolving Facility Commitments of the Lender; or
- (iii) require such Lender to (and such Lender shall) transfer pursuant to Clause 30 (*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 (other than a member of the Group, Advent or a Sponsor Affiliate) (a "**Replacement Lender**") selected by the Parent and which (unless the replacement Lender is already a Lender or the Agent is an Impaired Agent) has satisfied all the Agents "*know your customer*" and other similar checks, which confirms its willingness to assume and does assume all the obligations or all the relevant obligations of the transferring Lender (including the assumption of the transferring Lender's participations or unfunded participations (as the case may be) on the same basis as the transferring Lender) for a purchase price in cash payable at the time of transfer equal to the outstanding principal amount of such Lender's participation in the outstanding Utilisations and all accrued interest and/or 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 shall be subject to the following conditions:

- (i) neither the Agent nor the Defaulting Lender shall have any obligation to the Parent to find a Replacement Lender;
- (ii) the transfer must take place no later than one hundred and twenty (120) days after the notice referred to in paragraph (a) above;
- (iii) 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
- (iv) 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*" checks under all applicable laws and regulations in relation to that transfer to the Replacement Lender which it shall use its reasonable endeavours to satisfy as soon as practicable.

43 CONFIDENTIALITY

43.1 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 43.2 (*Disclosure of Confidential Information*) and Clause 43.3 (*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.

43.2 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 the Parent 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 paragraph (b)(i) or (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 (c) of Clause 33.15 (*Relationship with the Lenders*));
 - (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (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 30.12 (*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:

- (A) in relation to paragraphs (b)(i) or (ii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
- (B) in relation to paragraph (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; or
- (C) 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,

and a copy of any such confidentiality undertaking and any amendment thereto shall be provided to the Parent within ten (10) Business Days of request by the Parent;

- (c) to any person appointed by that Finance Party or by a person to whom paragraph (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 a copy of any such confidentiality undertaking and any amendment thereto shall be provided to the Parent within ten (10) Business Days of request by the Parent; 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 Parent or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price sensitive information.

- (e) The Parent will consent to any reasonable request by the Mandated Lead Arrangers or the Underwriters to publicise the Facilities after completion of the Acquisition.

43.3 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, the Parent and/or one or more Obligors the following information:

- (i) names of the Parent and Obligors;
- (ii) country of domicile of the Parent and Obligors;
- (iii) place of incorporation of the Parent and Obligors;
- (iv) date of this Agreement;
- (v) the names of the Agent, the Mandated Lead Arrangers and the Underwriters;
- (vi) date of each amendment and restatement of this Agreement;
- (vii) amount of Total Commitments;
- (viii) currencies of the Facilities;
- (ix) type of Facilities;
- (x) ranking of the Facilities;
- (xi) Termination Date for the Facilities;
- (xii) changes to any of the information previously supplied pursuant to paragraphs (i) to (xi) above; and
- (xiii) 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, the Parent 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) Each Obligor represents that none of the information set out in paragraphs (i) to (xiii) of paragraph (a) above is, nor will at any time be, unpublished price sensitive information.
- (d) 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, the Parent and/or one or more Obligors; and
 - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facilities, the Parent and/or one or more Obligors by such numbering service provider.

43.4 Entire agreement

This Clause 43 (*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.

43.5 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.

43.6 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 paragraph (b)(v) of Clause 43.2 (*Disclosure of Confidential Information*) 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
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 43 (*Confidentiality*).

43.7 Continuing obligations

The obligations in this Clause 43 (*Confidentiality*) are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve (12) Months from the earlier of:

- (a) the date on which all amounts payable by the Parent and 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.

44 CONFIDENTIALITY OF FUNDING RATES AND BASE REFERENCE BANK QUOTATIONS

44.1 Confidentiality and disclosure

- (a) The Agent and each Obligor agree to keep each Funding Rate (and, in the case of the Agent, each Base 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 Base Reference Bank Quotation) to the relevant Borrower pursuant to Clause 14.4 (*Notification of rates of interest*); and
 - (ii) any Funding Rate or any Base 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 Base Reference Bank Quotation, and each Obligor may disclose any Funding Rate, to:
- (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate or Base 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 Base 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 Base 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 Base 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 44 relating to Base Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 14.4 (*Notification of rates of interest*) **provided that** the Agent shall not include the details of any individual Base Reference Bank Quotation as part of any such notification nor shall it disclose a Funding Rate to a Lender that did not provide that Funding Rate.

44.2 Related obligations

- (a) The Agent and each Obligor acknowledge that each Funding Rate (and, in the case of the Agent, each Base 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 Base 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 paragraph (c)(ii) of Clause 44.1 (*Confidentiality and disclosure*) 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 44.

44.3 No Event of Default

No Event of Default will occur under Clause 29.3 (*Other obligations*) by reason only of an Obligor's failure to comply with this Clause 44.

45 ITALIAN TRANSPARENCY PROVISIONS

For the purposes of the transparency provisions set forth in the CICR Resolution of 4 March 2003, as amended from time to time, and in the "*Disposizioni sulla trasparenza delle operazioni e dei servizi bancari e finanziari. Correttezza delle relazioni tra intermediari e clienti*" issued by the Bank of Italy on 20 June 2012 and published in the Italian official gazette (*Gazzetta Ufficiale*) on 30 June 2012 (as amended from time to time, the Transparency Rules), each Party hereby acknowledges and confirms that:

- (a) it has appointed and has been assisted by its respective legal counsel in connection with the negotiation, preparation and execution of this Agreement; and
- (b) this Agreement, and all of its terms and conditions, including the Schedules thereto, have been specifically negotiated ("*oggetto di trattativa individuale*") between the Parties and, as a result, is exempted from the application of Section II of the Transparency Rules.

46 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. Delivery of a counterpart of this Agreement by email attachment or telecopy shall be an effective mode of delivery.

47 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

48 ENFORCEMENT

48.1 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 any non-contractual obligation 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) Subject to paragraph (d) below, this Clause 48.1 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.
- (d) Paragraph (c) above shall not apply in relation to any proceedings commenced by a Secured Party against any French Party (including where such French Party is a joint defendant with any other Parties) and any such proceedings shall be commenced in the English courts pursuant to paragraph (b) above.

48.2 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 Weil Secretaries Limited of 110 Fetter Lane, London, EC4A 1AY 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 Parent or 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 all the Obligors) must promptly (and in any event within ten (10) Business Days of such event taking place) appoint another agent on terms acceptable to the Agent (acting reasonably and in good faith). Failing this, the Agent may appoint another agent for this purpose.

48.3 Waiver of trial by jury

EACH PARTY HERETO, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE GOVERNMENTAL RULES, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ISSUE RELATING HERETO IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM IN ANY UNITED STATES FEDERAL OR STATE COURT DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER FINANCE DOCUMENT.

48.4 Spanish Public Document

- (a) The Obligors agree that, on the date on which the Parent delivers a duly completed and executed Accession Deed in relation to a Spanish Guarantor to the Agent in accordance with, and pursuant to, the provisions of this Agreement, this Agreement, the Accession Deed and any relevant Finance Documents shall be notarized in a Spanish Public Document before a Spanish public notary selected by the Spanish Guarantor (in consultation with the Agent), and the parties to the notarial deed shall acknowledge that it qualifies as a “*título ejecutivo*” in the event of an enforcement in Spain.
- (b) The Spanish Public Document:
 - (i) will have the effects established under articles 517 et seq. of the Spanish Civil Procedural Law; and
 - (ii) may, at the decision of the Agent, include a translation into Spanish of this Clause 48.4 (*Spanish Public Document*) and Clause 48.5 (*Executive Proceedings (Spanish law provisions)*).

- (c) Each Party hereby expressly authorises the Finance Parties to request and obtain from the Spanish public notary before whom any Finance Document has been formalised, any further copy of any Finance Document notarised (that is reasonably required).

48.5 Executive Proceedings (Spanish law provisions)

- (a) For the purpose of Article 571 et seq. of the Civil Procedural Law (Law 1/2000 of 7 January) (*Ley de Enjuiciamiento Civil*):
 - (i) the amount due and payable under the Finance Documents that may be claimed in any executive proceedings will be contained in a certificate supplied by the Agent (or by any other Finance Party) and will be based on the accounts maintained by the Agent in connection with this Agreement;
 - (ii) the Parties expressly agree that such balance shall be considered as an acknowledgement of debt and may be claimed pursuant to the same provisions of such law;
 - (iii) the determination of the debt to be claimed through the executive proceeding shall be effected by the Agent or the relevant Finance Party by means of the appropriate certificate evidencing the balance shown in the account or account of the relevant Spanish Guarantor; and
 - (iv) the Agent or each Finance Party (at the cost of the Obligors) may have the certificate notarised.
- (b) The Agent may start executive proceedings by presenting to any relevant court:
 - (i) an original notarial copy of this Agreement; and
 - (ii) a notarial document (*acta notarial*) incorporating the certificate of the Agent referred to in sub-paragraph (a)(i) above, evidencing that the determination of the amounts due and payable by the relevant Spanish Guarantor have been calculated as agreed in this Agreement and that such amounts coincide with the balance shown in the account or accounts of the relevant Spanish Guarantor.

49 USA PATRIOT ACT

Each Lender that is subject to the requirements of the USA PATRIOT Act hereby notifies the Obligors that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Obligor, which information includes the name and address of such Obligor and other information that will allow such Lender to identify such Obligor in accordance with the USA PATRIOT Act.

THIS AGREEMENT HAS BEEN ENTERED INTO ON THE DATE STATED AT THE BEGINNING OF THIS AGREEMENT.

SCHEDULE 1
THE ORIGINAL PARTIES

Part 1
The Original Obligors

The Original Borrowers

Name	Jurisdiction of incorporation	Registered number or equivalent
AI Alabama B.V.	The Netherlands	63278979

The Original Guarantors

Name	Jurisdiction of incorporation	Registered number or equivalent
AI Alabama Midco B.V.	The Netherlands	63594412
AI Alabama B.V.	The Netherlands	63278979

Part 2
The Original Lenders

Name of Original Lender	Facility B Commitment in EUR	Revolving Facility Commitment in EUR
Jefferies Finance LLC	123,000,000	-
ING Bank NV	36,000,000	15,000,000
Coöperatieve Rabobank U.A. (formerly known as Coöperatieve Centrale Raiffeisen – Boerenleenbank b.a. (acting as Rabobank))	36,000,000	15,000,000
Mizuho Bank Nederland N.V.	10,000,000	10,000,000
Total	EUR 205,000,000	EUR 40,000,000

SCHEDULE 2
CONDITIONS PRECEDENT

Part 1

Conditions Precedent to First Utilisation

1 Obligors

- (a) In respect of each Obligor, a copy of the constitutional documents (or equivalent) (in the form customary in the relevant jurisdiction and including customary fillings and certificates from appropriate registers in the relevant jurisdiction), including the deed of incorporation and articles of association (if different from those contained in the deed of incorporation).
- (b) A copy of a resolution of the board of directors or equivalent body of each Obligor:
 - (i) approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and resolving that it execute the Transaction Documents to which it is a party;
 - (ii) authorising a specified person or persons to execute the Transaction Documents to which it is a party on its behalf;
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request or other notice to be signed and/or despatched by it under or in connection with the Transaction Documents to which it is a party);
 - (iv) resolving that the entry into this Agreement and any other Transaction Documents to which it is a party is in the best interests of and to the benefit of the relevant Obligor; and
 - (v) including, in respect of each Dutch Obligor, a declaration by each managing director on conflict of interest (*tegenstrijdig belang*) within the meaning of Section 2:129(6)/2:239(6) of the Dutch Civil Code.
- (c) A specimen of the signature of each person authorised by the resolution referred to in (b) above.
- (d) If required under applicable law or such Obligor's constitutional documents, a copy of a resolution signed by all the holders of all the issued shares of the relevant Obligor approving the terms of, and the transactions contemplated by, the Transaction Documents to which the Obligor is a party and resolving that it execute the Transaction Documents to which it is a party.
- (e) If required under applicable law or such Obligor's constitutional documents, a copy of a resolution of the supervisory board of directors of each Obligor approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and resolving that it execute the Transaction Documents to which it is a party (including a statement by each member of the supervisory board on conflict of interest (*tegenstrijdig belang*) within the meaning of Section 2:140(5)/2:250(5) of the Dutch Civil Code).
- (f) In respect of each Dutch Obligor, either an unconditional positive or neutral works council advice (*advies*) and the related request for advice in respect of the transactions contemplated by the Transaction Documents or a confirmation by the management board

of the relevant Dutch Obligor that no works council (*ondernemingsraad*) having jurisdiction over the relevant Dutch Obligor has been installed and no works council will be installed in the foreseeable future.

- (g) A certificate of each Obligor (signed by an authorised signatory) confirming that subject to the limitations set out in Clauses 23.11 to 23.23 (inclusive) 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.
- (h) A certificate of an authorised signatory of each Obligor dated the date of this Agreement and certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and (to the extent executed) in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement.
- (i) Evidence satisfactory to the Agent that each Lender has carried out and is satisfied with the results of all “*know your customer*”, anti-money laundering and other similar checks required by each Lender in relation to each Obligor.

2 Finance Documents

A copy of each of the following documents in the agreed form, each duly executed and delivered by each Obligor (or Holding company thereof) party thereto:

- (a) this Agreement;
- (b) the Fee Letters;
- (c) the Syndication Letter;
- (d) the Hedging Letter;
- (e) the Intercreditor Agreement;
- (f) an Investor Proceeds Letter; and
- (g) a Utilisation Request in relation to any Utilisation to be made on the Closing Date.

3 Transaction Security Documents

- (a) At least two copies of Transaction Security Documents below, in each case, subject to the Agreed Security Principles, duly executed and delivered by each applicable Obligor:

Name of Obligor	Transaction Security Document	Governing law of document
The Parent	Pledge of shares in the Borrower (notarial deed)	The Netherlands
The Parent	Pledge over any shareholder loans made to the Borrower and pledge of bank accounts	The Netherlands
The Borrower	A security agreement pledging any shareholder / intercompany loans made to the Target, banks accounts and rights under the Acquisition	The Netherlands

	Agreement	
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- (b) Unless a grace period for providing notices is contained in the relevant Transaction Security Document, a copy of all notices required (in accordance with the Agreed Security Principles) to be sent under the relevant Transaction Security Document executed by the relevant Obligor on the first Utilisation Date.

4 Acquisition Documents

- (a) A copy of each Acquisition Document **provided that** this condition precedent shall be satisfied if the Acquisition Documents are not different in respects which are materially adverse to the interests of the Lenders compared to the Acquisition Documents received by the Mandated Lead Arrangers prior to the date of this Agreement.
- (b) A certificate of the Company (signed by a director) certifying and confirming that:
- (i) confirming that the Acquisition Documents have become unconditional in all respects (other than for the payment of the purchase price);
 - (ii) the terms of the Acquisition Agreement has not been waived, amended or withdrawn in a way which would materially adversely affect the position of the Finance Parties under the Finance Documents other than with the prior written consent of the Majority Lenders;
 - (iii) all existing security not permitted under the terms of this Agreement to remain outstanding following the Closing Date will be released on the Closing Date contemporaneously or shortly after drawdown under the Facilities Agreements; and
 - (iv) all existing debt and associated hedging not permitted under the terms of this Agreement to remain outstanding following the Closing Date will be repaid on the Closing Date contemporaneously or shortly after drawdown under this Agreement.

5 Second Lien and Equity Documents

A certificate of the Company (signed by an authorised signatory) certifying and confirming that:

- (a) the Parent and/or the Company has received (or will, simultaneously with the first utilisation of the Facilities, receive) the cash proceeds of the Equity Investments in an amount which in aggregate is no less than thirty-two point five per cent. (32.5%) of the Funded Capital Structure of the Group. For these purposes (i) “**Equity Investment**” means an investment by the Investors in the form of equity (including share capital, premium and/or contribution to capital reserve) and the Parent and/or Subordinated Shareholder Debt to the Parent and/or the Company together with any Rollover Proceeds where such amounts have been contributed (directly or indirectly) to the Parent and/or the Company by way of equity (including share capital, premium and/or contribution to capital reserve) and Subordinated Shareholder Debt and (ii) “**Funded Capital Structure**” means the capital structure of the Group being constituted by the aggregate amount of the Equity Investment plus the aggregate principal drawn/issued amount of Facility B and the Second Lien Facility as at the Closing Date (the “**Original Equity Commitment**”); and
- (b) with the Original Equity Commitment (together with first utilisation of the Facilities, the Second Lien Facilities and the Rollover Proceeds), the Group will have adequate resources to pay the purchase price under the Acquisition Documents, to refinance all

existing debt intended to be repaid in connection with the Acquisition and to pay all other uses specified in the Funds Flow Statement including all acquisition costs (other than those paid by a Sponsor Affiliate or Holding Company of the Company as set out in the Funds Flow Statement) and (to the best of the Company's knowledge as at the date of the certificate) following payment of all such amounts the Target Group will have at least EUR 7,500,000 cash on balance sheet.

6 Legal Opinions

- (a) A legal opinion of Allen & Overy, legal advisers to the Mandated Lead Arrangers as to English law, addressed to the Agent, the Security Agent and the Underwriters and capable of being relied upon by any persons who become Lenders pursuant to primary syndication of the Facilities.
- (b) A legal opinion of Allen & Overy, legal advisers to the Mandated Lead Arrangers as to Dutch law, addressed to the Agent, the Security Agent and the Underwriters and capable of being relied upon by any persons who become Lenders pursuant to primary syndication of the Facilities.

7 Reports

- (a) Tax Structure Report.
- (b) "*Project Alabama Legal Fact Book*" in respect of the Target Group prepared by Clifford Chance LLP and dated 23 April 2015.
- (c) "*Project Alabama EHS Assessment Report*" in respect of the Target Group prepared by ERM Nederland BV and dated 21 April 2015.
- (d) "*Project Alabama Vendor Insurance Due Diligence Report*" in respect of the Target Group prepared by Willis and dated March 2015.
- (e) "*Project Alabama – Independent Strategy Review*" vendor due diligence report in respect of the Target Group prepared by L.E.K. Consulting and dated 6 March 2015.
- (f) "*Project Alabama Vendor Due Diligence Report*" prepared by PricewaterhouseCoopers in respect of the Target Group and dated 17 April 2015.
- (g) Buy-side due diligence report prepared by FTI consulting in respect of the Target Group.
- (h) Buy-side Bain and Company due diligence report.
- (i) Buy-side confirmatory financial due diligence "*Project Alabama*" report prepared by KPMG.
- (j) Buy-side "Project Alabama Insurance Due Diligence Key Issues Report" prepared by Marsh.
- (k) Buy-side "Project Alabama – Environmental Due Diligence Red Flag Report" prepared by Ramboll Environ.
- (l) Buy-side tax red flags report prepared by KPMG.
- (m) Buy-side legal red flags report prepared by Weil, Gotshal & Manges.

The reports listed at paragraphs (a) to (m) above being the "**Reports**".

8 Financial Information

- (a) The Original Financial Statements.
- (b) The Base Case Model in the form agreed with the Mandated Lead Arrangers.

9 Other Documents and Evidence

- (a) Funds Flow Statement.
- (b) A group structure chart showing the anticipated post-Acquisition ownership structure of the Group.
- (c) A certificate of the Company confirming that all conditions to funding under the Second Lien Facility Agreement (other than the condition corresponding to this paragraph 9(d) under the Second Lien Facility Agreement) have (or will simultaneously with first Utilisation of the Facility) been satisfied.
- (d) Evidence that any process agent appointed in respect of a Finance Document has accepted its appointment.
- (e) A copy of the Approved List.
- (f) Confirmation that the fees, costs and expenses then due and payable under Clause 17 (*Fees*) have been paid or will be paid on or by the first Utilisation Date (which fees shall be deducted from the first Utilisation).

Part 2

Conditions Precedent To Be Delivered By An Additional Obligor

- 1 An Accession Deed executed by the Additional Obligor.
- 2 A copy of the constitutional documents (or equivalent) (in the form customary in the relevant jurisdiction and including customary filings and certificates from appropriate registers in the relevant jurisdiction), including a deed of incorporation and articles of association (or equivalent), and in the case of:
 - (a) each Belgian Obligor – a copy of (i) its deed of incorporation (*oprichtingsakte/acte constitutif*), (ii) its articles of association (*statuten/statuts*), (iii) an extract from the Crossroad Bank of Enterprises (*uittreksel uit de Kruispuntbank van Ondernemingen/extrait de la Banque Carrefour des Entreprises*), (iv) a non-insolvency certificate from the clerk of the competent commercial court dated no earlier than five (5) Business Days prior to the date of the Accession Deed, and (v) its share register;
 - (b) each Canadian Obligor – a copy of (i) its certificate of incorporation, articles of incorporation or certificate of formation, as applicable, in respect of such Canadian Obligor, from the applicable Governmental Authority in the jurisdiction of incorporation of such Canadian Obligor, (ii) by-laws, limited liability company agreement or operating agreement, as applicable, and (iii) a certificate of good standing as of a recent date in respect of such Canadian Obligor, from the applicable Governmental Authority in its jurisdiction of incorporation of such Canadian Obligor;
 - (c) each Danish Obligor – a copy of (i) its articles of association (*vedtægter*); and (ii) an online transcript from the Danish Business Authority (*Erhvervsstyrelsen*), not dated earlier than one (1) day before the date of the relevant Accession Deed;
 - (d) each Dutch Obligor – a copy of (i) its deed of incorporation (*oprichtingsakte*), (ii) its articles of association (*statuten*), and (iii) an up-to-date extract from the Trade Register of the chamber of commerce;
 - (e) each French Obligor – a copy of (i) its up-to-date articles of association (*statuts*), (ii) an original certificate of incorporation (*Extrait k-bis*), (iii) an original solvency certificate (*certificat négatif en matière de procédure collective*) and (iv) original lien searches (*état des inscriptions*) (in the case of (ii), (iii) and (iv), not dated earlier than fifteen (15) days before the date of the relevant Accession Deed);
 - (f) each German Obligor – a copy of (i) its articles of association (*Satzung* or *Gesellschaftsvertrag*, as applicable), (ii) list of shareholders (*Liste der Gesellschafter* (if applicable) and (iii) an up-to-date copy of the extract of the commercial register (*Handelsregisterauszug*) of the relevant German Obligor;
 - (g) each Italian Obligor – a copy of (i) its deed of incorporation (*atto costitutivo*), (ii) a copy of its current by-laws (*statuto*) and a certificate of registration (*certificato di iscrizione*) with the relevant Italian companies register (*Registro delle Imprese*) dated no earlier than five (5) Business Days before the date of the relevant Accession Deed, confirming that as at the date thereof no pending insolvency procedure (*procedura concorsuale*) against such Italian Obligor has been registered in the relevant Italian companies register (*Registro delle Imprese*);
 - (h) each Spanish Guarantor – a copy of (i) its deed of incorporation (*escritura de constitución*); and (ii) a certificate issued by the commercial registry (*certificación del Registro Mercantil*) certifying (1) that the Spanish Guarantor is registered with the commercial registry, (2) that it has not been dissolved, liquidated, or become subject to

insolvency proceedings, (3) its up-to-date bylaws and (4) the composition of its governing body, not dated earlier than thirty (30) days before the date of the relevant Accession Deed;

- (i) each Swiss Guarantor – a certified excerpt of the competent commercial register, a certified copy of the articles of association (containing a clause allowing for up- and cross-stream security interests and guarantees) and (if applicable and relevant), a copy of the duly signed and approved organisational regulations; and
- (j) each U.S. Obligor - a copy of (i) its certificate of incorporation, articles of incorporation or certificate of formation, as applicable, in respect of such U.S. Obligor, from the Secretary of State of the state of incorporation of such U.S. Obligor, (ii) by-laws, limited liability company agreement or operating agreement, as applicable, and (iii) a certificate of good standing as of a recent date in respect of such U.S. Obligor, from the Secretary of State of the state of incorporation of such U.S. Obligor.

3 If required under applicable law or such Obligor's constitutional documents or reasonably requested by the Agent, a copy of a resolution of the board of directors (or equivalent governing body) (or a duly notarised certificate of such resolutions in case of a Spanish Guarantor) of the Additional Obligor (other than in relation to an Additional Obligor incorporated and organized under the laws of the Federal Republic of Germany which has no supervisory board (*Aufsichtsrat*) or advisory board (*Beirat*)):

- (a) approving the terms of, and the transactions contemplated by, the Accession Deed and the 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) (in case of a Belgian Additional Obligor) determining and motivating the reasons of that determination, that it has a corporate benefit justifying the assumption of any obligations it has pursuant to Clause 23 (*Guarantees and Indemnity*) and, as the case may be, the provision of the Transaction Security and that the assumption of such obligations and the provision of the Transaction Security relate to and serve its corporate purpose;
- (c) authorising a specified person or persons to execute the Accession Deed and other Finance Documents to which it is a party on its behalf;
- (d) 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;
- (e) authorising the Parent and the Company to act as its agent in connection with the Finance Documents;
- (f) resolving that the entry into the Accession Deed and any other Finance Document to which it is a party is in the best interests of and to the benefit of the Additional Obligor; and
- (g) including, in respect of each Dutch Obligor, a declaration by each managing director on conflict of interest (*tegenstrijdig belang*) within the meaning of Section 2:129(6)/2:239(6) of the Dutch Civil Code.

4 In case of an Additional Obligor incorporated and organized under the laws of Germany which has no supervisory board (*Aufsichtsrat*) or advisory board (*Beirat*), a copy of a resolution signed by all of the holders of the issued or allotted shares in such Additional Obligor:

- (a) approving the terms of, and the transactions contemplated by, the Accession Deed and the Finance Documents and resolving that it execute, deliver and perform the Accession Deed and any other Finance Document to which it is party;
 - (b) authorising a specified person or persons to execute the Accession Deed and other Finance Documents 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.
- 5 A specimen of the signature of each person authorised by the resolution referred to in paragraphs 3 and 4 above or otherwise in accordance with applicable law or the by-laws or constitutional documents of the relevant Obligor.
 - 6 If required under applicable law or such Obligor's constitutional documents, or reasonably requested by the Agent for the purpose of delivering a legal opinion pursuant to paragraph 10 below, a copy of a resolution signed by the holders of the issued shares of the Additional Obligor which are members (or a duly notarised certificate of such resolutions in case of a Spanish Guarantor), approving the terms of, and the transactions contemplated by, the Transaction Documents to which that Additional Obligor is a party and resolving that it execute the Transaction Documents to which it is a party.
 - 7 If required under applicable law, a copy of a resolution of the supervisory board of directors or equivalent body of each Obligor approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and resolving that it execute the Transaction Documents to which it is a party (including, a statement by each member of the supervisory board on conflict of interest (*tegenstrijdig belang*) within the meaning of Section 2:140(5)/2:250(5) of the Dutch Civil Code).
 - 8 In the case of a Belgian Obligor, if applicable, a copy of a unanimous written resolution of the shareholders of such Belgian Obligor approving the terms of, and the transactions contemplated by, the Finance Documents to which that Belgian Obligor is a party, for the purposes of Article 556 of the Belgian Companies Code, together with evidence that an extract of such resolutions has been (or will be) duly filed with the clerk of the relevant commercial court in accordance with Article 556 of the Belgian Companies Code within ten (10) Business Days of the date of the relevant Accession Deed which has been signed by a Belgian Obligor.
 - 9 In respect of each Dutch Obligor, either an unconditional positive or neutral works council advice (*advies*) and the related request for advice in respect of the transactions contemplated by the Transaction Documents or a confirmation by the management board of the relevant Dutch Obligor that no works council (*ondernemingsraad*) having jurisdiction over the relevant Dutch Obligor has been installed and no works council will be installed in the foreseeable future.
 - 10 In respect of a German Obligor/Guarantor, all necessary steps for the deletion of any provision in such German Obligor's articles of association which has an adverse impact on the enforcement of a share pledge granted over such German Obligor's / German Guarantor's shares, in particular any consent requirements (*Zustimmungserfordernisse*) or redemption provisions (*Einziehung*) have been taken and the deletion has been filed (*eingereicht*) to the relevant commercial register.
 - 11 A certificate of the Additional Obligor (signed by an authorised signatory) confirming) the Total Commitments would not cause any borrowing, guaranteeing, securing or similar limit binding on such Obligor to be exceeded.

- 12 A certificate of an authorised signatory of the Additional Obligor certifying that each copy document provided 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.
- 13 Legal opinion(s) addressed to the Finance Parties from its legal advisers or where customary in the relevant jurisdiction of the Additional Obligor, the Additional Obligors' legal counsel shall issue a legal opinion on capacity and due execution and legal counsel to the Finance Parties shall issue a legal opinion on enforceability of the Finance Documents to which it is a party and including:
- (a) in the case of a Belgian Obligor (i) a legal opinion of the legal advisers of the Belgian Obligors (as to matters of Belgian law), as to the capacity and authority of the Belgian Obligors and due execution by the Belgian Obligors of the Finance Documents to which they are a party and (ii) a legal opinion of the legal advisers to the Finance Parties (as to Belgian law), as to the enforceability of the Belgian law governed Finance Documents;
 - (b) in the case of a Canadian Obligor, a legal opinion of the legal advisers of the Canadian Obligors (as to matters of Canadian law), as to (i) the capacity and authority of the Canadian Obligors and due execution by the Canadian Obligors of the Finance Documents to which they are a party and (ii) the enforceability of the Canadian law governed Finance Documents;
 - (c) in the case of a Danish Obligor (i) a legal opinion of the legal advisers of the Danish Obligors (as to matters of Danish law), as to the capacity and authority of the Danish Obligors and due execution by the Danish Obligors of the Finance Documents to which they are a party and (ii) a legal opinion of the legal advisers to the Finance Parties (as to Danish law), as to the enforceability of the Danish law governed Finance Documents;
 - (d) in the case of a Dutch Obligor, a legal opinion of the legal advisers to the Finance Parties (as to Dutch law) as to (A) the capacity and authority of the Dutch Obligors and due execution by the Dutch Obligors of the Finance Documents to which they are party and (B) the enforceability of the Dutch law governed Finance Documents;
 - (e) in the case of an English Guarantor a legal opinion of the legal advisers of the Finance Parties (as to matters of the law of England and Wales), as to (A) the capacity and authority of the English Guarantors and due execution by the English Guarantors of the Finance Documents to which they are a party and (B) the enforceability of the English law governed Finance Documents;
 - (f) in the case of a French Obligor, (i) a legal opinion of the legal advisers of the French Obligors (as to matters of French law), as to the capacity and authority of the French Obligors and due execution by the French Obligors of the Finance Documents to which they are a party and (ii) a legal opinion of the legal advisers to the Finance Parties (as to matters of French law), as to the enforceability of the French law governed Finance Documents);
 - (g) in the case of a German Obligor (i) a legal opinion of the legal advisers of the German Obligors (as to matters of German law), as to the capacity and authority of the German Obligors and due execution by the German Obligors of the Finance Documents to which they are a party and (ii) a legal opinion of the legal advisers to the Finance Parties (as to German law), as to the enforceability of the German law governed Finance Documents;
 - (h) in the case of an Italian Obligor, (i) a legal opinion of the legal advisers of the Italian Obligors (as to matters of Italian law), as to the capacity and authority of the Italian Obligors, no conflict and due execution by the Italian Obligors of the Finance Documents to which they are a party and (ii) a legal opinion of the legal advisers to the Finance Parties (as to Italian law), as to the enforceability of the Italian law governed Finance Documents;

- (i) in the case of a Spanish Obligor (i) a legal opinion of the legal advisers of the Spanish Obligors (as to matters of Spanish law), as to the capacity and authority of the Spanish Obligors and due execution by the Spanish Obligors of the Finance Documents to which they are a party and (ii) a legal opinion of the legal advisers to the Finance Parties (as to Spanish law), as to the enforceability of the Spanish law governed Finance Documents;
 - (j) in the case of a Swiss Guarantor (i) a legal opinion of the legal advisers of the Swiss Guarantors (as to matters of Swiss law), as to the capacity and authority of the Swiss Guarantors and due execution by the Swiss Guarantors of the Finance Documents to which they are a party and (ii) a legal opinion of the legal advisers to the Finance Parties (as to Swiss law), as to the enforceability of the Swiss law governed Finance Documents; and
 - (k) in the case of a U.S. Obligor, a legal opinion of the legal advisers of such U.S. Obligor (as to matters of the applicable US state and federal law), as to (A) the capacity of such U.S. Obligor and due execution by the U.S. Obligors of the Finance Documents to which they are party and (B) the enforceability of the US law governed finance documents.
- 14 The Accession Deed, this Agreement and any other relevant Finance Document raised to the status of a Spanish Public Document.
 - 15 Evidence that any agent for service of process under a Finance Document has accepted its appointment in relation to the proposed Additional Obligor.
 - 16 An accession deed to the Intercreditor Agreement executed by the Additional Obligor.
 - 17 Evidence that the Additional Obligor has done all that is necessary (to the extent reasonable) to comply with any law relating to financial assistance or an analogous process.
 - 18 Two copies, executed and delivered by the relevant Additional Obligor, of each Transaction Security Document requested by the Agent (taking into account and subject to the Agreed Security Principles) (or, in the case of a Transaction Security Document governed by Spanish law, a copy of such Transaction Security Document duly raised to the status of a Spanish Public Document, which shall be requested from the Spanish public notary to be issued within the five (5) Business Days following the day it is granted), together with all other documents agreed to be provided thereunder, each duly executed and delivered by each of the parties thereto.
 - 19 If available, the latest audited financial statements of the Additional Obligor.
 - 20 In the case of a French Obligor acceding as an Additional Borrower, a duly signed letter with respect to the *taux effectif global*.
 - 21 “Know your customer” and any other money laundering documentation required, to the extent stipulated by the Agent at least five (5) Business Days, prior to the date the Accession Deed is signed.
 - 22 UCC Search results conducted against each Obligor party to a Transaction Security Document governed by New York law in the jurisdiction of formation or incorporation, as applicable, of such Obligor (or in respect of an Obligor not formed or incorporated in a US State, the DC Recorder of Deeds).
 - 23 Copies of UCC-1 Financing Statements to be filed against (i) each Obligor formed or incorporated in any US State party to any Transaction Security Document and (ii) each Obligor party to any Transaction Security Document governed by New York law.

- 24** PPSA Search results conducted against each Obligor party to a Transaction Security Document governed by Ontario law in the jurisdiction of formation or incorporation, as applicable, of such Obligor and in each Canadian jurisdiction where tangible assets of such Obligor are located.
- 25** Copies of PPSA Financing Statements to be filed against (i) each Obligor formed or incorporated under the laws of Canada or any province thereof party to any Transaction Security Document and (ii) each Obligor party to any Transaction Security Document governed by Ontario law.

ANNEX

Transaction Security Documents to be delivered within ninety (90) days of the Closing Date

Name of Obligor	Transaction Security Document	Governing law of document
Ammeraal Beltech Holding B.V.	Deed of pledge of shares in Ammeraal Beltech International Beheer B.V.	The Netherlands
Ammeraal Beltech Holding B.V.	Deed of pledge of shares in Ammeraal Beltech Nederland Beheer B.V.	The Netherlands
Ammeraal Beltech Nederland Beheer B.V.	Deed of pledge of shares in Ammeraal Beltech B.V.	The Netherlands
Ammeraal Beltech Nederland Beheer B.V.	Deed of pledge of shares in Ammeraal Beltech Manufacturing B.V.	The Netherlands
Ammeraal Beltech B.V.	Deed of pledge of shares in Ammeraal Beltech Service Centrum B.V.	The Netherlands
Ammeraal Beltech Holding B.V., Ammeraal Beltech International Beheer B.V., Ammeraal Beltech Nederland Beheer B.V., Ammeraal Beltech B.V., Ammeraal Beltech Service Centrum B.V. and Ammeraal Beltech Manufacturing B.V.	Deed of pledge of bank accounts, intercompany receivables, trade receivables and inventories	The Netherlands
Ammeraal Beltech Holding B.V.	Assignment of hedging contracts	England & Wales
Ammeraal Beltech International Beheer B.V.	Deed of pledge of shares in Ammeraal Beltech Inc.	Canada
Ammeraal Beltech International Beheer B.V.	Deed of pledge of shares in Green Belting Industries Limited	Canada
Ammeraal Beltech Inc.	Guarantee	Canada
Green Belting Industries Limited	Guarantee	Canada
Ammeraal Beltech Inc.	General security agreement, covering all personal property	Canada
Green Belting Industries Limited	General security agreement, covering all personal property	Canada

Name of Obligor	Transaction Security Document	Governing law of document
Ammeraal Beltech International Beheer B.V.	Pledge of shares in Ammeraal Beltech Danmark A/S	Denmark
Ammeraal Beltech Danmark A/S	Pledge of shares in Ammeraal Beltech Modular A/S	Denmark
Ammeraal Beltech Danmark A/S and Ammeraal Beltech Modular A/S	Deed of pledge of intercompany receivables	Denmark
Ammeraal Beltech Modular A/S	Bank account pledge agreement	Denmark
Ammeraal Beltech Modular A/S	Floating charge pledging, <i>inter alia</i> , vehicles, inventory, stock of raw materials and manufactured goods.	Denmark
Ammeraal Beltech International Beheer B.V.	Notarial first ranking share pledge agreement relating to the shares in Ammeraal Beltech GmbH	Germany
Ammeraal Beltech GmbH	Global assignment agreement in relation to intercompany receivables, trade receivables	Germany
Ammeraal Beltech GmbH	Bank account pledge agreement	Germany
Ammeraal Beltech GmbH	Security transfer agreement	Germany
Ammeraal Beltech International Beheer B.V. and Ammeraal Beltech Modular A/S	Pledge agreement in respect of the shares of Ammeraal Beltech, Inc., Chemprene, Inc., Greenbelt Industries, Inc. and Ammeraal Beltech Modular, Inc.	New York
Ammeraal Beltech, Inc., Ammeraal Beltech Modular, Inc., Chemprene, Inc. and Greenbelt Industries, Inc.	Security agreement in respect of all personal property	New York
Ammeraal Beltech International Beheer B.V. and Ammeraal Beltech Nederland Beheer B.V.	Share pledge agreement in respect of the shares in Ammeraal Beltech NV/SA	Belgium
Ammeraal Beltech NV/SA	Receivables pledge agreement in respect of intercompany receivables, trade receivables and bank accounts	Belgium
Ammeraal Beltech NV/SA	Floating charge agreement (10% pledge) and floating charge mandate (90% mandate)	Belgium

Name of Obligor	Transaction Security Document	Governing law of document
Ammeraal Beltech International Beheer B.V.	Financial securities account pledge agreement (over the securities account on which are credited all the shares of Ammeraal Beltech SAS)	France
Ammeraal Beltech SAS	Pledge over bank accounts	France
Ammeraal Beltech SAS	Pledge of intercompany loan receivables	France
Ammeraal Beltech International Beheer B.V. and Ammeraal Beltech Nederland Beheer B.V.	Deed of pledge over quotas in Ammeraal Beltech s.r.l.	Italy
Ammeraal Beltech s.r.l.	Pledge over bank accounts	Italy
Ammeraal Beltech s.r.l.	Assignment by way of security of intercompany receivables	Italy
Ammeraal Beltech s.r.l.	Assignment by way of security of trade receivables	Italy
Ammeraal Beltech International Beheer B.V.	Deed of pledge of shares in Ammeraal Beltech S.A.	Spain
Ammeraal Beltech S.A.	Pledge over bank accounts	Spain
Ammeraal Beltech S.A.	Deed of pledge of intercompany loan receivables	Spain
Ammeraal Beltech International Beheer B.V.	Share pledge agreement over all the shares in Ammeraal Beltech AG	Switzerland
Ammeraal Beltech AG	Assignment agreement relating to trade receivables and intercompany receivables	Switzerland
Ammeraal Beltech AG	Pledge over bank accounts	Switzerland
Ammeraal Beltech International Beheer B.V. and Ammeraal Beltech Holding B.V.	Share pledge agreement over all the shares in Ammeraal Beltech Ltd.	England & Wales
Ammeraal Beltech International Beheer B.V.	Share pledge agreement over all the shares in Biscor Ltd.	England & Wales
Ammeraal Beltech Ltd. and Biscor Ltd.	Debenture including a floating charge over all assets	England & Wales

SCHEDULE 3
REQUESTS AND NOTICES

Part 1
Utilisation Request Loans

From: [Borrower] [Parent]*

To: [Agent]

Dated: [●]

Dear Sirs

[●] – [●] Senior Facilities Agreement dated [●] (the “Facilities Agreement”)

- 1** We refer to the Facilities Agreement. This is an 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.

We wish to borrow a Loan on the following terms:

Borrower:	[●]
Proposed Utilisation Date:	[●] (or, if that is not a Business Day, the next Business Day)
Facility to be utilised	[Facility B] [Revolving Facility] [Additional Facility] ¹
[Tranche to be used]	[Facility B Tranche 1] [Facility B Tranche 2] [Facility B Tranche 3]
Currency of Loan:	[●]
Amount:	[●] or, if less, the Available Facility ²
Interest Period	[●]

- 2** We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied on the date of this Utilisation Request.
- 3** [The proceeds of this Loan should be credited to [account]].

¹ Select the Facility to be utilised and delete.

² If multiple Facilities or tranches are utilised under a single Utilisation Request, specify the amount under each such Facility or tranche.

4 This Utilisation Request is irrevocable.

Yours faithfully

authorised signatory for
[the Parent on behalf of
*[insert name of relevant Borrower]]/[insert name of Borrower]*³

WARNING: PLEASE SEEK DUTCH LEGAL ADVICE (I) UNTIL THE COMPETENT AUTHORITY PUBLISHES ITS INTERPRETATION OF THE TERM “PUBLIC” (AS REFERRED TO IN ARTICLE 4.1(1) OF THE CAPITAL REQUIREMENTS REGULATION (EU/575/2013)), IF THE SHARE OF A LENDER IN ANY UTILISATION REQUESTED BY A DUTCH BORROWER IS LESS THAN EUR 100,000 (OR ITS EQUIVALENT IN ANOTHER CURRENCY) AND (II) AS SOON AS THE COMPETENT AUTHORITY PUBLISHES ITS INTERPRETATION OF THE TERM “PUBLIC”, IF THE LENDER IS CONSIDERED TO BE PART OF THE PUBLIC ON THE BASIS OF SUCH INTERPRETATION.

³ Amend as appropriate. The Utilisation Request can be given by the Borrower or by the Parent.

Part 2
Utilisation Request

LETTERS OF CREDIT

From: [Borrower] [Parent]⁴

To: [Agent]

Dated: [●]

Dear Sirs

[●] – [●] Senior Facilities Agreement dated [●] (the “Facilities Agreement”)

- 1** We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
- 2** We wish to arrange for a Letter of Credit to be issued under the Revolving Facility by the Issuing Bank specified below (which has agreed to do so) on the following terms:
 - (a)** Borrower: [●]
 - (b)** Issuing Bank: [●]
 - (c)** Proposed Utilisation Date: [●] or, if that is not a Business Day, the next Business Day
 - (d)** Currency of Letter of Credit: [●]
 - (e)** Amount: [●] or, if less, the Available Facility in relation to the Revolving Facility
 - (f)** Term: [●]
- 3** We confirm that each condition specified in paragraph (b) of Clause 6.5 (*Issue of Letters of Credit*) is satisfied on the date of this Utilisation Request.
- 4** We attach a copy of the proposed Letter of Credit.
- 5** The Letter of Credit should be delivered to [insert details/delivery method].
- 6** This Utilisation Request is irrevocable.

Yours faithfully

authorised signatory for
[the Parent on behalf of
[insert name of relevant Borrower]] / [insert name of Borrower]

WARNING: PLEASE SEEK DUTCH LEGAL ADVICE (I) UNTIL THE COMPETENT AUTHORITY PUBLISHES ITS INTERPRETATION OF THE TERM “PUBLIC” (AS

⁴ Amend as appropriate. The Utilisation Request can be given by the Borrower or by the Parent.

REFERRED TO IN ARTICLE 4.1(1) OF THE CAPITAL REQUIREMENTS REGULATION (EU/575/2013)), IF THE SHARE OF A LENDER IN ANY UTILISATION REQUESTED BY A DUTCH BORROWER IS LESS THAN EUR 100,000 (OR ITS EQUIVALENT IN ANOTHER CURRENCY) AND (II) AS SOON AS THE COMPETENT AUTHORITY PUBLISHES ITS INTERPRETATION OF THE TERM “PUBLIC”, IF THE LENDER IS CONSIDERED TO BE PART OF THE PUBLIC ON THE BASIS OF SUCH INTERPRETATION.

Part 3
Selection Notice

APPLICABLE TO A TERM LOAN

From: [Borrower] [Parent]⁵

To: [Agent]

Dated: [●]

Dear Sirs

[●] – [●] Senior Facilities Agreement dated [●] (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] / [Additional Facility] / Loan[s] with an Interest Period ending on [●]⁶.
- 3 [We request that the above [Facility B] / [Additional Facility] / Loan[s] be divided into [●] [Facility B]/[Additional Facility] / Loan[s] with the following Base Currency Amounts and Interest Periods:]⁷

or

[We request that the next Interest Period for the above [Facility B]/[Additional Facility] / Loan[s] is [●]].⁸

This Selection Notice is irrevocable.

Yours faithfully

authorised signatory for
[the Parent on behalf of
[insert name of relevant Borrower]]/[insert name of Borrower]

WARNING: PLEASE SEEK DUTCH LEGAL ADVICE (I) UNTIL THE COMPETENT AUTHORITY PUBLISHES ITS INTERPRETATION OF THE TERM “PUBLIC” (AS REFERRED TO IN ARTICLE 4.1(1) OF THE CAPITAL REQUIREMENTS REGULATION (EU/575/2013)), IF THE SHARE OF A LENDER IN ANY UTILISATION REQUESTED BY A DUTCH BORROWER IS LESS THAN EUR 100,000 (OR ITS EQUIVALENT IN ANOTHER CURRENCY) AND (II) AS SOON AS THE COMPETENT AUTHORITY PUBLISHES ITS INTERPRETATION OF THE TERM “PUBLIC”, IF THE LENDER IS CONSIDERED TO BE PART OF THE PUBLIC ON THE BASIS OF SUCH INTERPRETATION.

⁵ Amend as appropriate. The Utilisation Request can be given by the Borrower or by the Parent.

⁶ Insert details of all Term Loans for the relevant Facility which have an Interest Period ending on the same date.

⁷ Use this option if division of Facility B Loans is requested.

⁸ Use this option if sub-division is not required.

SCHEDULE 4

FORM OF TRANSFER CERTIFICATE

To: [●] as Agent and [●] as Security Agent

From: [The Existing Lender] (the “Existing Lender”) and [The New Lender] (the “New Lender”) [and [Affiliate or Branch] (the “Designated Affiliate”)]

Dated: [●]

[●] – [●] 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 agreement (the “Agreement”) shall take effect as a Transfer Certificate for the purpose of the Facilities Agreement and as a Creditor/Agent 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 30.7 (*Procedure for transfers*) of the Facilities Agreement:
 - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all or part of the Existing Lender’s Commitment, rights and obligations referred to in the Schedule in accordance with Clause 30.7 (*Procedure for transfers*).
 - (b) The proposed Transfer Date is [●].
 - (c) The Facility Office and address, fax number and attention details for notices of the New Lender [and the Designated Affiliate] for the purposes of Clause 38.2 (*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 30.6 (*Limitation of responsibility of Existing Lenders*).
- 4 [The New Lender confirms that it [is]/[is not] a member of the Group / Sponsor Affiliate.]
- 5 [The New Lender confirms that it [is]/[is not] a Non-Acceptable L/C Lender.]
- 6 We refer to Clause 20.3 (*Change of Primary Creditors*) of the Intercreditor Agreement.
- 7 [The New Lender expressly confirms that it [can/cannot] exempt the Security Agent from the restrictions pursuant to section 181 Civil Code (*Bürgerliches Gesetzbuch*) and similar restrictions applicable to it pursuant to any other applicable law as provided for in paragraph (b) of Clause 33.1 (*Appointment of the Agent*).]

In consideration of [each of the Designated Affiliate and] the New Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined therein), [each of the Designated Affiliate and] the New Lender confirms that, as from the Transfer 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.

It is expressly agreed that the security created or evidenced by the Transaction Security Documents will be preserved for the benefit of the New Lender [, the Designated Affiliate] and each other Lender.

Each party to this Agreement agrees for the purpose of Article 1278 et seq. of the Belgian Civil Code that the Transaction Security shall be preserved for the benefit of the Security Agent, the New Lender and the other Secured Parties.

- 1 [Pursuant to and subject to Clause 2.5 (*Lender Affiliates*) of the Facilities Agreement, the New Lender nominates the Designated Affiliate to discharge its obligations and participate in the following Revolving Facility Loans [●].]
- 2 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.
- 3 This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 4 This Agreement has been entered into on the date stated at the beginning of this Agreement.

With respect to the Transaction Security Documents governed by Italian law, any transfer made under the Facilities Agreement by way of English law novation shall be construed under Italian law as a *cessione totale o parziale del contratto* or a *cessione del credito* or otherwise a *successione a titolo particolare* and shall not entail under Italian law a *novazione* of (or have an *effetto novativo* on) the Facilities Agreement or such Transaction Security Documents.

The servicing of this Transfer Certificate to the Obligors' Agent shall be deemed to constitute adequate notice under and in accordance with articles 1264 and 1407 of the Italian Civil Code.

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.

NOTE: FOR DUE TO THE EXTINCTIVE EFFECTS OF ENGLISH LAW NOVATION, TRANSFER BY WAY OF NOVATION MAY RESULT IN THE CONCURRING EXTINCTION OF THE GUARANTEES GRANTED BY SPANISH GUARANTORS AND/OR THE SECURITY SUBJECT TO SPANISH LAW.

**THE SCHEDULE
COMMITMENT/RIGHTS AND OBLIGATIONS TO BE TRANSFERRED**

[insert relevant details]
[Facility Office address, fax number and
attention details for notices and account details for payments]

[Existing Lender]

[New Lender]

By: _____

By: _____

[[Designated Affiliate]

By: _____]

This Agreement is accepted as a Transfer Certificate for the purposes of the Facilities Agreement by the Agent, and as a Creditor/Agent Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Transfer Date is confirmed as [•].

[Agent]

By: _____

[Security Agent]

By: _____

WARNING: PLEASE SEEK DUTCH LEGAL ADVICE (I) UNTIL THE COMPETENT AUTHORITY PUBLISHES ITS INTERPRETATION OF THE TERM “PUBLIC” (AS REFERRED TO IN ARTICLE 4.1(1) OF THE CAPITAL REQUIREMENTS REGULATION (EU/575/2013)), IF THE SHARE OF A LENDER IN ANY UTILISATION REQUESTED BY A DUTCH BORROWER IS LESS THAN EUR 100,000 (OR ITS EQUIVALENT IN ANOTHER CURRENCY) AND (II) AS SOON AS THE COMPETENT AUTHORITY PUBLISHES ITS INTERPRETATION OF THE TERM “PUBLIC”, IF THE LENDER IS CONSIDERED TO BE PART OF THE PUBLIC ON THE BASIS OF SUCH INTERPRETATION.

SCHEDULE 5
FORM OF ASSIGNMENT AGREEMENT

To: [●] as Agent, [●] as Security Agent, [●] as Parent, for and on behalf of each Obligor

From: [the Existing Lender] (the “**Existing Lender**”) and [the New Lender] (the “**New Lender**”) [and [Affiliate or Branch] (the “**Designated Affiliate**”)]

Dated: [●]

[●] – [●] **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 Assignment Agreement. This agreement (the “**Agreement**”) shall take effect as an Assignment Agreement for the purpose of the Facilities Agreement and as a Creditor/Agent 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 30.8 (*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 Utilisations under the Facilities Agreement as specified in the Schedule.
 - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender’s Commitments and participations in Utilisations under the Facilities Agreement specified in the Schedule.
 - (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b).
- 3 The proposed Transfer Date is [●].
- 4 On the Transfer Date [each of the Designated Affiliate and] 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 Senior Lender.
- 5 The Facility Office and address, fax number and attention details for notices of the New Lender [and the Designated Affiliate] for the purposes of Clause 38.2 (*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 30.6 (*Limitation of responsibility of Existing Lenders*).
- 7 [The New Lender confirms that it [is]/[is not] a member of the Group / Sponsor Affiliate.]
- 8 [The New Lender confirms that it [is]/[is not] a Non-Acceptable L/C Lender.]

- 9 [We refer to Clause 20.3 (*Change of Primary Creditors*) of the Intercreditor Agreement:

In consideration of [each of the Designated Affiliate and] the New Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), [each of the Designated Affiliate and] the New Lender confirms that, as from the Transfer 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.

It is expressly agreed that the security created or evidenced by the Transaction Security Documents will be preserved for the benefit of the New Lender[, the Designated Affiliate] and each other Lender.]

Each party to this Agreement agrees for the purpose of Article 1278 et seq. of the Belgian Civil Code that the Transaction Security shall be preserved for the benefit of the Security Agent, the New Lender and the other Secured Parties.

With respect to the Transaction Security Documents governed by Italian law, any transfer made under the Facilities Agreement by way of English law assignment shall be construed under Italian law as a *cessione totale o parziale del contratto* or a *cessione del credito* or otherwise a *successione a titolo particolare* and shall not entail under Italian law a *novazione* of (or have an *effetto novativo* on) the Facilities Agreement or such Transaction Security Documents.

The servicing of this Agreement to the Obligors' Agent shall be deemed to constitute adequate notice under and in accordance with articles 1264 and 1407 of the Italian Civil Code.

- 10 [Pursuant to and subject to Clause 2.5 (*Lender Affiliates*) of the Facilities Agreement, the New Lender nominates the Designated Affiliate to discharge its obligations and participate in the following Revolving Facility Loans [●].]
- 11 This Agreement acts as notice to the Agent (on behalf of each Finance Party) and to the Parent (on behalf of each Obligor) of the assignment referred to in this Agreement.
- 12 This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
- 13 This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 14 This Agreement has been entered into on the date stated at the beginning of this Agreement.

NOTE: THE EXECUTION OF THIS 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 and
attention details for notices and account details for payments]*

[Existing Lender]

[New Lender]

By: _____

By: _____

[Designated Affiliate]

By: _____

This Agreement is accepted as an Assignment Agreement for the purposes of the Facilities Agreement by the Agent, and as a Creditor/Agent 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.

[Agent]

By: _____

[Security Agent]

By: _____

WARNING: PLEASE SEEK DUTCH LEGAL ADVICE (I) UNTIL THE COMPETENT AUTHORITY PUBLISHES ITS INTERPRETATION OF THE TERM “PUBLIC” (AS REFERRED TO IN ARTICLE 4.1(1) OF THE CAPITAL REQUIREMENTS REGULATION (EU/575/2013)), IF THE SHARE OF A LENDER IN ANY UTILISATION REQUESTED BY A DUTCH BORROWER IS LESS THAN EUR 100,000 (OR ITS EQUIVALENT IN ANOTHER CURRENCY) AND (II) AS SOON AS THE COMPETENT AUTHORITY PUBLISHES ITS INTERPRETATION OF THE TERM “PUBLIC”, IF THE LENDER IS CONSIDERED TO BE PART OF THE PUBLIC ON THE BASIS OF SUCH INTERPRETATION.

SCHEDULE 6

FORM OF ACCESSION DEED

To: [●] as Agent and [●] as Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below

From: [Subsidiary] and [Parent]

Dated: [●]

Dear Sirs

[●] – [●] **Senior Facilities Agreement dated [●] (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 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 32.2 (Additional Borrowers)]/[Clause 32.3 (Additional Guarantors)] of the Facilities Agreement. [Subsidiary] is a company duly incorporated under the laws of [name of relevant jurisdiction] 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.: [●]

Attention: [●]
- 4 [Subsidiary] (for the purposes of this paragraph 4, the “**Additional Obligor**”) 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**”.

The Parent and the Subsidiary make the Repeating Representations to the Finance Parties on the date of this Accession Deed.

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 paragraph 4.
- (b) The Additional Obligor and the Security Agent agree that the Security Agent shall hold:

- (i) [any Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;
- (ii) all proceeds of that Security; and]⁹
- (iii) all obligations expressed to be undertaken by the Additional Obligor to pay amounts in respect of the Liabilities to the Security Agent as trustee (or agent) for the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Additional Obligor (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee (or agent) for the Secured Parties,

on trust or, in any jurisdiction where the trust would not be recognised, as an agent (or as otherwise provided for in the Intercreditor Agreement) for the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.

- (c) The Additional Obligor confirms that it intends to be party to the Intercreditor Agreement as a Debtor, undertakes to perform all the obligations expressed to be assumed by a Debtor under the Intercreditor Agreement and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement.
- (d) [In consideration of the Additional Obligor being accepted as an Intra-Group Lender for the purposes of the Intercreditor Agreement, the Additional Obligor also confirms that it intends to be party to the Intercreditor Agreement as an Intra-Group Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Intra-Group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement].¹⁰

5 *[Add applicable guarantee limitation language to the extent such guarantee limitation language in Clause 23 (Guarantees and Indemnity) is insufficient for the relevant Additional Obligor].*

6 *[Add applicable Solvency representation in the case of accession of a U.S. Obligor].*

7 This Accession Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS ACCESSION DEED has been signed on behalf of the Security Agent (for the purposes of paragraph 4 above only), signed on behalf of the Parent and executed as a deed by [Subsidiary] and is delivered on the date stated above.

Subsidiary

SIGNED as a DEED For and on behalf of

[●]

Director/Secretary

⁹ Include to the extent that the Security created in the Relevant Documents is expressed to be granted to the Security Agent as trustee for the Secured Parties.

¹⁰ Include this paragraph in this Accession Deed if the Subsidiary is also to accede as an Intra-Group Lender to the Intercreditor Agreement.

OR

SIGNED as a DEED For and on behalf of

[●]

By: [●]

Director/Secretary

in the presence of

Witness

The Parent

By: [●]

The Security Agent

By: [●]

SCHEDULE 7
FORM OF RESIGNATION LETTER

To: [●] as Agent and [●] as Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below

From: [Subsidiary] and [Parent]

Dated: [●]

Dear Sirs

[●] – [●] Senior Facilities Agreement dated [●] (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 32.4 (*Resignation of an Obligor*), 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 Event of 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)** [the Disposal Proceeds have been or will be applied in accordance with Clause 12.2 (*Disposal, Insurance, IPO and Acquisition Proceeds*);]**]
 - (d)** [●]***
- 4.** This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

The Parent

By: [●]

The Security Agent

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

COMPLIANCE CERTIFICATES

Part 1

Form of Quarterly Compliance Certificate

To: [●] as Agent

From: [Parent]

Dated: [●]

Dear Sirs

[●] – [●] **Senior Facilities Agreement dated [●] (the “Facilities Agreement”)**

1 We refer to the Facilities Agreement. This is a Quarterly 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) in respect of the Relevant Period ended on [●] (the “**Test Date**”) Consolidated Total Net Debt on the Relevant Date was [●] and Consolidated Pro Forma EBITDA for such Relevant Period was [●]. Therefore Consolidated Total Net Debt at such time was [●] times Consolidated Pro Forma EBITDA for the Test Date and the covenant contained in Clause 26.3 (*Leverage financial covenant*) of the Facilities Agreement [has/has not] been complied with; and

3 We confirm that Consolidated Senior Secured Net Debt was [●] times Consolidated Pro Forma EBITDA for the Test Date, therefore:

(i) the Facility B Margin should be [●] per cent. p.a.; and

(ii) the Revolving Facility Margin should be [●] per cent. p.a..

[Other information requirements (if any) as per the Facility Agreement].

4 [We confirm that, in respect of a Permitted / Approved Acquisition, the applicable requirements in paragraphs *[insert relevant paragraphs]* of the definition of Permitted Acquisition were satisfied in respect of the acquisitions set out below and details of the relevant calculations are set out below *[include details]*.]

5 [We confirm that the amount of Closing Overfunding used was [●], for the purpose of [●] and the amount of the remaining Closing Overfunding is [●].]

6 [We confirm that no Default is continuing.]¹¹

SIGNED

¹¹ 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.

[CEO / CFO]

Director of [Parent]

Part 2
Form of Annual Compliance Certificate

To: [●] as Agent

From: [Parent]

Dated: [●]

Dear Sirs

[●] – [●] Senior Facilities Agreement dated [●] (the “Facilities Agreement”)

- 1 We refer to the Facilities Agreement. This is an Annual 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) in respect of the Relevant Period ended on [●] (the “**Test Date**”), Consolidated Total Net Debt on the Relevant Date was [●] and Consolidated Pro Forma EBITDA for such Relevant Period was [●]. Therefore Consolidated Total Net Debt at such time was [●] times Consolidated Pro Forma EBITDA for the Test Date and the covenant contained in Clause 26.3 (*Leverage financial covenant*) of the Facilities Agreement [has/has not] been complied with;
 - (b) Excess Cash Flow for the Financial Year of the Group ending [●] was [●]. As the Senior Secured Leverage Ratio is [●], the Excess Cash Flow to be applied in prepayment pursuant to Clause 12.3 (*Excess Cash Flow*) of the Facilities Agreement will be [●]. Retained Excess Cash for the Financial Year of the Group ending [●] was [●].
- 3 We confirm that Consolidated Senior Secured Net Debt was [●] times Consolidated Pro Forma EBITDA for the Test Date, therefore:
 - (i) the Facility B Margin should be [●] per cent. p.a.; and
 - (ii) the Revolving Facility Margin should be [●] per cent. p.a..
- 4 We confirm that the Material Subsidiaries are:
 - (a) [●];
 - (b) [●].
- 5 We confirm that as at the Relevant Period ended on [●], the aggregate contribution of the Guarantors was equal to [●] per cent. [(●%)] of Consolidated Pro Forma EBITDA, and therefore the Guarantor Coverage Test set out in paragraph [(a)(iv)] of Clause 27.29 (*Guarantees and Security*) [has/has not] been meet.
- 6 [Other information requirements (if any) as per the Facility Agreement].
- 7 [We confirm that no Default is continuing.]¹²

¹² 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.

SIGNED

[CEO / CFO]

Director of [Parent]

[insert applicable certification language]

for and on behalf of

[name of Auditors of the Parent]

SCHEDULE 9
TIMETABLES

Part 1

Loans

	Loans in EUR	Loans in GBP	Loans in other currencies
Agent notifies the Parent if a currency is approved as an Optional Currency in accordance with Clause 4.3 (<i>Conditions relating to Optional Currencies</i>)	-		U-4
Delivery of a duly completed Utilisation Request (Clause 5.1 (<i>Delivery of a Utilisation Request</i>)) or a Selection Notice (Clause 15.1 (<i>Selection of Interest Periods and Terms</i>))	U-3 (or U-1 for any Utilisation on the Closing Date) 9.30 a.m.	U-3 (or U-1 for any Utilisation on the Closing Date) 9.30 a.m.	U-3 (or U-1 for any Utilisation on the Closing Date) 9.30 a.m.
Agent determines (in relation to Utilisation) the Base Currency Amount of the Loan, if required under Clause 5.4 (<i>Lenders' participation</i>)	U-3 (or U-1 for any Utilisation on the Closing Date) 11.00 a.m.	U-3 (or U-1 for any Utilisation on the Closing Date) 11.00 a.m.	U-3 (or U-1 for any Utilisation on the Closing Date) 11.00 a.m.
Agent notifies the Lenders of the Loan in accordance with Clause 5.4 (<i>Lenders' participation</i>)	U-3 (or U-1 for any Utilisation on the Closing Date) 4.30 p.m.	U-3 (or U-1 for any Utilisation on the Closing Date) 4.30 p.m.	U-3 (or U-1 for any Utilisation on the Closing Date) 4.30 p.m.
Agent receives a notification from a Lender under Clause 8.2 (<i>Unavailability of a currency</i>)	Quotation Day 9.00 a.m.	U-1 9.00 a.m.	Quotation Day 9.00 a.m.
Agent gives notice in accordance with Clause 8.2 (<i>Unavailability of a currency</i>)	Quotation Day 4.30 p.m.	U-1 4.30 p.m.	Quotation Day 4.30 p.m.
Agent determines amount of the Loan in Optional Currency in	U	U	U

	Loans in EUR	Loans in GBP	Loans in other currencies
accordance with Clause 36.10 (<i>Change of currency</i>)	11.00 a.m.	11.00 a.m.	11.00 a.m.
EURIBOR, CIBOR or LIBOR is fixed:	EURIBOR: Quotation Day as of 11:00 a.m.	LIBOR: Quotation Day as of 11.00 a.m. London time	LIBOR: Quotation Day as of 11.00 a.m. London time CIBOR: Quotation Day as of 11.00am Central European time

“U” = the Utilisation Date

“U-X” = X Business Days prior to the Utilisation Date

Part 2
Letters Of Credit

	Letters of Credit
Delivery of a duly completed Utilisation Request (Clause 5.1 (<i>Delivery of a Utilisation Request</i>))	U-3 9.30 a.m.
Agent determines (in relation to Utilisation) the Base Currency Amount of the Letter of Credit if required under paragraph (f) of Clause 6.5 (<i>Issue of Letters of Credit</i>) and notifies the Issuing Bank and Lenders of the Letter of Credit in accordance with paragraph (f) of Clause 6.5 (<i>Issue of Letters of Credit</i>).	U-3 11.00 a.m.
Delivery of duly completed Renewal Request (Clause 6.6 (<i>Renewal of a Letter of Credit</i>))	U-3 9.30 a.m.

“U” = the Utilisation Date, or, if applicable, in the case of a Letter of Credit to be renewed in accordance with Clause 6.6 (*Renewal of a Letter of Credit*), the first day of the proposed term of the renewed Letter of Credit

“U-X” = Business Days prior to the Utilisation Date

SCHEDULE 10
FORM OF LETTERS OF CREDIT

To: [Beneficiary] (the “**Beneficiary**”)

Date [●]

Irrevocable Standby Letter of Credit no. [●]

At the request of [●], [Issuing Bank] (the “**Issuing Bank**”) issues this irrevocable standby Letter of Credit (Letter of Credit) in your favour on the following terms and conditions:

1 Definitions

In this Letter of Credit:

“**Business Day**” means a day (other than a Saturday or a Sunday) on which banks are open for general business in [London].¹³

“**Demand**” means a demand for a payment under this Letter of Credit in the form of the schedule to this Letter of Credit.

“**Expiry Date**” means [●].

“**Total L/C Amount**” means [●].

2 Issuing Bank’s agreement

- (a) The Beneficiary may request a utilisation or utilisations under this Letter of Credit by giving to the Issuing Bank a duly completed Demand. A Demand must be received by the Issuing Bank by no later than [●] p.m. ([London] time) on the Expiry Date.
- (b) Subject to the terms of this Letter of Credit, the Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that, within [●] Business Days of receipt by it of a Demand, it must pay to the Beneficiary the amount demanded in that Demand.
- (c) The Issuing Bank will not be obliged to make a payment under this Letter of Credit if as a result the aggregate of all payments made by it under this Letter of Credit would exceed the Total L/C Amount.

3 Expiry

- (a) The Issuing Bank will be released from its obligations under this Letter of Credit on the date (if any) notified by the Beneficiary to the Issuing Bank as the date upon which the obligations of the Issuing Bank under this Letter of Credit are released.
- (b) Unless previously released under paragraph 3.1 above, on [●] p.m. ([London] time) on the Expiry Date the obligations of the Issuing Bank under this Letter of Credit will cease with no further liability on the part of the Issuing Bank except for any Demand validly presented under the Letter of Credit that remains unpaid.

¹³ This may need to be amended depending on the currency of payment under the Letter of Credit.

- (c) When the Issuing Bank is no longer under any further obligations under this Letter of Credit, the Beneficiary must return the original of this Letter of Credit to the Issuing Bank.

4 Payments

All payments under this Letter of Credit shall be made in [●] and for value on the due date to the account of the Beneficiary specified in the Demand.

5 Delivery of Demand

Each Demand shall be in writing, and, unless otherwise stated, may be made by letter, fax or telex and must be received in legible form by the Issuing Bank at its address and by the particular department or office (if any) as follows:

[●]

6 Assignment

The Beneficiary's rights under this Letter of Credit may not be assigned or transferred.

7 ISP

Except to the extent it is inconsistent with the express terms of this Letter of Credit, this Letter of Credit is subject to the International Standby Practices (ISP 98), International Chamber of Commerce Publication No. 590.

8 Governing Law

This Letter of Credit and any non-contractual obligations arising out of or in connection with it are governed by English law.

9 Jurisdiction

The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Letter of Credit (including a dispute relating to any non-contractual obligation arising out of or in connection with this Letter of Credit).

Yours faithfully

[Issuing Bank]

By: _____

SCHEDULE

FORM OF DEMAND

To: [Issuing Bank]

Date: [●]

Dear Sirs

Standby Letter of Credit no. [●] issued in favour of [Beneficiary] (the “**Letter of Credit**”)

1. We refer to the Letter of Credit. Terms defined in the Letter of Credit have the same meaning when used in this Demand.
2. We certify that the sum of [●] is due [and has remained unpaid for at least [●] Business Days] [under [set out underlying contract or agreement]]. We therefore demand payment of the sum of [●].

Payment should be made to the following account:

Name: [●]

Account Number: [●]

Bank: [●]

3. The date of this Demand is not later than the Expiry Date.

Yours faithfully

(Authorised Signatory)

(Authorised Signatory)

For [Beneficiary]

SCHEDULE 11
MATERIAL SUBSIDIARIES

Name of Material Subsidiary	Jurisdiction of Incorporation	Registration number (or equivalent, if any)
Ammeraal Beltech Ltd.	England & Wales	01163300
Biscor Ltd.	England & Wales	01262669
Green Belting Industries Ltd	Canada	001571325
Ammeraal Beltech Inc.	Canada	000889898
Green Belt Industries Inc.	State of New York, United States of America	1297537
Ammeraal Beltech, Inc.	State of Delaware, United States of America	2066328
Chemprene, Inc.	State of Delaware, United States of America	2339006
Ammeraal Beltech Modular, Inc.	State of Pennsylvania, United States of America	2071747
Ammeraal Beltech AG	Switzerland	CHE-106.576.931
Ammeraal Beltech SAS	France	301 099 537
Ammeraal Beltech GmbH	Germany	HRB 12315 HL
Ammeraal Beltech Danmark A/S	Denmark	31172160
Ammeraal Beltech Modular A/S	Denmark	25539419
Ammeraal Beltech S.A.	Spain	21155
Ammeraal Beltech Holding B.V.	The Netherlands	37051009
Ammeraal Beltech International Beheer B.V.	The Netherlands	37052437
Ammeraal Beltech Nederland Beheer B.V.	The Netherlands	37051561
Ammeraal Beltech Manufacturing B.V.	The Netherlands	37044060
Ammeraal Beltech B.V.	The Netherlands	37051562
Ammeraal Beltech Service Centrum B.V.	The Netherlands	37055504

Ammeraal Beltech NV/SA	Belgium	0420.823.315
Ammeraal Beltech S.r.l.	Italy	422265

SCHEDULE 12
AGREED SECURITY PRINCIPLES

1 Security Principles

- (a) The guarantees and security to be provided will be given in accordance with the Agreed Security Principles set out in this Schedule. This Schedule addresses the manner in which the Agreed Security Principles will impact the guarantees and security proposed to be taken in relation to this transaction.
- (b) The Agreed Security Principles embody recognition by all parties that there may be certain legal and practical difficulties in obtaining guarantees and security from the Parent and all Obligors in every jurisdiction in which the Parent or the Obligors are located. In particular:
 - (i) general legal and statutory limitations (including, with respect to the relevant jurisdictions for which guarantee limitation language is set out in Clauses 23.11 (*Guarantee Limitations: General*) to 23.23 (*Additional Guarantee Limitations*), such limitations as set out therein), financial assistance, corporate benefit, fraudulent preference, “thin capitalisation”, “earnings stripping”, “controlled foreign corporation”, “fiscal unity” (*fiscale eenheid*) and “capital maintenance” rules, retention of title claims, employee consultation or approval requirements and similar principles may limit the ability of a member of the Group to provide a guarantee or security or may require that the guarantee or security be limited by an amount or otherwise;
 - (ii) the Parent or the relevant Obligor will use reasonable endeavours to assist in demonstrating that adequate corporate benefit accrues to the Parent or each relevant Obligor and to overcome any such other limitations to the extent reasonably practicable;
 - (iii) the security and extent of its perfection will be agreed taking into account the cost, difficulty or consequence (including the effect on the ability of the relevant Obligor to conduct its operations and business in the ordinary course) to the Group of providing security (including any increase to the tax cost of the Group) so as to ensure that it is proportionate to the benefit accruing to the Finance Parties, it being understood that in no event will any guarantee be given or security be granted over, or by, any Excluded Entity;
 - (iv) any assets subject to third party arrangements which are permitted by this Agreement and which prevent those assets from being charged will be excluded from any relevant security document **provided that** reasonable endeavours to obtain consent to charging any such assets shall be used by the Parent and the Obligors if the relevant asset is material if the Parent determines that such endeavours will not involve placing commercial relationships with third parties in jeopardy;
 - (v) in certain jurisdictions it is impossible or materially impractical to grant guaranties or create security over certain categories of assets in which case, such guaranties will not be granted and security will not be taken over such assets;
 - (vi) members of the Group will not be required to give guarantees or enter into security documents if they are not wholly-owned by another member of the Group or if it is not within the legal capacity of the relevant member of the

Group or if it would conflict with the fiduciary duties of their directors or contravene any applicable legal or regulatory prohibition or result in a risk of personal or criminal liability on the part of any officer **provided that** the relevant Group member shall use reasonable endeavours to overcome any such obstacle;

- (vii) the granting or 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. The granting or perfection of security will not be required if it would have a material adverse effect on the ability of the Parent or the relevant Obligor to conduct its operations and business in the ordinary course or as otherwise permitted by the Finance Documents (including, without limitation, notification of receivables security to third party debtors until a Declared Default has occurred). The registration of security interests in intellectual property will only be in respect of material intellectual property in jurisdictions to be agreed;
- (viii) any assets subject to a legal requirement, contracts, leases, licenses or other third party arrangement, which may prevent those assets from being charged (or assets which, if charged, would give a third party the right to terminate or otherwise amend any rights, benefits and/or obligations with respect to a member of the Group in respect of those assets or which require any member of the Group to take any action materially adverse to the interests of any member of the Group or any member thereof) will be excluded from any relevant Transaction Security Document, **provided that** the relevant member of the Group shall use its commercially reasonable endeavours for a maximum period of twenty (20) Business Days (**provided that** the relevant member of the Group is satisfied that such endeavours will not involve placing relationships with third parties in jeopardy) to obtain consent to charging any such assets if required by the Finance Documents and if the Agent reasonably determines the relevant assets to be material in the context of the business of the Group as a whole and (taking into account the Parent's view on any potential impact on relationships with third parties) from such date as the Agent reasonably requests the Parent to do so;
- (ix) unless granted under a global security document governed by the law of the jurisdiction of an Obligor or under English law, all security (other than share security over its subsidiaries that are Guarantors) shall be governed by the law of and secure assets located in the jurisdiction of incorporation of that Obligor, **provided that** in the case of an Obligor organised in the U.S. or Canada, such security shall be governed by New York law or Ontario law (as applicable);
- (x) no perfection action will be required in jurisdictions where the Parent or Obligors are not incorporated (except in the case of Transaction Security Documents governed by US law or Canadian law) but perfection action may be required in the jurisdiction of incorporation of one Obligor in relation to security granted by another Obligor incorporated in a different jurisdiction;
- (xi) the maximum guaranteed or secured amount may be limited to minimise stamp duty, notarisation, registration, mortgage recordation or other applicable fees, taxes and duties;
- (xii) other than a general security agreement and related filing, no perfection action will be required with respect to assets of a type not owned by members of the Group;

- (xiii) the Security Agent will hold one set of security for the Finance Parties (subject to applicable law); and
- (xiv) security shall not be created to the extent that it would result in a Lender becoming subject to German non-resident tax liability as regards interest payable under the Facilities and/or trigger a German withholding tax deduction (including, for the avoidance of doubt, any withholding tax deduction upon issuance of an administrative order by the competent German tax authorities), unless in each case such taxes are for the account of the relevant Lender and are not subject to any indemnification or gross-up obligation by any Obligor.
- (c) The Security Agent or the Finance Parties, as the case may be, shall promptly discharge any guarantees and release any Security which is or are or has become subject to any legal or regulatory prohibition as is referred to in paragraph above.

2 Guarantors and Security

- (a) Subject to the guarantee limitations set out in Clauses 23.11 (*Guarantee Limitations: General*) to 23.23 (*Additional Guarantee Limitations*), each guarantee will be an upstream, cross-stream and downstream guarantee and security for all liabilities of the Parent and the Obligors under the Finance Documents in accordance with, and subject to, the requirements of the Agreed Security Principles in each relevant jurisdiction. Transaction Security Documents will secure the guarantee obligations of the relevant security provider or, if such security is provided on a third party basis, all liabilities of the Parent and the Obligors under the Finance Documents, in each case in accordance with, and subject to, the requirements of the Agreed Security Principles in each relevant jurisdiction.
- (b) Where the Parent or an Obligor pledges shares, the security document will be governed by the laws of the company whose shares are being pledged and not by the law of the country of the pledgor. Subject to these principles, the shares in each Guarantor shall be subject to security. The shares held by a Guarantor in a Subsidiary that is not a Guarantor shall not be required to be the subject of Security.
- (c) To the extent legally effective, all security shall be given in favour of the Security Agent and not the Finance Parties individually. “Parallel debt” and “joint and several creditorship” provisions will be used where necessary; such provisions will be contained in the intercreditor agreement and not the individual 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 assigns or transfers any of its participation in the Facilities and/or Additional Facility to a New Lender.
- (d) The Obligors will be required to pay the reasonable costs of any re-execution, notarisation, re-registration, amendment or other perfection requirement for any security on any assignment or transfer on or prior to the Syndication Date by the Mandated Lead Arrangers to a new Lender (up to the agreed costs cap). Otherwise the cost or fee shall be for the account of the transferee Lender.
- (e) Any security document (other than Spanish law security documents which shall be granted in a Spanish Public Document) shall only be required to be notarised or notarially certified if required by law in order for the relevant security to become effective or admissible in evidence.

3 Terms of Security Documents

The following principles will be reflected in the terms of any security taken as part of this transaction:

- (a) the security will be first ranking, to the extent possible;
- (b) security will not be enforceable until a Declared Default has occurred;
- (c) the Lenders and Hedge Counterparties shall only be able to exercise a power of attorney following the occurrence of a Declared Default or if the Parent or the relevant Obligor has failed to comply with a further assurance or perfection obligation (and any grace period applicable thereto has expired), but only to the extent necessary to comply with such further assurance or perfection obligation,;
- (d) the provisions of each Transaction Security Document will not be unduly burdensome on the Parent or the Obligor or interfere unreasonably with the operation of its business, will be limited to those required by local law to create or perfect security and will not impose commercial obligations;
- (e) 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 (except in Transaction Security Documents requiring notarisation), indemnities, tax gross up, distribution of proceeds and release of security; representations and undertakings shall be included in the security documents only to the extent required by local law in order to create or perfect the security interest expressed to be created thereby;
- (f) 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, when required, shall be provided no more frequently than annually or, following an Event of Default which is outstanding, on the Security Agent's reasonable request; and
- (g) Security will, where possible and practical, automatically create security over future assets of the same type as those already secured; where local law requires supplemental pledges to be delivered in respect of future acquired assets in order for effective security to be created over that class of asset, such supplemental pledges shall be provided at intervals no more frequent than six (6) Months (unless required more frequently under local law).

4 Acquisition Documents and Claim

- (a) Rights of the Group under the Acquisition Agreement shall be assigned or charged.
- (b) If required by local law to perfect the Security, notice of the assignment or charge will be served on the relevant counterparty within five (5) Business Days of the security being granted and the Parent or the Obligor shall use its reasonable endeavours to obtain an acknowledgement of that notice with twenty (20) Business Days of service. If the Parent or the Obligor 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 20 Business Day period.

5 Bank Accounts

- (a) If the Parent or an Obligor grants Security over its material bank accounts it shall be free to deal with those accounts (other than mandatory prepayment accounts and any other accounts which are specifically blocked) in the course of its business (including closing unused or dormant accounts) until the occurrence of a Declared Default.
- (b) If required by local law to perfect the Security, notice of the Security or a letter of acceptance of the Security will be served on or executed by (as the case may be) the account bank within five (5) Business Days of the Security being granted (or in case it

became necessary to provide a Spanish law security document in this regard, notice will be served on the date of execution of the Security by the relevant Spanish notary public) and the Parent or the Obligor shall use its reasonable endeavours to obtain an acknowledgement of that notice or a letter of acceptance of the Security within twenty (20) Business Days of service. If the Parent or the Obligor has used its reasonable endeavours but has not been able to obtain acknowledgement or letter of acceptance, its obligation to obtain acknowledgement or letter of acceptance, shall cease on the expiry of that twenty (20) Business Day period. Irrespective of whether notice of the security is required for perfection, if the service of notice would prevent the Parent or the Obligor from using a bank account in the course of its business no notice of security shall be served until the occurrence of a Declared Default.

- (c) With respect to Security over bank accounts located in the US, each U.S. Obligor shall use reasonable endeavours to enter into, and cause each depository, securities intermediary or commodities intermediary to enter into, Control Agreements with respect to each deposit, securities, commodity or similar account maintained by such Person (other than (A) any payroll or other disbursement account so long as such account is a zero balance account, (B) petty cash accounts with amounts on deposit that do not exceed \$500,000 in the aggregate for all such accounts at any one time, (C) withholding tax and fiduciary accounts, (D) escrow accounts funded in connection with Permitted Acquisitions or other investments permitted hereunder (E) deposit, securities, commodity or similar accounts in jurisdictions outside the United States and the District of Columbia to the extent obtaining a Control Agreement with respect thereto would cause such Person any undue burden or expense and (F) any account that is closed after the Closing Date where the relevant U.S. Obligor has transferred the balance standing to the credit of such account to another bank account held by it that is subject to a Control Agreement (such excluded accounts, “**Excluded Accounts**”)) it being understood that the U.S. Obligors will use reasonable efforts to enter into Control Agreements with respect to any and all and acknowledged trade receivables accounts, including without limitation accounts no. 591523001; 581000630; 575939751 and 591235721; **provided**, it is agreed and understood that the U.S. Obligors shall have until the date that is (a) ninety (90) days following the Closing Date (or such later date following the Closing Date as may be agreed to by Agent in its sole discretion) to comply with the provisions of this paragraph 5(c) with regard to accounts (other than Excluded Accounts) of the U.S. Obligors existing on the Closing Date and (b) ninety (90) days following the closing date of a Permitted Acquisition or the date on which a U.S. Obligor opens a new account (or such later date following the closing date of such Permitted Acquisition or the date of opening such new account as may be agreed to by Agent in its sole discretion) to comply with the provisions of this paragraph 5(c) with regard to accounts (other than Excluded Accounts) acquired by the U.S. Obligors in connection with such Permitted Acquisition or opened by a U.S. Obligor after the Closing Date. If the applicable U.S. Obligor has used its reasonable endeavours but has not been able to comply with its obligation hereunder, such obligation shall cease on the expiry of that ninety (90) day period.
- (d) 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 Obligor shall not be required to change its banking arrangements if these security interests are not waived or are only partially waived.
- (e) If required under local law, Security over bank accounts will be registered subject to the general principles set out in these Agreed Security Principles. Notwithstanding that, there will be no restriction on the closure of any bank account which are no longer required by the relevant Obligor, **provided that** prior written notice of the closure of any bank account which is no longer required of the relevant Obligor has been delivered to the Security Agent and payment of the funds deposited in the account to be closed into an account pledged in favour of the Security Agent.

6 Fixed Assets

- (a) If a guarantor company grants security over its material fixed assets it shall be free to deal with those assets in the course of its business until the occurrence of a Declared Default.
- (b) No notice, whether to third parties or by attaching a notice to the fixed assets, shall be prepared or given until the occurrence of a Declared Default.
- (c) If required under local law Security over fixed assets will be registered subject to the general principles set out in these Agreed Security Principles.

7 Insurance Policies

- (a) An Obligor may grant Security over its insurance policies in respect of which claims thereunder may be mandatorily prepaid, **provided that** such insurance policy allows Security to be so granted, and **provided further** that such security is granted pursuant to a general security agreement.
- (b) If required by local law to perfect the security, notice of the Security will be served on the insurance provider within five (5) Business Days of the security being granted (or in case it became necessary to provide a Spanish law security document in this regard, notice will be served on the date of execution of the Security by the relevant Spanish notary public) and the Obligor shall use its reasonable endeavours to obtain an acknowledgement of that notice within twenty (20) Business Days of service. If the Obligor 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 twenty (20) Business Day period. There will be no requirement to perfect where such perfection would result in the assignor of such security no longer being entitled to receive or otherwise dispose of the proceeds resulting from such insurance policies.
- (c) Unless required under local law, no loss payee or other endorsement shall be made on the insurance policy.

8 Intellectual Property

- (a) If an Obligor grants Security over its material intellectual property it shall be free to deal with those assets in the course of its business (including, without limitation, allowing its intellectual property to lapse if no longer material to its business) until the occurrence of a Declared Default.
- (b) No security shall be granted over any intellectual property which cannot be secured under the terms of the relevant licensing agreement. No notice shall be prepared or given to any third party from whom intellectual property is licensed until a Declared Default has occurred.
- (c) No intellectual property security will be required to be registered under the law of that security document or at a relevant supra-national registry.

9 Hedging

Security over hedging receivables will be granted subject to the same provisions as for trade receivables and subject to the intercreditor agreement, except that notice of security shall be provided subject to the same provisions as for intercompany receivables.

10 Intercompany Receivables

- (a) Subject to the final paragraph below, if the Parent or an Obligor grants Security over its material intercompany receivables it shall, subject to the terms of this Agreement and the Intercreditor Agreement, be free to deal with those receivables in the course of its business until the occurrence of a Declared Default.
- (b) Subject to (c) below, and if required by local law to perfect the Security, notice of the Security will be served on the relevant debtor within five (5) Business Days of the Security being granted (or in case it became necessary to provide a Spanish law security document in this regard, notice will be served on the date of execution of the Security by the relevant Spanish notary public) and the Parent or the Obligor shall use its reasonable endeavours to obtain an acknowledgement of that notice within twenty (20) Business Days of service. Subject to the paragraphs below, irrespective of whether notice of the security is required for perfection if the service of notice would prevent the Obligor from dealing with an intercompany receivable in the course of its business no notice of security shall be served until the occurrence of a Declared Default.
- (c) With respect to intercompany receivables governed by German law, notice of the Security will be given promptly (*unverzüglich*) following or together with the respective Security being granted.
- (d) If required under local law security over intercompany receivables will be registered subject to the general principles set out in these Agreed Security Principles.

11 Trade Receivables

- (a) If the Parent or an Obligor grants Security over its material trade receivables it shall be free to deal with those receivables in the course of its business until the occurrence of a Declared Default.
- (b) No notice of Security may be prepared or served until the occurrence of a Declared Default.
- (c) No Security will be granted over any trade receivables which cannot be secured under the terms of the relevant contract.
- (d) If a German Obligor grants security over its trade receivables, in such case any receivables under a Permitted Factoring are excluded and/or re-assigned from any assignment.
- (e) If required under local law security over trade receivables will be registered subject to the general principles set out in these Agreed Security Principles.
- (f) Unless required by any applicable law, any list of trade receivables required shall not include details of the underlying contracts.

12 Shares

- (a) Until a Declared Default has occurred (and in case of shares in a German company to be pledged, at any time), the Parent or the charging Obligor will be permitted to retain and to exercise voting rights appertaining to any shares charged by it and the company whose shares have been charged will be permitted to pay dividends upstream on pledged shares to the extent permitted under the Finance Documents with the proceeds to be available to the Parent and its Subsidiaries.
- (b) Where customary and applicable as a matter of law, on, or as soon as reasonably practicable following execution of the share charge, the share certificate and a stock transfer form executed in blank will be provided to the Security Agent and where required

by law the share certificate or shareholders' register will be endorsed or written up and the endorsed share certificate or a copy of the written up register provided to the Security Agent.

- (c) Unless the restriction is required by law or regulation, the constitutional documents of the company whose shares (partnership interests) have been charged will be amended to remove any restriction on the transfer or the registration of the transfer of the shares or the taking or enforcement of the security granted over them and to attribute the economic and/or voting rights deriving from the charged shares as from the occurrence of an enforcement event or as from the enforcement of the share pledge, as provided under the relevant Security and 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 (or partnership interests) on the taking or enforcement of the security granted over them.

13 Real Estate

- (a) An Obligor shall not be required to grant security over its real estate subject to these Agreed Security Principles or as otherwise agreed.
- (b) There will be no obligation to investigate title, provide surveys or other insurance or environmental due diligence.

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 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.

SCHEDULE 13
FORM OF INCREASE CONFIRMATION

To: [●] as Agent, [●] as Security Agent, [[●] as Issuing Bank]¹⁴ and [●] as Parent, for and on behalf of each Obligor

From: [*the Increase Lender*] (the “**Increase Lender**”)

Dated:

[●]–[●]**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 agreement (the “**Agreement**”) shall take effect as an Increase Confirmation for the purpose of the Facilities Agreement and as a Creditor/Agent 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 Senior Lender.
- 6 The Facility Office and address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 38.2 (*Addresses*) are set out in the Schedule.
- 7 [The Increase Lender confirms that it [is]/[is not] a Non-Acceptable L/C Lender.]
- 8 The Increase Lender expressly acknowledges the limitations on the Lenders’ obligations referred to in paragraph (f) of Clause 2.3 (*Increase*).
- 9 The Increase Lender confirms that it is not a member of the Group / Sponsor Affiliate.
- 10 We refer to Clause 21.9 (*Creditor/Agent Accession Undertaking*) of the Intercreditor Agreement:
- 11 In consideration of the Increase Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), the Increase Lender confirms that, as from the Increase Date, it intends to be party to the Intercreditor Agreement as 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

¹⁴ Only if given in respect of Revolving Facility Commitments.

provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

- 12 This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
- 13 This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 14 This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this 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.

SCHEDULE
RELEVANT COMMITMENT/RIGHTS AND OBLIGATIONS
TO BE ASSUMED BY THE INCREASE LENDER

[insert relevant details]

[Facility office address, fax number and attention details for notices and account details for payments]

[Increase Lender]

By: _____

This Agreement is accepted as an Increase Confirmation for the purposes of the Facilities Agreement by the

Agent [and the Issuing Bank]*, and as a Creditor/Agent Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Increase Date is confirmed as [●].

Agent

By: _____

[Issuing Bank

By: _____]¹⁵

Security Agent

By: _____

¹⁵ Only if increase in the Total Revolving Facility Commitments.

SCHEDULE 14
FORMS OF NOTIFIABLE DEBT PURCHASE TRANSACTION NOTICE

Part 1

Form of Notice on entering into Notifiable Debt Purchase Transaction

To: [●]

as Agent

From: [*The Lender*]

Dated: [●]

[●] – [●] **Senior Facilities Agreement dated [●] (the “Facilities Agreement”)**

- 1 We refer to paragraph [●] of Clause 31 (*Restriction on Debt Purchase Transactions*) of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this notice unless given a different meaning in this notice.
- 2 We have entered into a Notifiable Debt Purchase Transaction.
- 3 The Notifiable Debt Purchase Transaction referred to in paragraph [2] above relates to the amount of our Commitment(s) as set out below.

Commitment

Amount of our Commitment to which Notifiable Debt Purchase Transaction relates (Base Currency)

[Facility B 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]

[Additional Facility Commitment]

[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]

[*Lender*]

By: _____

Part 2

Form of Notice on Termination of Notifiable Debt Purchase Transaction

Notifiable Debt Purchase Transaction ceasing to be with a member of the Group / Sponsor Affiliate

To: [●]

as Agent

From: [The Lender]

Dated: [●]

[●]–[●] **Senior Facilities Agreement dated [●] (the “Facilities Agreement”)**

- 1 We refer to Clause 32 (*Changes to the Obligors*) 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 member of the Group / 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]
[Revolving Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]
[Additional Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]

[Lender]

By: _____

The Parent

By: _____

Name: [●]

SCHEDULE 15

ADDITIONAL FACILITY

Part 1

Form of Additional Facility Lender Accession Notice

To: [●] as Agent and [●] as Security agent

From: [Proposed Additional Facility Lender]

Dated: [●]

Dear Sirs,

[●]–[●]Senior Facilities Agreement dated [●] (the “Facilities Agreement”)

1 We refer to the Facilities Agreement. This is an Additional Facility Lender Accession Notice for the purpose of the Facilities Agreement and a Creditor/Agent 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 Accession Notice unless given a different meaning in this Accession Notice.

2 [Name of Additional Facility Lender] (the “**New Additional Facility Lender**”) of [address/registered office] agrees to become an Additional Facility Lender and to be bound by the terms of the Facilities Agreement as a Lender under [insert details of relevant Additional Facility].

3 On the date the Additional Facility referred to above becomes effective in accordance with Clause 2.2 (*Additional Facility*) of the Facilities Agreement (the “**Effective Date**”), the New Additional Facility Lender shall become:

(a) party to the Facilities Agreement as a Lender; and

(b) party to the Intercreditor Agreement as a Senior Lender (as defined therein).

In consideration of the New Additional Facility Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined therein), the New Additional Facility Lender confirms that, as from the Effective 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.

4 [New Additional Facility Lender] administrative details for the purposes of the Facilities Agreement and the Intercreditor Agreement are as follows:

Address: [●]

Fax No: [●]

Attention: [●]

5 [insert any other relevant details (if any)]

- 6 It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.
- 7 This Additional Facility Lender Accession Notice has been executed and delivered as a deed on the date stated at the beginning of this Additional Facility Lender Accession Notice and is governed by English law.

[Proposed Additional Facility Lender]

By:

This Additional Facility Lender Accession Notice is accepted by the Agent and the Security Agent.

[Agent]

By:

[Security Agent]

By:

THE SCHEDULE
COMMITMENT TO BE ASSUMED

Administrative details of the New Lender

[insert details of Facility Office, address for notices and payment details etc.]

EXECUTED as a DEED

by [●]

Director/Secretary/Authorised Signatory

Director/Secretary/Authorised Signatory

EXECUTED AS A DEED by [Acceding Lender¹⁶]

acting by [Name] _____

and

[Name] _____

acting under the authority of that company,

in the presence of:

Witness's signature: _____

Name: [●]

Address: [●]

The Effective Date is confirmed by the Agent as [●].

[AGENT]

By: _____

As Agent

and for and on behalf of each of the parties to the Agreement (other than the Parent or the Obligors and the Acceding Lender)

¹⁶ Execution approach to be reviewed at the time of signing to ensure it is appropriate for the relevant Acceding Lender.

Part 2
Form of Additional Facility Notice for Additional Facility

From: [Parent], [Borrower], [Additional Facility Lenders]

To: [●] as Agent

Dated:

Dear Sirs

[●] – [●] Senior Facilities Agreement dated [●] (the “Facilities Agreement”)

1 We refer to the Facilities Agreement. This is an Additional Facility Notice in respect of an Additional Facility. Terms defined in the Facilities Agreement have the same meaning in this Additional Facility Notice unless given a different meaning in this Additional Facility Notice.

2 We wish to establish an Additional Facility on the following terms:

Borrower(s): [●]

Guarantor(s): [●]

Additional Facility Lenders (and allocated commitments): [●]

Aggregate amount of the commitments of the Additional Facility / Additional Facility Commitment: [●]

Base Currency: [●]

Other available/Optional Currencies (if any, as applicable): [●]

Interest rate and basis (if applicable) including Margin or margin ratchet: [●]

Additional Facility Commencement Date: [●]

Availability Period: [●]

Termination Date: [●]

Amortisation schedule (if any): [●]

Mandatory prepayment provisions (if any): [●]

Summary of security: [●]

Other:

[●]¹⁷

Yours faithfully

[Parent]

By:

Name:

Title:

Yours faithfully

[Borrower].

By:

Name:

Title:

Yours faithfully

[Additional Facility Lenders]

By:

Name:

Title:

¹⁷ Include any other applicable information requests or directions applicable to the Additional Facility.

Part 3

Form of Additional Facility Notice for a Permitted Alternative Debt

From: [Parent]

To: [●] as Agent

Dated:

Dear Sirs

[●] – [●] Senior Facilities Agreement dated [●] (the “Facilities Agreement”)

1 We refer to the Facilities Agreement. This is an Additional Facility Notice in respect of Permitted Alternative Debt described below. Terms defined in the Facilities Agreement have the same meaning in this Additional Facility Notice unless given a different meaning in this Additional Facility Notice.

2 We have [borrowed]/[issued]/[incurred] Permitted Alternative Debt on the following terms:

Borrower(s): [●]

Guarantor(s): [●]

Aggregate amount of the commitments of the Permitted Alternative Debt: [●]

Base Currency: [●]

Other available/optional currencies (if any, as applicable): [●]

Additional Facility Commencement Date: [●]

Availability period: [●]

Maturity date: [●]

Amortisation schedule (if any): [●]

Mandatory prepayment provisions (if any): [●]

Summary of security: [●]

Will the Intercreditor Agreement apply? Yes / No¹⁸

[Intercreditor Class for the Permitted Alternative Debt: [●]]¹⁹

¹⁸ If not, provide details of the relevant Finance Documents under which the Additional Facility will be documented under.

¹⁹ If the Intercreditor Agreement applies, state Intercreditor Class for the Additional Facility.

Other:

[●]²⁰

Yours faithfully

[*Parent*]

By:

Name:

Title:

²⁰ Include any other applicable information requests or directions applicable to the Additional Facility.

SCHEDULE 16

FORM OF DEBT PUSHDOWN CERTIFICATE

To: [●] as Agent

Cc: [●] as Security Agent

From: (1) [Original Borrower]

(2) [Debt Pushdown Borrower (the “New Borrower”)]

Dated: [●]

Dear Sirs,

[●] – [●] **Senior Facilities Agreement dated [●] (the “Facilities Agreement”)**

- 1 We refer to Clause 32.7 (*Debt Pushdown*) of the Facilities Agreement. This agreement (the “**Agreement**”) is the Debt Pushdown Certificate for the purposes of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning when used in this Agreement.
- 2 The Original Borrower and the Debt Pushdown Borrower agree to the Original Borrower transferring to the Debt Pushdown Borrower by [novation] all the rights and obligations of the Original Borrower (in its capacity as such) under the Finance Documents in respect of the following Loans:

Facility	Amount of Loan	Current Interest Period
Facility B	[specify amount in the signed SFA]	[●]
Total	[●]	[●]

- 3 The proposed Debt Pushdown Date is [●].
- 4 We confirm that no Event of Default is continuing or would occur as a result of the transfer referred to above.
- 5 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.
- 6 This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 7 This Agreement has been entered into on the date stated at the beginning of this Agreement.

Execution Page

[Original Borrower]

By:

Dated:

[Debt Pushdown Borrower]

By:

Dated:

Accepted by the [Agent]

By:

Dated:

Sponsor Precedent Intercreditor Agreement

EXECUTION VERSION

INTERCREDITOR AGREEMENT

_____ **JULY 2015**

Between

**COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A.
(ACTING AS RABOBANK)
as Senior Agent**

**COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A.
(ACTING AS RABOBANK)
as Second Lien Agent**

**COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A.
(ACTING AS RABOBANK)
as Security Agent**

AI ALABAMA MIDCO B.V.

and

**AI ALABAMA B.V.
as Original Debtors**

and others

ALLEN & OVERY

Allen & Overy LLP

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THIS AGREEMENT is dated _____ July 2015 and made:

BETWEEN:

- (1) **COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A. (ACTING AS RABOBANK)** as **Senior Agent**;
- (2) **COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A. (ACTING AS RABOBANK)** as **Second Lien Agent**;
- (3) **THE FINANCIAL INSTITUTIONS** named on the signing pages as Senior Lenders (the **Senior Lenders**);
- (4) **THE FINANCIAL INSTITUTIONS** named on the signing pages as **Second Lien Lenders** (the **Second Lien Lenders**);
- (5) **JEFFERIES FINANCE LLC, ING BANK NV, COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A. (ACTING AS RABOBANK)** and **MIZUHO BANK, LTD**, as **Senior Arrangers**;
- (6) **JEFFERIES FINANCE LLC**, as the **Second Lien Arranger**;
- (7) **AI ALABAMA HOLDING B.V.**, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands having its corporate seat (*statutaire zetel*) in Amsterdam, the Netherlands, its registered office at Herengracht 450, 1017 CA, Amsterdam, the Netherlands and registered with the Trade Register of the Chamber of Commerce (*Kamer van Koophandel, afdeling Handelsregister*) under number 63592967 (the **Original Investor**);
- (8) **AI ALABAMA MIDCO B.V.**, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands having its corporate seat (*statutaire zetel*) in Amsterdam, the Netherlands, its registered office at Herengracht 450, 1017 CA, Amsterdam, the Netherlands and registered with the Trade Register of the Chamber of Commerce (*Kamer van Koophandel, afdeling Handelsregister*) under number 63594412 (the **Parent**);
- (9) **AI ALABAMA B.V.**, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands having its corporate seat (*statutaire zetel*) in Amsterdam, the Netherlands, its registered office at Herengracht 450, 1017 CA, Amsterdam, the Netherlands and registered with the Trade Register of the Chamber of Commerce (*Kamer van Koophandel, afdeling Handelsregister*) under number 63278979 (the **Company**);
- (10) **THE COMPANIES** named in Schedule 7 (The Original Debtors) as **Original Debtors**;
- (11) **THE COMPANIES** named in Schedule 8 (The Original Intra-Group Lenders) as **Original Intra-Group Lenders**;
- (12) **COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A. (ACTING AS RABOBANK)** as security agent for the Secured Parties (the **Security Agent**);
- (13) **UPON ACCESSION** each **Hedge Counterparty**;
- (14) **UPON ACCESSION** each **Senior Secured Notes Trustee**;

- (15) **UPON ACCESSION** each **Second Lien Notes Trustee**;
- (16) **UPON ACCESSION** each **Senior Subordinated Agent**; and
- (17) **UPON ACCESSION** each **Senior Subordinated Notes Trustee**.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

1992 ISDA Master Agreement means the Master Agreement (Multicurrency-Cross Border) as published by the International Swaps and Derivatives Association, Inc.

2002 ISDA Master Agreement means the 2002 Master Agreement as published by the International Swaps and Derivatives Association, Inc.

Acceleration Event means a Senior Acceleration Event, a Senior Secured Notes Acceleration Event, a Second Lien Lender Acceleration Event, a Second Lien Notes Acceleration Event, a Senior Subordinated Acceleration Event or a Senior Subordinated Notes Acceleration Event.

Additional Facility has the meaning given to the term "Additional Facility" in the Senior Facilities Agreement.

Additional Security means all Transaction Security which, in accordance with the applicable law of such Transaction Security, is expressed to be second ranking (or any other lower ranking, such ranking to be determined on the basis of the chronological order in which such security is taken) in accordance with Clause 18.6 (New Transaction Security).

Additional Senior Facilities Agreement has the meaning given to the term that term in the definition of "Senior Facilities Agreement".

Affiliate has the meaning given to the term "Affiliate" in the Senior Facilities Agreement.

Agent means each of the Senior Agent, each Senior Secured Notes Trustee, the Second Lien Agent, each Second Lien Notes Trustee, each Senior Subordinated Agent, each Senior Subordinated Notes Trustee and the Security Agent.

Agent Liabilities means all present and future liabilities and obligations whether actual or contingent and whether incurred solely or jointly, of any Debtor to any Agent under the Debt Documents.

Aggregate Exchange Rate Hedged Amount means, in relation to a Hedge Counterparty, the aggregate of the notional amounts denominated in a Hedged Currency hedged by the relevant Debtors under each Hedging Agreement which is an exchange rate hedge transaction and to which that Hedge Counterparty is party.

Aggregate Interest Rate Hedged Amount means, in relation to a Hedge Counterparty, the aggregate of the notional amounts hedged by the relevant Debtors under each Hedging Agreement which is an interest rate hedge transaction and to which that Hedge Counterparty is party.

Agreed Security Principles has the meaning given to the term "Agreed Security Principles" in the Senior Facilities Agreement.

Ancillary Document has the meaning given to the term "Ancillary Document" in the Senior Facilities Agreement.

Ancillary Facility has the meaning given to the term "Ancillary Facility" in the Senior Facilities Agreement.

Ancillary Lender means each Senior Lender (or Affiliate of a Senior Lender) which makes an Ancillary Facility available pursuant to the terms of the Senior Facilities Agreement.

Arranger means each Senior Arranger, each Second Lien Arranger and each Senior Subordinated Arranger.

Arranger Liabilities means all present and future liabilities and obligations (whether actual and contingent and whether incurred solely or jointly) of any Debtor to any Arranger under the Debt Documents.

Available Commitment means the Available Senior Commitment, the Available Second Lien Commitment or the Available Subordinated Commitment as the case may be.

Available Second Lien Commitment has the meaning given to the term "Available Commitment" in the Second Lien Facility Agreement.

Available Senior Commitment has the meaning given to the term "Available Commitment" in the Senior Facilities Agreement.

Available Subordinated Commitment has the meaning given to the term "Available Commitment" in a Senior Subordinated Facility Agreement.

Borrowing Liabilities means, in relation to a member of the Group, the liabilities (not being Guarantee Liabilities) it may have as a principal debtor to a Creditor or Debtor in respect of Financial Indebtedness arising under the Debt Documents (whether incurred solely or jointly and including, without limitation, liabilities as a Borrower under and as defined in the Senior Finance Documents, as a Borrower under and as defined in the Second Lien Lender Finance Documents or a Senior Subordinated Borrower under the Senior Subordinated Facility Finance Documents (as applicable) and liabilities as issuer under the Senior Secured Notes Finance Documents, the Second Lien Notes Finance Documents and/or the Senior Subordinated Notes Finance Documents).

Business Day has the meaning given to the term "Business Day" in the Senior Facilities Agreement.

Cash Equivalent Investments has the meaning given to the term "Cash Equivalent Investments" in the Senior Facilities Agreement.

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

Close-Out Netting means:

- (a) in respect of a Hedging Agreement or a Hedging Ancillary Document based on a 1992 ISDA Master Agreement, any step involved in determining the amount payable in respect of an Early Termination Date (as defined in the 1992 ISDA Master Agreement) under section 6(e)

of the 1992 ISDA Master Agreement before the application of any subsequent Set-off (as defined in the 1992 ISDA Master Agreement);

- (b) in respect of a Hedging Agreement or a Hedging Ancillary Document based on a 2002 ISDA Master Agreement, any step involved in determining an Early Termination Amount (as defined in the 2002 ISDA Master Agreement) under section 6(e) of the 2002 ISDA Master Agreement; and
- (c) in respect of a Hedging Agreement or a Hedging Ancillary Document not based on an ISDA Master Agreement, any step involved on a termination of the hedging transactions under that Hedging Agreement pursuant to any provision of that Hedging Agreement which has a similar effect to either provision referenced in paragraph (a) and paragraph (b) above.

Common Assurance means any guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the benefit of which (however conferred) is, to the extent legally possible and subject to any Agreed Security Principles, given to all the Priority Secured Parties in respect of their Priority Secured Liabilities.

Common Currency means euro.

Common Currency Amount means, in relation to an amount, that amount converted (to the extent not already denominated in the Common Currency) into the Common Currency at the Security Agent's Spot Rate of Exchange on the Business Day prior to the relevant calculation.

Common Transaction Security means any Transaction Security which to the extent legally possible and subject to any Agreed Security Principles:

- (a) is created, or expressed to be created, in favour of the Security Agent as agent or trustee for the other Priority Secured Parties in respect of the Priority Secured Liabilities; or
- (b) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as agent or trustee for the Priority Secured Parties is created, or expressed to be created, in favour of:
 - (i) all the Priority Secured Parties in respect of the Priority Secured Liabilities; or
 - (ii) the Security Agent under a parallel debt or joint and several creditorship structure for the benefit of all the Priority Secured Parties,

and which ranks in the order of priority contemplated in Clause 2.2 (Transaction Security).

Competitive Process means a public or private auction or other competitive sale process in which more than one bidder participates or is invited to participate (including any person invited that is a Primary Creditor at the time of such invitation), which may or may not be conducted through a court or other legal proceeding, and which is conducted in accordance with (in all material respects) the advice of a reputable internationally recognised investment bank, firm of accountants or independent third party professional firm which is regularly engaged in such sale processes in the relevant jurisdiction.

Consent means any consent, approval, release or waiver or agreement to any amendment.

Corresponding Debt has the meaning given to that term in paragraph (b) of Clause 19.3 (Parallel Debt).

Credit Related Close-Out means any Permitted Hedge Close-Out which is not a Non-Credit Related Close-Out.

Creditor Conflict means, at any time prior to the Priority Discharge Date, a conflict between:

- (a) the interests of any Senior Secured Creditor and the interests of any Second Lien Creditor or any Senior Subordinated Creditor; or
- (b) the interests of any Second Lien Creditor and the interests of any Senior Secured Creditor or any Senior Subordinated Creditor.

Creditor/Agent Accession Undertaking means:

- (a) an undertaking substantially in the form set out in Schedule 2 (Form of Creditor/Agent Accession Undertaking);
- (b) a Transfer Certificate or an Assignment Agreement (each as defined in the Senior Facilities Agreement, the Second Lien Facility Agreement or a Senior Subordinated Facility Agreement (as applicable));
- (c) an Additional Facility Lender Accession Notice (each as defined in the Senior Facilities Agreement, the Second Lien Facility Agreement or a Senior Subordinated Facility Agreement (as applicable)); or
- (d) an Increase Confirmation (as defined in the Senior Facilities Agreement, the Second Lien Facility Agreement or a Senior Subordinated Facility Agreement (as applicable)),

as the context may require; or

- (e) in the case of an acceding Debtor which is expressed to accede as an Intra-Group Lender in the relevant Debtor Accession Undertaking, that Debtor Accession Undertaking.

Creditors means the Senior Lenders, the Hedge Counterparties, the Agents, the Arrangers, the Senior Secured Noteholders, the Second Lien Lenders, the Second Lien Noteholders, the Senior Subordinated Lenders, the Senior Subordinated Noteholders, the Intra-Group Lenders, the Parent and the Investors.

Debt Document means each of this Agreement, the Senior Secured Finance Documents, the Second Lien Finance Documents, the Senior Subordinated Finance Documents, the Security Documents, any agreement and/or accounting record evidencing the terms of the Parent Liabilities, the Investor Liabilities or the Intra-Group Liabilities and any other document and/or accounting record designated as such by the Security Agent and the Parent.

Debtor means each Original Debtor and any person which becomes a Party as a Debtor in accordance with the terms of Clause 21 (Changes to the Parties).

Debtor Accession Deed means:

- (a) a Debtor Accession Undertaking; or
- (b) (only in the case of a member of the Group which is acceding as a borrower or guarantor under the Senior Facilities Agreement) an Accession Deed (as defined in the Senior Facilities Agreement); or

- (c) (only in the case of a member of the Group which is acceding as a borrower or guarantor under the Second Lien Facility Agreement) an Accession Deed (as defined in the Second Lien Facility Agreement); or
- (d) (only in the case of a member of the Group which is acceding as a borrower or guarantor under a Senior Subordinated Facility Agreement) an Accession Deed (as defined in that Senior Subordinated Facility Agreement).

Debtor Accession Undertaking means a deed substantially in the form set out in Schedule 1 (Form of Debtor Accession Undertaking).

Debtor Liabilities means, in relation to a member of the Group, any liabilities owed to any Debtor (whether actual or contingent and whether incurred solely or jointly) by that member of the Group.

Debtor Resignation Request means a notice substantially in the form set out in Schedule 3 (Form of Debtor Resignation Request).

Default means an Event of Default or any event which would (with the expiry of a grace period or the giving of notice provided for in the relevant definition of event of default under the relevant Debt Document or any combination of the foregoing) be an Event of Default provided that any such event or circumstance which requires the satisfaction of a condition as to materiality before it becomes an Event of Default shall not be an Event of Default until such condition is satisfied.

Defaulting Lender means a Defaulting Senior Lender, a Defaulting Second Lien Lender or a Defaulting Senior Subordinated Lender as the case may be.

Defaulting Second Lien Lender means in relation to a Second Lien Lender, a Second Lien Lender which is a Defaulting Lender under, and as defined in the Second Lien Facility Agreement.

Defaulting Senior Lender means in relation to a Senior Lender, a Senior Lender which is a Defaulting Lender under, and as defined in the Senior Facilities Agreement.

Defaulting Senior Subordinated Lender means in relation to a Senior Subordinated Lender, a Senior Subordinated Lender which is a Defaulting Lender under, and as defined in a Senior Subordinated Facility Agreement.

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

Designated Gross Amount means, in relation to a Multi-account Overdraft Facility, that Multi-account Overdraft Facility's maximum gross amount.

Designated Net Amount means, in relation to a Multi-account Overdraft Facility, that Multi-account Overdraft Facility's maximum net amount.

Disposal Proceeds has the meaning given to that term in paragraph (a) of Clause 15 (Proceeds of Disposals, Recoveries from Report Providers and Adjustment of Mandatory Prepayments).

Distress Event means any of:

- (a) an Acceleration Event which has occurred and is continuing; or
- (b) the enforcement of any Transaction Security as a result of an Acceleration Event which has occurred and is continuing.

Distressed Disposal means a disposal of an asset or shares of a member of the Group (other than shares in the Parent) which is:

- (a) being effected at the request of an Instructing Group in circumstances where the Transaction Security has become enforceable as a result of an Acceleration Event which was continuing at the time the request for enforcement was made;
- (b) being effected by enforcement of the Transaction Security as a result of an Acceleration Event which was continuing at the time the request for enforcement was made; or
- (c) being effected, after the occurrence of a Distress Event, by a Debtor to a person or persons which is not a member of the Group.

Dutch Civil Code means the Dutch Civil Code (*Burgerlijk Wetboek*).

Enforcement Action means:

- (a) in relation to any Liabilities:
 - (i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a Senior Lender, a Senior Secured Noteholder, a Second Lien Lender, a Second Lien Noteholder, a Senior Subordinated Lender or a Senior Subordinated Noteholder to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Debt Documents);
 - (ii) the making of any declaration that any Liabilities are payable on demand;
 - (iii) the making of a demand in relation to a Liability that is payable on demand;
 - (iv) the making of any demand against any member of the Group in relation to any Guarantee Liabilities of that member of the Group;
 - (v) the exercise of any right to require any member of the Group to acquire any Liability (including exercising any put or call option against any member of the Group for the redemption or purchase of any Liability but excluding any such right which arises as a result of clause 30.1 (Permitted Debt Purchase Transactions) of the Senior Facilities Agreement, clause 28.1 (Permitted Debt Purchase Transactions) of the Second Lien Facility Agreement or any similar provisions in the Senior Secured Notes Finance Documents, Second Lien Notes Finance Documents, the Senior Subordinated Facility Agreement or the Senior Subordinated Notes Finance Documents and excluding any mandatory offer arising as a result of a change of control or asset sale (howsoever described) as set out in the Notes Finance Documents, the Senior Facilities Agreement, the Second Lien Facility Agreement or a Senior Subordinated Facility Agreement);
 - (vi) the exercise of any right of set-off, account combination or payment netting against any member of the Group in respect of any Liabilities other than the exercise of any such right:
 - (A) as Close-Out Netting by a Hedge Counterparty or by a Hedging Ancillary Lender;

- (B) as Payment Netting by a Hedge Counterparty or by a Hedging Ancillary Lender;
 - (C) as Inter-Hedging Agreement Netting by a Hedge Counterparty;
 - (D) as Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender; and
 - (E) which is otherwise expressly permitted under the Senior Facilities Agreement, the Senior Secured Notes Finance Documents, the Second Lien Facility Agreement, the Second Lien Notes Finance Documents, the Senior Subordinated Facility Agreement or the Senior Subordinated Notes Finance Documents to the extent that the exercise of that right gives effect to a Permitted Payment; and
- (vii) the suing for, commencing or joining of any legal or arbitration proceedings against any member of the Group to recover any Liabilities;
- (b) the premature termination or close-out of any hedging transaction under any Hedging Agreement save to the extent permitted by this Agreement;
 - (c) the taking of any steps to enforce or require the enforcement of any Transaction Security (including the crystallisation of any floating charge forming part of the Transaction Security) and the giving of any notices required by applicable law prior to enforcing any Transaction Security;
 - (d) the entering into of any composition, compromise, assignment or similar arrangement with any member of the Group which owes any Liabilities, or has given any Security, guarantee or indemnity or other assurance against loss in respect of the Liabilities (other than any action permitted under Clause 21 (Changes to the Parties) or any debt buy-backs pursuant to open market debt repurchases, tender offers or exchange offers entered into in accordance with the Senior Secured Finance Documents, the Second Lien Finance Documents and the Senior Subordinated Finance Documents, as applicable, and not undertaken as part of an announced restructuring or turnaround plan or while a Default was outstanding under the relevant Senior Secured Finance Documents, Second Lien Finance Documents or Senior Subordinated Finance Documents (as applicable)); or
 - (e) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to, the winding up, dissolution, administration or reorganisation of any member of the Group which owes any Liabilities, or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any of such member of the Group's assets or any suspension of payments or moratorium of any indebtedness of any such member of the Group, or any analogous procedure or step in any jurisdiction,

except that the following shall not constitute Enforcement Action:

- (i) the taking of any action falling within paragraph (a)(vii) or (e) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods; or

- (ii) unless an Acceleration Event is continuing, a demand made by the Investor or an Intra-Group Lender or the Parent in relation to the Investor Liabilities, Intra-Group Liabilities or Parent Liabilities to the extent that any resulting payment would constitute a Permitted Payment or Permitted Transaction (each as defined in the Senior Facilities Agreement and Second Lien Facility Agreement) and any Investor Liability, Intra-Group Liability or Parent Liability of a member of the Group being released or discharged in consideration for the issue of shares in that member of the Group provided that the ownership interest of the member of the Group prior to such issue is not diluted as a result and provided further that (in any such case) in the event that the shares of such member of the Group are subject to Transaction Security prior to such issue, then the percentage of shares in such Subsidiary subject to Transaction Security is not diluted;
- (iii) an Ancillary Lender, Hedge Counterparty, Issuing Bank, Second Lien Agent, Second Lien Notes Trustee, Senior Subordinated Agent or Senior Subordinated Notes Trustee bringing legal proceedings against any person solely for the purpose of:
 - (A) obtaining injunctive relief (or any analogous remedy outside England and Wales) to restrain any actual or putative breach of any Debt Document to which it is party;
 - (B) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages;
 - (C) requesting judicial interpretation of any provision of any Debt Document to which it is party with no claim for damages; or
 - (D) bringing legal proceedings against any person in connection with any securities violation, securities or listing relations or common law fraud or to restrain any actual or putative breach of the Senior Secured Finance Documents, Second Lien Finance Documents or the Senior Subordinated Finance Documents or for specific performance with no claims for damages.

Event of Default means any event or circumstance specified as such in the Senior Facilities Agreement, a Senior Secured Notes Indenture, the Second Lien Facility Agreement, a Second Lien Notes Indenture, a Senior Subordinated Facility Agreement or a Senior Subordinated Notes Indenture, as the context requires.

Exchange Rate Hedge Excess means the amount by which the Total Exchange Rate Hedged Amount exceeds the Permitted Maximum Exchange Rate Hedged Amount.

Exchange Rate Hedge Proportion means, in relation to a Hedge Counterparty and that Hedge Counterparty's Aggregate Exchange Rate Hedged Amount, the proportion (expressed as a percentage) borne by that Hedge Counterparty's Aggregate Exchange Rate Hedged Amount to the Total Exchange Rate Hedged Amount.

Exposure has the meaning given to that term in Clause 17.1 (Equalisation Definitions).

Final Discharge Date means the latest to occur of the Senior Secured Discharge Date, the Second Lien Discharge Date and the Senior Subordinated Discharge Date.

Finance Party has the meaning given to the term "Finance Party" in the Senior Facilities Agreement.

Financial Indebtedness has the meaning given to the term "Financial Indebtedness" in the Senior Facilities Agreement.

French Law Transaction Security Document means any Transaction Security Document which is governed by the laws of France.

Group means the Parent and each of its Subsidiaries from time to time.

Group Recoveries has the meaning given to that term in Clause 16.1 (Order of Application of Group Recoveries).

Guarantee Liabilities means, in relation to a member of the Group, the liabilities under the Debt Documents (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Creditor or Debtor as or as a result of it being a guarantor or surety (including, without limitation, liabilities arising by way of guarantee, indemnity, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of the Senior Finance Documents, the Senior Secured Notes Finance Documents, the Second Lien Lender Finance Documents, the Second Lien Notes Finance Documents, the Senior Subordinated Facility Finance Documents or the Senior Subordinated Notes Finance Documents).

Guarantee Limitations has the meaning given to that term in the Senior Facilities Agreement.

Hedge Counterparty means any person which becomes Party as a Hedge Counterparty pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking), which, in each case, is or has become party to the Senior Facilities Agreement as a Hedge Counterparty.

Hedge Counterparty Obligations means the obligations owed by any Hedge Counterparty to the Debtors under or in connection with the Hedging Agreements.

Hedge Transfer means a transfer to the Senior Secured Note Creditors, the Second Lien Creditors or the Senior Subordinated Creditors (or to a nominee or nominees of the Senior Secured Note Creditors, the Second Lien Creditors or the Senior Subordinated Creditors) of each Hedging Agreement together with:

- (a) all the rights and benefits in respect of the Hedging Liabilities owed by the Debtors to each Hedge Counterparty; and
- (b) all the Hedge Counterparty Obligations owed by each Hedge Counterparty to the Debtors,

in accordance with Clause 21.4 (Change of Hedge Counterparty) as described in, and subject to, Clause 3.11 (Hedge Transfer: Senior Secured Note Creditors), Clause 6.17 (Hedge Transfer: Second Lien Creditors) or Clause 7.16 (Hedge Transfer: Senior Subordinated Creditors) (as applicable).

Hedged Currency means the currency (other than euro) in which a portion of the Senior Term Loans, Senior Secured Notes, Second Lien Loans, Second Lien Notes, Senior Subordinated Loans or Senior Subordinated Notes is denominated.

Hedging Agreement means any agreement entered into by a Hedge Counterparty and which is defined as such in the Senior Facilities Agreement.

Hedging Ancillary Document means an Ancillary Document which relates to or evidences the terms of a Hedging Ancillary Facility.

Hedging Ancillary Facility means an Ancillary Facility which is made available by way of a hedging facility.

Hedging Ancillary Lender means an Ancillary Lender to the extent that that Ancillary Lender makes available a Hedging Ancillary Facility.

Hedging Letter has the meaning given to the term "Hedging Letter" in the Senior Facilities Agreement.

Hedging Liabilities means the Liabilities owed by any Debtor to the Hedge Counterparties under or in connection with the Hedging Agreements.

Hedging Purchase Amount means, in respect of a hedging transaction under a Hedging Agreement, the amount that would be payable to (expressed as a positive number) or by (expressed as a negative number) the relevant Hedge Counterparty on the relevant date if:

- (a) that date was an Early Termination Date (as defined in the relevant ISDA Master Agreement); and
- (b) the relevant Debtor was the Defaulting Party (under and as defined in the relevant ISDA Master Agreement),

in each case as certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

Holding Company has the meaning given to the term "Holding Company" in the Senior Facilities Agreement.

Impaired Agent means:

- (a) a Senior Agent which is an Impaired Agent under, and as defined in the Senior Facilities Agreement;
- (b) a Second Lien Agent which is an Impaired Agent under, and as defined in the Second Lien Facility Agreement; or
- (c) a Senior Subordinated Agent which is an Impaired Agent under, and as defined in a Senior Subordinated Facility Agreement.

InsO means the German Insolvency Code (*Insolvenzordnung*).

Insolvency Event means any formal corporate action or legal proceeding is taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding up, dissolution, bankruptcy, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Material Subsidiary or any Obligor;
- (b) a composition, compromise, assignment or arrangement with financial creditors generally (other than any Secured Party) of any Material Subsidiary or any Obligor in connection with or as a result of any financial difficulty on the part of the Material Subsidiary or Obligor;
- (c) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of, or all or any part of the business or assets of any Obligor or any Material Subsidiary;

- (d) a filing of an application for the opening of insolvency proceedings for the reasons set out in sections 17 to 19 of the InsO by a member of the management board or a director of any Material Subsidiary or any Obligor or by one of its creditors; or
- (e) any analogous procedure or step is taken in any jurisdiction (including, in Spain, a "*declaración de concurso, con independencia de su carácter necesario o voluntario*", any notice to a competent court pursuant to article 5.bis or article 231 of the Spanish Insolvency Law, any "*solicitud de inicio de procedimiento de concurso, auto de declaración de concurso, convenio judicial o extrajudicial de acreedores*" and "*transacción judicial o extrajudicial*"),

other than (in each case):

- (i) any proceedings which are frivolous or vexatious and which, if capable of remedy, are discharged, stayed or dismissed within 20 Business Days of commencement or, if earlier, the date on which it is advertised (or such other period as agreed between the Parent and the Instructing Group);
- (ii) (in the case of an application to appoint an administrator or commence proceedings) any proceedings which the Security Agent is satisfied (acting on the instructions of the Instructing Group) will be withdrawn before it is heard or will be unsuccessful; or
- (iii) any step or procedure contemplated in relation to merger that is permitted under clause 27.10 (Amalgamations and Change of Business) of the Senior Facilities Agreement or any Permitted Transaction as defined in Senior Facilities Agreement.

Instructing Group means at any time:

- (a) prior to the Senior Secured Discharge Date, the Majority Senior Secured Creditors;
- (b) on or after the Senior Secured Discharge Date but before the Priority Discharge Date, the Majority Second Lien Creditors; and
- (c) on or after the Priority Discharge Date but before the Senior Subordinated Discharge Date, the Majority Senior Subordinated Creditors.

Intercreditor Amendment means any amendment or waiver which is subject to Clause 27 (Consents, Amendments and Override).

Interest Rate Hedge Excess means the amount by which the Total Interest Rate Hedged Amount exceeds the Permitted Maximum Interest Rate Hedged Amount.

Interest Rate Hedge Proportion means, in relation to a Hedge Counterparty and that Hedge Counterparty's Aggregate Interest Rate Hedged Amount, the proportion (expressed as a percentage) borne by that Hedge Counterparty's Aggregate Interest Rate Hedged Amount to the Total Interest Rate Hedged Amount.

Inter-Hedging Agreement Netting means the exercise of any right of set-off, account combination, close-out netting or payment netting (whether arising out of a cross agreement netting agreement or otherwise) by a Hedge Counterparty against liabilities owed to a Debtor by that Hedge Counterparty under a Hedging Agreement in respect of Hedging Liabilities owed to that Hedge Counterparty by that Debtor under another Hedging Agreement.

Inter-Hedging Ancillary Document Netting means the exercise of any right of set-off, account combination, close-out netting or payment netting (whether arising out of a cross agreement netting agreement or otherwise) by a Hedging Ancillary Lender against liabilities owed to a Debtor by that Hedging Ancillary Lender under a Hedging Ancillary Document in respect of Senior Lender Liabilities owed to that Hedging Ancillary Lender by that Debtor under another Hedging Ancillary Document.

Intra-Group Lenders means each Original Intra-Group Lender and each member of the Group which has made a loan available to, granted credit to or made any other financial arrangement having similar effect with another member of the Group and which becomes a party as an Intra-Group Lender in accordance with the terms of Clause 21 (Changes to the Parties).

Intra-Group Liabilities means the Liabilities owed by any member of the Group to any of the Intra-Group Lenders (but not including any Parent Liabilities and, for the avoidance of doubt, any Investor Liabilities).

Investor Documents means the constitutional documents of the Parent, any agreement providing for a loan by an Investor to the Parent and any other document or agreement providing for the payment of any amount by any member of the Group to an Investor (or any Affiliate of an Investor which is not a member of the Group but which is primarily engaged in the private equity business of the Investors) but excluding any amount due to an Affiliate of an Investor which is not a member of the Group in the ordinary course of trade.

Investor Liabilities means all money and liabilities now or in the future due or owing to any Investor (or any Affiliate of an Investor which is not a member of the Group but which is primarily engaged in the private equity business of the Investors) by any member of the Group under or in connection with any Investor Document in any currency, whether actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all accruing interest, all related costs, charges and expenses but excluding any amount due to an Affiliate of an Investor which is not a member of the Group in the ordinary course of trade.

Investors means the Original Investor and each party that enters into a Creditor/Agent Accession Undertaking as an Investor (as defined in that Creditor/Agent Accession Undertaking).

ISDA Master Agreement means a 1992 ISDA Master Agreement or a 2002 ISDA Master Agreement.

Issuing Bank has the meaning given to the term "Issuing Bank" in the Senior Facilities Agreement.

Italian Civil Code means the Italian civil code, enacted by Royal Decree No. 262 of 16 March 1942, as subsequently amended and supplemented from time to time.

Legal Reservations has the meaning given to the term "Legal Reservations" in the Senior Facilities Agreement.

Letter of Credit has the meaning given to the term "Letter of Credit" in the Senior Facilities Agreement.

Liabilities means all present and future liabilities and obligations at any time of any member of the Group to any Creditor under the Debt Documents (including by way of the grant of Security thereunder), both actual and contingent and whether incurred solely or jointly or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

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

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

Liabilities Acquisition means, in relation to a person and to any Liabilities, a transaction where that 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,

the rights and benefits in respect of those Liabilities.

Majority Second Lien Creditors means, at any time, those Second Lien Creditors whose Second Lien Credit Participations at that time aggregate more than $66\frac{2}{3}\%$ of the total Second Lien Credit Participations at that time.

Majority Second Lien Lenders has the meaning given to the term "Majority Lenders" in the Second Lien Facility Agreement after the application of:

- (a) paragraph (q) of clause 39.3 (Exceptions);
- (b) paragraphs (h)(iii) and (iv) of clause 28.1 (Permitted Debt Purchase Transactions); and
- (c) clause 39.7 (Disenfranchisement of Defaulting Lenders),

of the Second Lien Facility Agreement.

Majority Senior Creditors means, at any time, those Senior Creditors whose Senior Credit Participations at that time aggregate more than $66\frac{2}{3}\%$ of the total Senior Credit Participations at that time.

Majority Senior Lenders has the meaning given to the term "Majority Lenders" in the Senior Facilities Agreement after the application of:

- (a) paragraph (q) of clause 39.3 (Exceptions);
- (b) paragraphs (h)(iii) and (iv) of clause 30.1 (Permitted Debt Purchase Transactions); and
- (c) clause 41.6 (Disenfranchisement of Defaulting Lenders),

of the Senior Facilities Agreement.

Majority Senior Secured Creditors means:

- (a) at any time when there are no Senior Secured Notes Liabilities outstanding, those Senior Creditors whose Senior Credit Participations at that time aggregate more than 66⅔% of the total Senior Credit Participations at that time; and
- (b) at any time when there are Senior Secured Notes Liabilities outstanding, those Senior Secured Creditors whose Senior Secured Credit Participations at that time aggregate more than 50% of the total Senior Secured Credit Participations at that time.

Majority Senior Subordinated Creditors means those Senior Subordinated Creditors whose Senior Subordinated Credit Participations at that time aggregate more than 50% of the total Senior Subordinated Credit Participations at that time.

Mandatory Prepayment means a Senior Mandatory Prepayment, a Senior Secured Notes Mandatory Prepayment, a Second Lien Lender Mandatory Prepayment, a Second Lien Notes Mandatory Prepayment, a Senior Subordinated Loan Mandatory Prepayment or a Senior Subordinated Notes Mandatory Prepayment.

Material Adverse Effect has the meaning given to the term "Material Adverse Effect" in the Senior Facilities Agreement.

Material Event of Default means an Event of Default under the Senior Facilities Agreement in respect of clauses 28.2 (Financial covenant), 28.3 (Other Obligations) in so far as the Majority Senior Secured Creditors determine that the Event of Default has or is reasonably likely to have a Material Adverse Effect, 28.4 (Misrepresentation) in so far as the Majority Senior Secured Creditors determine that the Event of Default has or is reasonably likely to have a Material Adverse Effect, 28.5(b) (Invalidity and Unlawfulness) (but only to the extent that the invalidity relates to a Security Document or this Agreement), 28.6 (Cross Default), 28.7 (Insolvency), 28.8 (Insolvency Proceedings), 28.9 (Attachment or process), 28.10 (Similar events elsewhere), 28.15 (Intercreditor) or 28.16 (Material Adverse Change) of the Senior Facilities Agreement or an Event of Default under the equivalent clauses of a Senior Secured Notes Indenture.

Material Subsidiary has the meaning given to the term "Material Subsidiary" in the Senior Facilities Agreement.

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

Multi-account Overdraft Liabilities means Liabilities arising under any Multi-account Overdraft Facility.

Non-Credit Related Close-Out means a Permitted Hedge Close-Out described in any of paragraph (a)(i), (a)(iii), (a)(vi) or (a)(vii) of Clause 4.9 (Permitted Enforcement: Hedge Counterparties).

Noteholders means the Senior Secured Noteholders, the Second Lien Noteholders or the Senior Subordinated Noteholders.

Notes means any Senior Secured Notes, any Second Lien Notes and any Senior Subordinated Notes.

Notes Finance Documents means:

- (a) in respect of the Senior Secured Notes, the Senior Secured Notes Finance Documents;
- (b) in respect of the Second Lien Notes, the Second Lien Notes Finance Documents; and
- (c) in respect of the Senior Subordinated Notes, the Senior Subordinated Notes Finance Documents.

Notes Indenture means:

- (a) in respect of the Senior Secured Notes, the Senior Secured Notes Indenture;
- (b) in respect of the Second Lien Notes, the Second Lien Notes Indenture; and
- (c) in respect of the Senior Subordinated Notes, the Senior Subordinated Notes Indenture.

Notes Security Cost means necessary costs and expenses of any holder of Security in relation to the protection, preservation or enforcement of such Security.

Notes Trustee means:

- (a) in respect of the Senior Secured Notes, each Senior Secured Notes Trustee;
- (b) in respect of the Second Lien Notes, each Second Lien Notes Trustee; and
- (c) in respect of the Senior Subordinated Notes, each Senior Subordinated Notes Trustee.

Notes Trustee Amounts means the Senior Secured Notes Trustee Amounts, the Second Lien Notes Trustee Amounts and the Senior Subordinated Notes Trustee Amounts.

Other Liabilities means, in relation to a member of the Group, any trading and other liabilities (not being Borrowing Liabilities or Guarantee Liabilities) it may have to any Agent or any Arranger under the Debt Documents or to an Intra-Group Lender or Debtor.

Parallel Debt has the meaning given to that term in paragraph (b) of Clause 19.3 (Parallel Debt).

Parent Documents means the constitutional documents of the Company, any agreement providing for a loan by the Parent to any other member of the Group and any other document or agreement providing for the payment of any amount by any member of the Group (other than the Parent) to the Parent.

Parent Liabilities means all Liabilities owed by any member of the Group (other than the Parent) to the Parent.

Party means a party to this Agreement.

Payment means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, repurchase, defeasance or discharge of those Liabilities (or other liabilities or obligations).

Payment Netting means netting under section 2(c) of the relevant ISDA Master Agreement.

Perfection Requirements has the meaning given to the term "Perfection Requirements" in the Senior Facilities Agreement.

Permitted Administrative Costs means the reasonable and ordinary course administrative and maintenance costs, expenses and taxes of the Parent (in acting as a holding company for the Group and in acting as the borrower or issuer of the Senior Subordinated Liabilities) including any reporting or listing requirements.

Permitted Alternative Debt has the meaning given to the term "Permitted Alternative Debt" in the Senior Facilities Agreement and the Second Lien Facility Agreement.

Permitted Debt means any Additional Facility, Second Lien Additional Facility, any other Permitted Alternative Debt or any Liabilities arising from any Permitted Refinancing.

Permitted Gross Amount means, in relation to a Multi-account Overdraft Facility, any amount, not exceeding the Designated Gross Amount, which is the aggregate gross debit balance of overdrafts comprised in that Multi-account Overdraft Facility.

Permitted Hedge Close-Out means, in relation to a hedging transaction under a Hedging Agreement, a termination or close-out of that hedging transaction which is permitted pursuant to Clause 4.9 (Permitted Enforcement: Hedge Counterparties).

Permitted Hedge Payments means the Payments permitted by Clause 4.3 (Permitted Payments: Hedging Liabilities).

Permitted Intra-Group Payments means the Payments permitted by Clause 10.2 (Permitted Payments: Intra-Group Liabilities).

Permitted Maximum Exchange Rate Hedged Amount means an amount equal to the aggregate of 100% of the portion of any Senior Term Loan, Second Lien Loan and/or Senior Subordinated Loan that is drawn in a Hedged Currency and 100% of the portion of the principal amount of the Senior Secured Notes Liabilities, the Second Lien Notes Liabilities and the Senior Subordinated Notes Liabilities that are not denominated in the Base Currency.

Permitted Maximum Interest Rate Hedged Amount means an amount equal to the Term Outstandings and the aggregate principal amount of the Senior Secured Notes Liabilities, the Second Lien Notes Liabilities and the Senior Subordinated Notes Liabilities in each case with a floating rate of interest.

Permitted Parent Payments means the Payments permitted by Clause 9.2 (Permitted Parent Payment).

Permitted Payment means a Permitted Hedge Payment, a Permitted Intra-Group Payment, a Permitted Second Lien Payment, a Permitted Senior Subordinated Payment, a Permitted Parent Payment or a Permitted Senior Secured Credit Payment.

Permitted Refinancing means any borrowing, incurrence, refinancing, replacement, exchange or discharge of any Liabilities which are permitted or not prohibited by or pursuant to Clause 18.1 (Senior Secured Creditor Liabilities Refinancing), Clause 18.2 (Second Lien Creditor Liabilities Refinancing) and/or Clause 18.3 (Senior Subordinated Notes Refinancing).

Permitted Second Lien Increase means any amount arising as a result of the capitalisation of interest as permitted by paragraph (a)(i)(C) of Clause 6.3 (Permitted Second Lien Payments) or any

amount resulting from a conversion of cash pay interest to capitalised interest as permitted by paragraph (c)(ii)(C) of Clause 6.8 (Amendments and Waivers: Second Lien Creditors), any increase under clause 2.2 (Additional Facilities) (as set out in the original form of the Second Lien Facility Agreement), or clause 2.3 (Increase) of the Second Lien Facility Agreement (as set out in the original form of the Second Lien Facility Agreement) or attributable to any Second Lien Structural Adjustment (or any equivalent clause or concept in any Additional Second Lien Facilities Agreement) or any other increase of Second Lien Liabilities which constitute Permitted Alternative Debt; or as a result of the exercise of any market flex provision relating thereto.

Permitted Second Lien Payments means the Payments permitted by Clause 6.3 (Permitted Second Lien Payments).

Permitted Senior Increase means any increase under clause 2.2 (Additional Facility) (as set out in the original form of the Senior Facilities Agreement), or clause 2.3 (Increase) of the Senior Facilities Agreement (as set out in the original form of the Senior Facilities Agreement) or attributable to any Senior Structural Adjustment (or any equivalent clause or concept in any Additional Senior Facilities Agreement) or any other increase of Senior Secured Liabilities which constitute Permitted Alternative Debt; or as a result of the exercise of any market flex provision relating thereto.

Permitted Senior Secured Credit Payments means the Payments permitted by Clause 3.1 (Payments of Senior Secured Creditor Liabilities).

Permitted Senior Subordinated Payments means the Payments permitted by Clause 7.3 (Permitted Senior Subordinated Payments).

Permitted Structural Adjustment means any Senior Structural Adjustment, Second Lien Structural Adjustment or any other equivalent provision in the other Primary Debt Documents.

Primary Creditors means:

- (a) the Senior Secured Creditors;
- (b) the Second Lien Creditors; and
- (c) the Senior Subordinated Creditors.

Primary Debt Documents means each of this Agreement, the Senior Secured Finance Documents, the Second Lien Finance Documents, the Senior Subordinated Finance Documents, the Security Documents and any other document designated as such by the Security Agent and the Parent.

Priority Discharge Date means the later to occur of the Senior Secured Discharge Date and the Second Lien Discharge Date.

Priority Secured Liabilities means the Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Second Lien Lender Liabilities and the Second Lien Notes Liabilities.

Priority Secured Parties means the Secured Parties other than the Senior Subordinated Creditors.

Proceeds Loan means any loan whereby any proceeds of the borrowing or issue of any Senior Subordinated Debt are lent by the Parent to the Company.

Proceeds Loan Agreement means each agreement between the Parent and the Company evidencing the terms of a Proceeds Loan.

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

Register means the register for the recording of the names and addresses of the Senior Lenders and the Senior Commitment of, and principal amount owing to, each Senior Lender from time to time maintained by the Senior Agent.

Relevant Ancillary Lender means, in respect of any SFA Cash Cover, the Ancillary Lender (if any) for which that SFA Cash Cover is provided.

Relevant Issuing Bank means, in respect of any SFA Cash Cover, the Issuing Bank (if any) for which that SFA Cash Cover is provided.

Relevant Liabilities means:

- (a) in the case of a Creditor:
 - (i) the Arranger Liabilities owed to an Arranger ranking (in accordance with the terms of this Agreement) *pari passu* with or in priority to that Creditor;
 - (ii) the Liabilities owed to Creditors ranking (in accordance with the terms of this Agreement) *pari passu* with or in priority to that Creditor together with all Agent Liabilities owed to the Agent of those Creditors; and
 - (iii) all present and future liabilities and obligations, actual and contingent, of the Debtors to the Security Agent; and
- (b) in the case of a Debtor, the Liabilities owed to the Creditors together with the Agent Liabilities owed to the Agent of those Creditors, the Arranger Liabilities and all present and future liabilities and obligations, actual and contingent, of the Debtors to the Security Agent.

Repayment Sources means (a) any proceeds in an amount equal to, at such time, any amount that could be applied by way of a Permitted Payment pursuant to paragraphs (g), (h) and (k) of "Permitted Payments" as that term is defined under the Senior Facilities Agreement; (b) Senior Subordinated Loans and Senior Subordinated Notes; (c) any Senior Facility, Senior Secured Notes and any other Permitted Debt and (d) New Shareholder Injections (as such term is defined in the Senior Facilities Agreement).

Reports has the meaning given to the term "Reports" in the Senior Facilities Agreement and **Report** shall be construed accordingly.

Responsible Officer means any officer within the corporate trust and securities services department (however described) of any Notes Trustee, including any director, associate director, vice president, assistant vice president, assistant treasurer, trust officer or any other officer of such Notes Trustee who customarily performs functions similar to those performed by such officers, or to whom any corporate trust matter is referred because of such individual's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Agreement and any Senior Secured Notes Indenture, Second Lien Notes Indenture or Senior Subordinated Notes Indenture (as applicable) to which that Notes Trustee is a party.

Retiring Security Agent has the meaning given to that term in Clause 20.1 (Resignation of the Security Agent).

Revolving Facility has the meaning given to the term "Revolving Facility" in the Senior Facilities Agreement.

Second Lien Additional Facility has the meaning given to the term "Additional Facility" in the Second Lien Facility Agreement.

Second Lien Additional Facility Commitments has the meaning given to the term "Additional Facility Commitments" in the Second Lien Facility Agreement.

Second Lien Agent means the Agent under and as defined in the Second Lien Facility Agreement.

Second Lien Agent Liabilities means the Agent Liabilities owed by the Debtors to the Second Lien Agent under or in connection with the Second Lien Finance Documents.

Second Lien Arranger means any Mandated Lead Arranger under and as defined in the Second Lien Facility Agreement.

Second Lien Arranger Liabilities means the Arranger Liabilities owed by the Debtors to any Second Lien Arranger under or in connection with the Second Lien Finance Documents.

Second Lien Borrower has the meaning given to the term "Borrower" in the Second Lien Facility Agreement.

Second Lien Commitment has the meaning given to the term "Commitment" in the Second Lien Facility Agreement.

Second Lien Credit Participation means:

- (a) in relation to a Second Lien Lender, its aggregate (drawn and undrawn) Second Lien Commitments; and
- (b) in relation to a Second Lien Noteholder, the principal amount of outstanding Second Lien Notes held by that Second Lien Noteholder.

Second Lien Creditor Liabilities Transfer means a transfer of the Second Lien Lender Liabilities and the Second Lien Notes Liabilities to the Senior Subordinated Creditors as described in Clause 7.15 (Option to Purchase: Senior Subordinated Creditors).

Second Lien Creditors means the Second Lien Lenders and the Second Lien Noteholders.

Second Lien Debt Purchase Transaction has the meaning given to the term "Debt Purchase Transaction" in the Second Lien Facility Agreement.

Second Lien Default means a Default under the Second Lien Facility Agreement or a Second Lien Notes Default.

Second Lien Discharge Date means the first date on which all Second Lien Liabilities have been fully and finally discharged to the satisfaction of each Second Lien Notes Trustee (in the case of the Second Lien Notes Liabilities) or Second Lien Agent (in the case of the Second Lien Lender Liabilities) whether or not as the result of an enforcement, and the Second Lien Creditors (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under any of the Debt Documents.

Second Lien Event of Default means a Second Lien Lender Event of Default or a Second Lien Notes Event of Default.

Second Lien Facility has the meaning given to the term "Facility" in the Second Lien Facility Agreement.

Second Lien Facility Agreement means the second lien facility agreement originally made between, among others, the Parent, the Company and the Second Lien Agent dated on or about the date of this Agreement; provided that any reference herein to **Second Lien Facility Agreement** includes any facilities agreement or agreements under which facilities are made available for the refinancing (or any successive refinancing thereafter) of amounts or commitments outstanding under the Second Lien Facility Agreement, (each an **Additional Second Lien Facility Agreement** which expression, for the avoidance of any doubt, excludes any Second Lien Notes Finance Documents) and which:

- (a) does not breach the terms of the other Second Lien Facility Agreement(s) at that time; and
- (b) is designated as such by the Parent by written notice to each Agent who is a party to this Agreement at such time,

and (unless the context requires otherwise) references in this Agreement to provisions of the Second Lien Facility Agreement shall be construed as including reference to the corresponding provision(s) (if any) from each Additional Second Lien Facility Agreement.

Second Lien Facility Finance Party has the meaning given to the term "Finance Party" in the Second Lien Facility Agreement.

Second Lien Finance Documents means the Second Lien Notes Finance Documents and the Second Lien Lender Finance Documents.

Second Lien Finance Parties means the Second Lien Facility Finance Party and a Second Lien Notes Finance Party.

Second Lien Guarantor has the meaning given to the term "Guarantor" in the Second Lien Facility Agreement.

Second Lien Lender Acceleration Event means the Second Lien Agent exercising any of its rights under paragraph (a) or (b) of clause 24.13 (Acceleration) of the Second Lien Facility Agreement.

Second Lien Lender Discharge Date means the first date on which all Second Lien Lender Liabilities have been fully and finally discharged to the satisfaction of the Second Lien Agent, whether or not as the result of an enforcement, and the Second Lien Lenders (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

Second Lien Lender Event of Default means an Event of Default under the Second Lien Facility Agreement.

Second Lien Lender Finance Documents has the meaning given to the term "Finance Documents" in the Second Lien Facility Agreement.

Second Lien Lender Liabilities means the Liabilities owed by the Debtors to the Second Lien Lenders under or in connection with the Second Lien Lender Finance Documents including for the

avoidance of doubt any such Liabilities in connection with any Second Lien Additional Facility Commitments.

Second Lien Lender Mandatory Prepayment means a mandatory prepayment of any of the Second Lien Lender Liabilities pursuant to paragraph (c) of clause 9.1 (Exit and Listing), clause 9.2 (Disposal, Insurance and Recovery Proceeds) or clause 9.3 (Excess Cash Flow) of the Second Lien Facility Agreement.

Second Lien Lenders means each Lender (as defined in the Second Lien Facility Agreement).

Second Lien Liabilities means the Second Lien Lender Liabilities and the Second Lien Notes Liabilities.

Second Lien Loan means any loan outstanding under a Second Lien Facility.

Second Lien Mandatory Prepayment means a Second Lien Lender Mandatory Prepayment or a Second Lien Notes Mandatory Prepayment.

Second Lien Noteholders means the registered holders, from time to time, of the Second Lien Notes, as determined in accordance with the relevant Second Lien Notes Indenture.

Second Lien Notes means any notes, securities or other debt instruments issued or to be issued by a member of the Group that comply with the Second Lien Notes Major Terms and which is designated as such by the Parent by written notice to each Agent who is a party to this Agreement at such time.

Second Lien Notes Acceleration Event means:

- (a) the Second Lien Notes Trustee (or any of the Second Lien Noteholders) exercising any rights to accelerate amounts outstanding under the Second Lien Notes pursuant to any Second Lien Notes Indenture; or
- (b) any Second Lien Notes Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Second Lien Notes Finance Documents,

in each case, for the avoidance of doubt, not including any declaration that any amount is payable on demand.

Second Lien Notes Creditors means the Second Lien Noteholders, each Second Lien Notes Trustee and (in its capacity as creditor of the Security Agent Claim corresponding to the Second Lien Notes Liabilities) the Security Agent.

Second Lien Notes Default means a Second Lien Notes Event of Default or any event or circumstances which would (with the expiry of a grace period, the giving of notice, the making of any determination provided for in the relevant definition of such Second Lien Notes Event of Default or any combination of the foregoing, provided that any such event or circumstance which requires any determination as to materiality before it may become a Second Lien Notes Event of Default shall not be a Second Lien Notes Default until such determination is made) be an Event of Default.

Second Lien Notes Discharge Date means the first date on which all Second Lien Notes Liabilities have been fully and finally discharged to the satisfaction of each Second Lien Notes Trustee.

Second Lien Notes Event of Default means an event of default under the relevant Second Lien Notes Indenture.

Second Lien Notes Finance Documents means the Second Lien Notes, each Second Lien Notes Indenture, the Second Lien Notes Guarantees in respect of the Second Lien Notes, this Agreement, the Transaction Security Documents and any other document entered into in connection with the Second Lien Notes (which for the avoidance of doubt excludes any document to the extent it sets out rights of the initial purchasers of the Second Lien Notes (in their capacities as initial purchasers) against any member of the Group) and designated a Second Lien Notes Finance Document by the Parent and a Second Lien Notes Trustee.

Second Lien Notes Finance Parties means any Second Lien Notes Trustee (on behalf of itself and the Second Lien Noteholders which it represents) and the Security Agent.

Second Lien Notes Guarantee means each guarantee granted by a Second Lien Notes Guarantor in favour of any Second Lien Notes Creditor contained in any Second Lien Notes Finance Document.

Second Lien Notes Guarantee Liabilities means all present and future money, debts and liabilities due, owing or incurred by any Debtor to any Second Lien Notes Creditors under or in connection with the Second Lien Notes Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise) provided, however, that the definition of **Second Lien Notes Guarantee Liabilities** shall not include the Second Lien Notes Trustee Amounts.

Second Lien Notes Guarantors means each member of the Group which becomes a guarantor of Second Lien Notes in accordance with a Second Lien Notes Indenture and which is a Guarantor under (and as defined in) the Second Lien Facility Agreement.

Second Lien Notes Indenture means the indenture or indentures pursuant to which any Second Lien Notes are issued.

Second Lien Notes Issue Date means, in respect of each Second Lien Notes Indenture, the first date on which a Second Lien Note is issued pursuant to that Second Lien Notes Indenture.

Second Lien Notes Liabilities means all present and future moneys, debts and liabilities due, owing or incurred by the Debtors to any Second Lien Notes Finance Party or Second Lien Noteholder under or in connection with the Second Lien Notes or the Second Lien Notes Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise) provided, however, that the definition of **Second Lien Notes Liabilities** shall not include the Second Lien Notes Trustee Amounts.

Second Lien Notes Major Terms means the terms set out in Schedule 6 (Second Lien Notes Major Terms).

Second Lien Notes Mandatory Prepayment means a mandatory prepayment, repurchase or redemption (including any requirement to make an offer to repurchase) of any of the Second Lien Notes Liabilities which is of the same type as a Second Lien Lender Mandatory Prepayment.

Second Lien Notes Outstandings means the principal amount of outstanding Second Lien Notes held by the Second Lien Noteholders.

Second Lien Notes Trustee means any entity acting as trustee under any issue of Second Lien Notes and which accedes to this Agreement pursuant to Clause 21.15 (Accession of Second Lien Notes Trustee).

Second Lien Notes Trustee Amounts means, in relation to a Second Lien Notes Trustee, amounts payable to that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof under the Second Lien Notes Finance Documents, any provisions (including indemnity provisions) for costs and expenses in favour of that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof contained in Second Lien Notes Finance Documents, all compensation for services provided by that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof which is payable to that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof pursuant to the terms of the Second Lien Notes Finance Documents and all out-of-pocket costs and expenses properly incurred by that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof in carrying out its duties or performing any service pursuant to the terms of Second Lien Notes Finance Documents, including, without limitation (a) compensation for the costs and expenses of the collection by that Second Lien Notes Trustee of any amount payable to that Second Lien Notes Trustee for the benefit of the Second Lien Noteholders, and (b) costs and expenses of that Second Lien Notes Trustee's advisers, receivers, delegates, attorneys, agents or appointees (but excluding (i) any payment in relation to any unpaid costs and expenses incurred in respect of any litigation initiated by that Second Lien Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee on behalf of that Second Lien Notes Trustee against any of the Senior Secured Finance Parties and (ii) any payment made directly or indirectly on or in respect of any amounts owing under any Second Lien Notes (including principal, interest, premium or any other amounts to any of the Second Lien Noteholders)) including VAT where applicable.

Second Lien Payment Default means:

- (a) in respect of the Second Lien Facility, a Second Lien Lender Event of Default under clause 26.1 (Payment Default) of the Second Lien Facility Agreement other than in respect of an amount (i) not constituting principal, interest or fees and (ii) not exceeding EUR 500,000 (or its equivalent in other currencies); or
- (b) in respect of any Second Lien Notes, any Second Lien Notes Default arising by reason of any non-payment under a Second Lien Notes Finance Document other than in respect of an amount (i) not constituting principal, interest or fees and (ii) not exceeding EUR 500,000 (or its equivalent in other currencies).

Second Lien Payment Stop Notice has the meaning given to that term in paragraph (a) of Clause 6.4 (Issue of Second Lien Payment Stop Notice).

Second Lien Refinancing means a refinancing (or repayment) and cancellation in full of the Second Lien Lender Liabilities.

Second Lien Standstill Period has the meaning given to it in paragraph (a) of Clause 6.13 (Permitted Second Lien Enforcement).

Second Lien Structural Adjustment has the meaning given to the term "Structural Adjustment" in the Second Lien Facility Agreement.

Secured Debt Documents means the Senior Finance Documents, the Senior Secured Notes Finance Documents, the Second Lien Lender Finance Documents, the Second Lien Notes Finance Documents, the Senior Subordinated Facility Finance Documents, the Senior Subordinated Notes Finance Documents and the Hedging Agreements.

Secured Obligations means:

- (a) in the case of the Transaction Security other than Senior Subordinated Shared Security, all the Liabilities and all other present and future obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Priority Secured Party under the Secured Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity; and
- (b) in the case of the Senior Subordinated Shared Security, all the Liabilities and all other present and future obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Secured Party under the Secured Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

Secured Parties means the Security Agent, any Receiver or Delegate and each of the Agents, the Arrangers and the Primary Creditors from time to time but, in the case of each Agent, Arranger or Primary Creditor, only if it is a party to this Agreement or has acceded to this Agreement, in the appropriate capacity, pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).

Security means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

Security Agent Claim has the meaning given to that term in paragraph (b) of Clause 19.4 (Security Agent Claim (Covenant to Pay the Security Agent)).

Security Agent's Spot Rate of Exchange means, in respect of the conversion of one currency (the **First Currency**) into another currency (the **Second Currency**) the Security Agent's spot rate of exchange for the purchase of the Second Currency with the First Currency in the London foreign exchange market at or about 11am (London time) on a particular day, which shall be notified by the Security Agent in accordance with paragraph (d) of Clause 19.9 (Security Agent's Obligations).

Security Documents means:

- (a) each of the Transaction Security Documents;
- (b) any other document entered into at any time by any of the Debtors creating any guarantee, indemnity, Security or other assurance against financial loss in favour of any of the Secured Parties as security for any of the Secured Obligations; and
- (c) any Security granted under any covenant for further assurance in any of the documents set out in paragraphs (a) and (b) above,

provided that for the avoidance of doubt, in no event shall any document entered into creating any Security over the Investor(s) assets directly owned by it (including, without limitation, the shares in the Parent and/or any rights under the Investor Liabilities due or owing to the Investor(s) by the Parent) or any guarantees provided by the Investor or any other Holding Company of the Parent in respect of any of the Senior Subordinated Liabilities or any other Security which is not over any assets of the Group be deemed a Security Document.

Security Property means:

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as agent or trustee for the Secured Parties (or pursuant to any joint and several creditorship or parallel debt provisions set out in Clause 19 (The Security Agent)) for the benefit of the Secured Parties and all proceeds of that Transaction Security;

- (b) all obligations expressed to be undertaken by a Debtor to pay amounts in respect of the Liabilities to the Security Agent as agent or trustee for the Secured Parties (or pursuant to any joint and several creditorship or parallel debt provisions set out in Clause 19 (The Security Agent)) and secured by the Transaction Security together with all representations and warranties expressed to be given by a Debtor in favour of the Security Agent as agent or trustee for (or otherwise for the benefit of) the Secured Parties;
- (c) in the case of any jurisdiction in which effective Transaction Security cannot reasonably be granted in favour of the Security Agent as agent or trustee for the Secured Parties, the Transaction Security that is created, or expressed to be created, in favour of all the Secured Parties in respect of the Transaction Security;
- (d) the Security Agent's interest in any trust fund created pursuant to Clause 12 (Turnover of Receipts);
- (e) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Debt Documents to hold as trustee on trust for (or otherwise for the benefit of) the Secured Parties.

Senior Acceleration Event means the Senior Agent exercising any of its rights under subparagraphs (i), (ii), (iv) or (vi) of paragraph (a) of clause 28.17 (Acceleration) of the Senior Facilities Agreement.

Senior Additional Facility Commitments has the meaning given to the term "Additional Facility Commitments" in the Second Lien Facility Agreement.

Senior Agent means the Agent under and as defined in the Senior Facilities Agreement.

Senior Agent Liabilities means the Agent Liabilities owed by the Debtors to the Senior Agent under or in connection with the Senior Finance Documents.

Senior Arranger means any Mandated Lead Arranger under and as defined in the Senior Facilities Agreement.

Senior Arranger Liabilities means the Arranger Liabilities owed by the Debtors to any Senior Arranger under or in connection with the Senior Finance Documents.

Senior Borrower has the meaning given to the term "Borrower" in the Senior Facilities Agreement.

Senior Commitment has the meaning given to the term "Commitment" in the Senior Facilities Agreement.

Senior Credit Participation means, in relation to a Senior Creditor, the aggregate of:

- (a) its aggregate (drawn and undrawn) Senior Commitments, if any; and
- (b) in respect of any hedging transaction of that Senior Creditor under any Hedging Agreement that has, as of the date the calculation is made, been terminated or closed out in accordance with the terms of this Agreement, the amount, if any, payable to it under any Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent that amount is unpaid (that amount to be certified

by the relevant Senior Creditor and as calculated in accordance with the relevant Hedging Agreement); and

- (c) in respect of any hedging transaction of that Senior Creditor under any Hedging Agreement that has, as of the date the calculation is made, not been terminated or closed out, the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement), that amount, in each case, to be certified by the relevant Senior Creditor and as calculated in accordance with the relevant Hedging Agreement.

Senior Creditors means the Senior Lenders and the Hedge Counterparties.

Senior Debt Purchase Transaction has the meaning given to the term "Debt Purchase Transaction" in the Senior Facilities Agreement.

Senior Default means a Default under the Senior Facilities Agreement.

Senior Discharge Date means the first date on which all Senior Liabilities have been fully and finally discharged to the satisfaction of the Senior Agent (in the case of the Senior Lender Liabilities) and each Hedge Counterparty (in the case of its Hedging Liabilities), whether or not as the result of an enforcement, and the Senior Creditors (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

Senior Event of Default means an Event of Default under the Senior Facilities Agreement.

Senior Facilities Agreement means the senior facilities agreement originally made between, among others, the Parent, the Company and the Senior Agent dated on or about the date of this Agreement; provided that any reference herein to "Senior Facilities Agreement" includes any facilities agreement or agreements under which facilities are made available for the refinancing (or any successive refinancing thereafter) of amounts or commitments outstanding under the Senior Facilities Agreement, (each an **Additional Senior Facilities Agreement** which expression, for the avoidance of any doubt, excludes any Senior Secured Notes Finance Documents) and which:

- (a) does not breach the terms of the other Senior Facilities Agreement(s) at that time; and
- (b) is designated as such by the Parent by written notice to each Agent who is a party to this Agreement at such time,

and (unless the context requires otherwise) references in this Agreement to provisions of the Senior Facilities Agreement shall be construed as including reference to the corresponding provision(s) (if any) from each Additional Senior Facilities Agreement.

Senior Facility has the meaning given to the term "Facility" in the Senior Facilities Agreement.

Senior Finance Documents has the meaning given to the term "Finance Document" in the Senior Facilities Agreement.

Senior Finance Party has the meaning given to the term "Finance Party" in the Senior Facilities Agreement.

Senior Guarantor has the meaning given to the term "Guarantor" in the Senior Facilities Agreement.

Senior Lender Cash Collateral means any cash collateral provided by a Senior Lender to an Issuing Bank pursuant to clause 7.4 (Cash Collateral by Non-Acceptable L/C Lender) of the Senior Facilities Agreement.

Senior Lender Discharge Date means the first date on which all Senior Lender Liabilities have been fully and finally discharged to the satisfaction of the Senior Agent, whether or not as the result of an enforcement, and the Senior Lenders (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under any of the Debt Documents.

Senior Lender Liabilities means the Liabilities owed by the Debtors to the Senior Lenders under or in connection with the Senior Finance Documents including for the avoidance of doubt any such Liabilities in connection with any Senior Additional Facility Commitments.

Senior Lender Liabilities Transfer means a transfer of the Senior Lender Liabilities to the Senior Secured Note Creditors described in Clause 3.10 (Option to Purchase: Senior Secured Note Creditors).

Senior Lender Refinancing means a refinancing (or repayment) and cancellation in full of the Senior Lender Liabilities.

Senior Lenders means each Lender (as defined in the Senior Facilities Agreement), Issuing Bank and Ancillary Lender.

Senior Liabilities means the Senior Lender Liabilities and the Hedging Liabilities.

Senior Mandatory Prepayment means a mandatory prepayment of any of the Senior Lender Liabilities pursuant to paragraph (c) of clause 12.1 (Exit and Listing), clause 12.2 (Disposal, insurance and recovery proceeds) or clause 12.3 (Excess Cash Flow) of the Senior Facilities Agreement.

Senior Mandatory Prepayment Waiver means any amendment or waiver of the requirement to make a Senior Mandatory Prepayment (other than any waiver of a Senior Mandatory Prepayment by a Facility B Lender (as defined in the Senior Facilities Agreement) in accordance with clause 12.5 (Right to Refuse Prepayment) of the Senior Facilities Agreement or any equivalent term in another Senior Facilities Agreement), the amount thereof being the amount which would have been required to be prepaid pursuant to that Senior Mandatory Prepayment in the absence of that amendment or waiver.

Senior Payment Default means an Event of Default under clause 28.1 (Payment Default) of the Senior Facilities Agreement other than in respect of an amount (a) not constituting principal, interest or fees and (b) not exceeding EUR 500,000 (or its equivalent in other currencies).

Senior Principal Increase means any increase in the principal amount of the Senior Facilities (as set out in the original form of the Senior Facilities Agreement) but excluding and without restricting, any Permitted Senior Increase and no such event relating to or resulting from a Permitted Senior Increase shall constitute a Senior Principal Increase.

Senior Secured Credit Participation means:

- (a) in relation to a Senior Creditor, its Senior Creditor Participation; and

- (b) in relation to a Senior Secured Noteholder, the principal amount of outstanding Senior Secured Notes held by that Senior Secured Noteholder.

Senior Secured Creditor Liabilities means the Senior Lender Liabilities and the Senior Secured Notes Liabilities.

Senior Secured Creditor Liabilities Transfer means a transfer of the Senior Lender Liabilities and the Senior Secured Notes Liabilities to the Senior Subordinated Creditors as described in Clause 6.16 (Option to Purchase: Second Lien Creditors) or Clause 7.15 (Option to Purchase: Senior Subordinated Creditors) (as applicable).

Senior Secured Creditors means the Senior Secured Note Creditors and the Senior Creditors.

Senior Secured Discharge Date means the first date on which all Senior Secured Liabilities have been fully and finally discharged to the satisfaction of each Senior Secured Notes Trustee (in the case of the Senior Secured Notes Liabilities), each Senior Agent (in the case of the Senior Lender Liabilities) and each Hedge Counterparty (in the case of its Hedging Liabilities), whether or not as the result of an enforcement, and the Senior Secured Creditors are under no further obligation to provide financial accommodation to any of the Debtors under any of the Debt Documents.

Senior Secured Event of Default means a Senior Event of Default or a Senior Secured Notes Event of Default.

Senior Secured Finance Documents means the Senior Secured Notes Finance Documents, the Senior Finance Documents and the Hedging Agreements.

Senior Secured Liabilities means the Senior Secured Notes Liabilities and the Senior Liabilities.

Senior Secured Note Creditors means the Senior Secured Noteholders, each Senior Secured Notes Trustee and (in its capacity as creditor of the Security Agent Claim corresponding to the Senior Secured Notes Liabilities) the Security Agent.

Senior Secured Note Discharge Date means the first date on which all Senior Secured Notes Liabilities have been fully and finally discharged to the satisfaction of each Senior Secured Notes Trustee.

Senior Secured Noteholders means the registered holders, from time to time, of the Senior Secured Notes, as determined in accordance with the relevant Senior Secured Notes Indenture.

Senior Secured Notes means any notes, securities or other debt instruments issued or to be issued by the Company that comply with the Senior Secured Notes Major Terms and which is designated as such by the Parent by written notice to each Agent who is a party to this Agreement at such time.

Senior Secured Notes Acceleration Event means:

- (a) the Senior Secured Notes Trustee (or any of the Senior Secured Noteholders) exercising any rights to accelerate amounts outstanding under the Senior Secured Notes pursuant to any Senior Secured Notes Indenture; or
- (b) any Senior Secured Notes Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Senior Secured Notes Finance Documents,

in each case, for the avoidance of doubt, not including any declaration that any amount is payable on demand.

Senior Secured Notes Default means a Senior Secured Notes Event of Default or any event or circumstances which would (with the expiry of a grace period, the giving of notice, the making of any determination provided for in the relevant definition of such Senior Secured Notes Event of Default or any combination of the foregoing, provided that any such event or circumstance which requires any determination as to materiality before it may become a Senior Secured Notes Event of Default shall not be a Senior Secured Notes Default until such determination is made) be a Senior Secured Notes Event of Default.

Senior Secured Notes Event of Default means an event of default under the relevant Senior Secured Notes Indenture.

Senior Secured Notes Finance Documents means the Senior Secured Notes, each Senior Secured Notes Indenture, the Senior Secured Notes Guarantees in respect of the Senior Secured Notes, this Agreement, the Transaction Security Documents and any other document entered into in connection with the Senior Secured Notes (which for the avoidance of doubt excludes any document to the extent it sets out rights of the initial purchasers of the Senior Secured Notes (in their capacities as initial purchasers) against any member of the Group) and designated a Senior Secured Notes Finance Document by the Parent and a Senior Secured Notes Trustee.

Senior Secured Notes Finance Parties means any Senior Secured Notes Trustee (on behalf of itself and the Senior Secured Noteholders which it represents) and the Security Agent.

Senior Secured Notes Guarantee means each guarantee granted by a Senior Secured Notes Guarantor in favour of any Senior Secured Note Creditor contained in any Senior Secured Notes Finance Document.

Senior Secured Notes Guarantee Liabilities means all present and future money, debts and liabilities due, owing or incurred by any Debtor to any Senior Secured Notes Creditor under or in connection with the Senior Secured Notes Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise) provided, however, that the definition of "Senior Secured Notes Guarantee Liabilities" shall not include the Senior Secured Notes Trustee Amounts.

Senior Secured Notes Guarantors means each member of the Group which becomes a guarantor of Senior Secured Notes in accordance with a Senior Secured Notes Indenture and which is a Guarantor under (and as defined in) the Senior Facilities Agreement.

Senior Secured Notes Indenture means the indenture or indentures pursuant to which any Senior Secured Notes are issued.

Senior Secured Notes Issue Date means, in respect of each Senior Secured Notes Indenture, the first date on which a Senior Secured Note is issued pursuant to that Senior Secured Notes Indenture.

Senior Secured Notes Liabilities means all present and future moneys, debts and liabilities due, owing or incurred by the Debtors to any Senior Secured Notes Finance Party or Senior Secured Noteholder under or in connection with the Senior Secured Notes or the Senior Secured Notes Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise) provided, however, that the definition of **Senior Secured Notes Liabilities** shall not include the Senior Secured Notes Trustee Amounts.

Senior Secured Notes Major Terms means the terms set out in Schedule 5 (Senior Secured Notes Major Terms).

Senior Secured Notes Mandatory Prepayment means a mandatory prepayment, repurchase or redemption (including any requirement to make an offer to repurchase) of any of the Senior Secured Notes Liabilities which is of the same type as a Senior Mandatory Prepayment.

Senior Secured Notes Outstandings means the principal amount of outstanding Senior Secured Notes held by the Senior Secured Noteholders.

Senior Secured Notes Trustee means any entity acting as trustee under any issue of Senior Secured Notes and which accedes to this Agreement pursuant to Clause 21.14 (Accession of Senior Secured Notes Trustee).

Senior Secured Notes Trustee Amounts means, in relation to a Senior Secured Notes Trustee, amounts payable to that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof under the Senior Secured Notes Finance Documents, any provisions (including indemnity provisions) for costs and expenses in favour of that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof contained in Senior Secured Notes Finance Documents, all compensation for services provided by that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof which is payable to that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof pursuant to the terms of the Senior Secured Notes Finance Documents and all out-of-pocket costs and expenses properly incurred by that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof in carrying out its duties or performing any service pursuant to the terms of Senior Secured Notes Finance Documents, including, without limitation (a) compensation for the costs and expenses of the collection by that Senior Secured Notes Trustee of any amount payable to that Senior Secured Notes Trustee for the benefit of the Senior Secured Noteholders, and (b) costs and expenses of that Senior Secured Notes Trustee's advisers, receivers, delegates, attorneys, agents or appointees (but excluding (i) any payment in relation to any unpaid costs and expenses incurred in respect of any litigation initiated by that Senior Secured Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee on behalf of that Senior Secured Notes Trustee against any of the Senior Finance Parties; and (ii) any payment made directly or indirectly on or in respect of any amounts owing under any Senior Secured Notes (including principal, interest, premium or any other amounts to any of the Senior Secured Noteholders)) including VAT where applicable.

Senior Secured Payment Default means:

- (a) Senior Payment Default; or
- (b) any Senior Secured Notes Default arising by reason of any non-payment under a Senior Secured Notes Finance Document other than in respect of an amount (i) not constituting principal, interest or fees and (ii) not exceeding EUR 500,000 (or its equivalent in other currencies).

Senior Structural Adjustment has the meaning given to the term "Structural Adjustment" in the Senior Facilities Agreement.

Senior Subordinated Acceleration Event means the Creditor Representative in relation to any Senior Subordinated Facility exercising any rights under any equivalent provision(s) of the relevant Senior Subordinated Facility Agreement which is similar in meaning and effect as the Second Lien Lender Acceleration Event.

Senior Subordinated Agent means any agent of any Senior Subordinated Facility which becomes a Party pursuant to Clause 21.12 (Accession of Senior Subordinated Facility Creditors).

Senior Subordinated Agent Liabilities means the Agent Liabilities owed by the Debtors to the Senior Subordinated Agent under or in connection with the Senior Subordinated Finance Documents.

Senior Subordinated Arranger means any arranger of any Senior Subordinated Facility which becomes a Party pursuant to Clause 21.12 (Accession of Senior Subordinated Facility Creditors under New Senior Subordinated Facility).

Senior Subordinated Borrower means the Parent.

Senior Subordinated Commitment means **Commitment** under and as defined in the relevant Senior Subordinated Facility Agreement.

Senior Subordinated Credit Participation means:

- (a) in relation to a Senior Subordinated Lender, its aggregate (drawn and undrawn) Senior Subordinated Commitments, if any;
- (b) in relation to a Senior Subordinated Noteholder, the principal amount of outstanding Senior Subordinated Notes held by that Senior Subordinated Noteholder.

Senior Subordinated Creditor Representative means:

- (a) in relation to the Senior Subordinated Lenders under any Senior Subordinated Facility, the facility agent in respect of that Senior Subordinated Facility which has acceded to this Agreement as the Senior Subordinated Creditor Representative of those Senior Subordinated Lenders pursuant Clause 21.12 (Accession of Senior Subordinated Facility Creditors); and
- (b) in relation to the Senior Subordinated Noteholders, the Senior Subordinated Note Trustee.

Senior Subordinated Creditor Representative Amount means fees, costs and expenses of a Senior Subordinated Creditor Representative payable to a Senior Subordinated Creditor Representative for its own account pursuant to the relevant Debt Documents or any engagement letter between a Senior Subordinated Creditor Representative and a Debtor (including any amount payable to a Senior Subordinated Creditor Representative by way of indemnity, remuneration or reimbursement for expenses incurred), and the costs incurred by a Senior Subordinated Creditor Representative in connection with any actual or attempted Enforcement Action which is permitted by this Agreement which are recoverable pursuant to the terms of the Debt Documents.

Senior Subordinated Creditors means the Senior Subordinated Notes Creditors and the Senior Subordinated Facility Creditors.

Senior Subordinated Discharge Date means the first date on which all Senior Subordinated Liabilities have been fully and finally discharged to the satisfaction of each Senior Subordinated Notes Trustee (in the case of the Senior Subordinated Notes Liabilities) and Senior Subordinated Agent (in the case of the Senior Subordinated Facility Liabilities), whether or not as the result of an enforcement, and the Senior Subordinated Creditors (in that capacity) are under no further obligation to provide financial accommodation to any of the Debtors under any of the Debt Documents.

Senior Subordinated Enforcement Notice has the meaning given to it in paragraph (b) of Clause 7.11 (Permitted Senior Subordinated Enforcement).

Senior Subordinated Event of Default means a Senior Subordinated Facility Event of Default or a Senior Subordinated Notes Event of Default.

Senior Subordinated Facility means any credit facility made available to the Parent that complies with the Senior Subordinated Liabilities Major Terms where any:

- (a) agent of the lenders in respect of the credit facility become a Party as a Senior Subordinated Agent;
- (b) arranger of the credit facility become a Party as a Senior Subordinated Arranger; and
- (c) lender in respect of the credit facility has become a Party as a Senior Subordinated Lender,

in respect of that credit facility pursuant to Clause 21.12 (Accession of Senior Subordinated Facility Creditors under New Senior Subordinated Facility).

Senior Subordinated Facility Agreement means any senior subordinated facility agreement documenting a Senior Subordinated Facility; provided that any reference herein to "Senior Subordinated Facility Agreement" includes any facilities agreement or agreements under which facilities are made available for the refinancing (or any successive refinancing thereafter) of amounts or commitments outstanding under a Senior Subordinated Facility Agreement (each an **Additional Senior Subordinated Facility Agreement**) and which:

- (a) does not breach the terms of the other Senior Subordinated Facility Agreement(s) at that time; and
- (b) is designated as such by the Parent by written notice to each Agent who is a party to this Agreement at such time,

and (unless the context requires otherwise) references in this Agreement to provisions of the **Senior Subordinated Facility Agreement** shall be construed as including reference to the corresponding provision(s) (if any) from each Additional Senior Subordinated Facility Agreement.

Senior Subordinated Facility Creditors means each Senior Subordinated Creditor Representative in relation to a Senior Subordinated Facility, each Senior Subordinated Arranger and each Senior Subordinated Lender.

Senior Subordinated Facility Discharge Date means the first date on which all Senior Subordinated Facility Liabilities have been fully and finally discharged to the satisfaction of the relevant Senior Subordinated Creditor Representative(s), whether or not as the result of an enforcement, and the Senior Subordinated Lenders are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

Senior Subordinated Facility Event of Default means an event of default under the relevant Senior Subordinated Facility Agreement.

Senior Subordinated Facility Finance Documents means each document or instrument entered into between a member of the Group and a Senior Subordinated Facility Creditor setting out the terms of any credit facility which creates or evidences any Senior Subordinated Facility Liabilities.

Senior Subordinated Facility Finance Party has the meaning given to the term "Finance Party" in a Senior Subordinated Facility Agreement.

Senior Subordinated Facility Guarantee means each guarantee by a Senior Subordinated Facility Guarantor of the obligations of the Parent under the Senior Subordinated Facility Finance Documents which contains provisions in relation to payment blockage, subordination and turnover that substantially replicate those provisions of this Agreement relating to each Senior Subordinated Facility Guarantee or shall be made expressly subject to the provisions of this Agreement in a legally binding manner

Senior Subordinated Facility Guarantor means each Senior Guarantor that provides a guarantee in favour of any Senior Subordinated Facility Creditor in connection with any Senior Subordinated Facility and which is also a guarantee of the Senior Facilities.

Senior Subordinated Facility Liabilities means the Liabilities owed by any Debtor to the Senior Subordinated Facility Creditors under or in connection with the Senior Subordinated Facility Finance Documents.

Senior Subordinated Finance Documents means the Senior Subordinated Notes Finance Documents and the Senior Subordinated Facility Finance Documents.

Senior Subordinated Finance Party means a Senior Subordinated Facility Finance Party and a Senior Subordinated Notes Finance Party.

Senior Subordinated Guarantee means a Senior Subordinated Facility Guarantee or a Senior Subordinated Notes Guarantee.

Senior Subordinated Guarantor means a Senior Subordinated Facility Guarantor or a Senior Subordinated Notes Guarantor.

Senior Subordinated Lenders means each "Lender" (under, and as defined in the relevant Senior Subordinated Facility Agreement).

Senior Subordinated Liabilities means the Senior Subordinated Notes Liabilities and the Senior Subordinated Facility Liabilities.

Senior Subordinated Liabilities Major Terms means the terms set out in Schedule 4 (Senior Subordinated Liabilities Major Terms).

Senior Subordinated Loan Mandatory Prepayment means a mandatory prepayment of any of the Senior Subordinated Facility Liabilities which is of the same type as a Senior Mandatory Prepayment.

Senior Subordinated Loans means any loan made under a Senior Subordinated Facility.

Senior Subordinated Noteholders means the registered holders, from time to time, of the Senior Subordinated Notes, as determined in accordance with the relevant Senior Subordinated Notes Indenture.

Senior Subordinated Notes means any high yield or other unsecured notes, exchange notes, securities or other debt instruments issued or to be issued by the Parent that comply with the Senior Subordinated Liabilities Major Terms and which is designated as such by the Parent by written notice to each Agent who is a party to this Agreement at such time.

Senior Subordinated Notes Acceleration Event means:

- (a) the Senior Subordinated Note Trustee (or any of the Senior Subordinated Noteholders) exercising any rights to accelerate amounts outstanding under the Senior Subordinated Notes pursuant to any Senior Subordinated Notes Indenture; or
- (b) any Senior Subordinated Notes Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Senior Subordinated Notes Finance Documents,

in each case, for the avoidance of doubt, not including any declaration that any amount is payable on demand.

Senior Subordinated Notes Creditors means the Senior Subordinated Noteholders, each Senior Subordinated Notes Trustee and (in its capacity as creditor of the Security Agent Claim corresponding to the Senior Subordinated Notes Liabilities) the Security Agent.

Senior Subordinated Notes Declared Default means a Senior Subordinated Notes Event of Default which has resulted in a Senior Subordinated Notes Trustee or the requisite number of Senior Subordinated Noteholders accelerating all amounts due under the relevant Senior Subordinated Notes.

Senior Subordinated Notes Default means a Senior Subordinated Notes Event of Default or any event which would (with the expiry of a grace period or the giving of notice provided for in the relevant definition of event of default in the relevant Senior Subordinated Notes Finance Documents or any combination of the foregoing, provided that any such event or circumstance which requires the satisfaction of any determination as to materiality before it may become a Senior Subordinated Notes Event of Default shall not be a Senior Subordinated Notes Default until such determination is made) be a Senior Subordinated Notes Event of Default.

Senior Subordinated Notes Discharge Date means the date on which all Senior Subordinated Notes Liabilities have been fully and finally discharged to the satisfaction of each Senior Subordinated Notes Trustee.

Senior Subordinated Notes Event of Default means an event of default under the relevant Senior Subordinated Notes Indenture.

Senior Subordinated Notes Finance Documents means the Senior Subordinated Notes, each Senior Subordinated Notes Indenture, the Senior Subordinated Notes Guarantees in respect of the Senior Subordinated Notes, this Agreement, the Transaction Security Documents (to the extent creating Senior Subordinated Notes Shared Security) and any other document entered into in connection with the Senior Subordinated Notes (which for the avoidance of doubt excludes any document to the extent it sets out rights of the initial purchasers of the Senior Subordinated Notes (in their capacities as initial purchasers)) against any member of the Group and designated a Senior Subordinated Notes Finance Document by the Parent and a Senior Subordinated Notes Trustee.

Senior Subordinated Notes Finance Parties means any Senior Subordinated Notes Trustee (on behalf of itself and the Senior Subordinated Noteholders that it represents) and the Security Agent.

Senior Subordinated Notes Guarantee means each guarantee by a Senior Subordinated Notes Guarantor of the obligations of the Parent under the Senior Subordinated Notes Finance Documents which contains provisions in relation to payment blockage, subordination and turnover that substantially replicate those provisions of this Agreement relating to each Senior Subordinated Notes

Guarantee or shall be made expressly subject to the provisions of this Agreement in a legally binding manner.

Senior Subordinated Notes Guarantee Liabilities means all present and future money, debts and liabilities due, owing or incurred by any Debtor to any Senior Subordinated Notes Creditor under or in connection with the Senior Subordinated Note Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise) provided, however, that the definition of **Senior Subordinated Notes Guarantee Liabilities** shall not include the Senior Subordinated Notes Trustee Amounts.

Senior Subordinated Notes Guarantors means each Senior Guarantor that is a guarantor of any Senior Subordinated Notes Liabilities and which is also a guarantor, borrower or issuer of all the relevant Senior Secured Notes Liabilities.

Senior Subordinated Notes Indenture means the indenture or indentures pursuant to which any Senior Subordinated Notes are issued.

Senior Subordinated Notes Issue Date means, in respect of each Senior Subordinated Notes Indenture, the first date on which a Senior Subordinated Note is issued pursuant to that Senior Subordinated Notes Indenture.

Senior Subordinated Notes Liabilities means all present and future moneys, debts and liabilities due, owing or incurred by the Debtors to any Senior Subordinated Notes Finance Party or Senior Subordinated Noteholder under or in connection with the Senior Subordinated Notes or the Senior Subordinated Notes Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently, and whether as principal, surety or otherwise) provided, however, that the definition of **Senior Subordinated Notes Liabilities** shall not include the Senior Subordinated Notes Trustee Amounts.

Senior Subordinated Notes Mandatory Prepayment means a mandatory prepayment, repurchase or redemption (including any requirement to make an offer to repurchase), of any of the Senior Subordinated Notes Liabilities which is of the same type as a Senior Mandatory Prepayment.

Senior Subordinated Notes Outstandings means the principal amount of outstanding Senior Subordinated Notes held by the Senior Subordinated Noteholders.

Senior Subordinated Notes Trustee means the Senior Subordinated Notes Trustee and any entity acting as trustee under any issue of Senior Subordinated Notes and which accedes to this Agreement pursuant to Clause 21.13 (Accession of Senior Subordinated Notes Trustee).

Senior Subordinated Notes Trustee Amounts means, in relation to a Senior Subordinated Notes Trustee, amounts payable to that Senior Subordinated Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof under the Senior Subordinated Notes Finance Documents, any provisions (including indemnity provisions) for costs and expenses in favour of that Senior Subordinated Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof contained in the Senior Subordinated Notes Finance Documents, all compensation for services provided by that Senior Subordinated Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof which is payable to that Senior Subordinated Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof pursuant to the terms of the Senior Subordinated Notes Finance Documents and all out-of-pocket costs and expenses properly incurred by that Senior Subordinated Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee thereof in carrying out its duties or performing any service pursuant to the terms of Senior Subordinated Notes Finance Documents, including, without limitation (a) compensation for

the costs and expenses of the collection by that Senior Subordinated Notes Trustee of any amount payable to that Senior Subordinated Notes Trustee for the benefit of the Senior Subordinated Noteholders, and (b) costs and expenses of that Senior Subordinated Notes Trustee's advisers, receivers, delegates, attorneys, agents or appointees (but excluding (i) any payment in relation to any unpaid costs and expenses incurred in respect of any litigation initiated by that Senior Subordinated Notes Trustee or any adviser, receiver, delegate, attorney, agent or appointee on behalf of that Senior Subordinated Notes Trustee against any of the Senior Finance Parties; and (ii) any payment made directly or indirectly on or in respect of any amounts owing under any Senior Subordinated Notes (including principal, interest, premium or any other amounts to any of the Senior Subordinated Noteholders)) including VAT where applicable.

Senior Subordinated Payment Stop Notice has the meaning given to that term in paragraph (a)(ii) of Clause 7.4 (Issue of Senior Subordinated Payment Stop Notice).

Senior Subordinated Shared Security means (a) the Security granted in favour of the Security Agent or the other Secured Parties under the Security Documents over (i) any shares in the Company or (ii) any Proceeds Loan and (b) any other Security which is designated as such by the Parent by written notice to each Agent who is a party to this Agreement at such time.

Senior Subordinated Standstill Period has the meaning given to it in paragraph (a) of Clause 7.12 (Senior Subordinated Standstill Period).

Senior Term Facilities means each term loan facility made available under the Senior Facilities Agreement.

Senior Term Loan means any loan outstanding under a Senior Term Facility.

SFA Cash Cover has the meaning given to the term "cash cover" in paragraph (d) of clause 1.2 (Construction) of the Senior Facilities Agreement.

SFA Cash Cover Document means, in relation to any SFA Cash Cover, any Senior Finance Document which creates or evidences, or is expressed to create or evidence, the Security required to be provided over that SFA Cash Cover by paragraph (iii) of the term "cash cover" as used in the Senior Facilities Agreement.

Spanish Civil Code means the Spanish *Código Civil*, as amended from time to time.

Spanish Capital Companies Law means *Real Decreto Legislativo 1/2010, de 2 de Julio, por el que se aprueba el texto refundido de la Ley de Sociedades de Capital*, as amended from time to time.

Spanish Commercial Code means the Spanish *Código de Comercio*, as amended from time to time.

Spanish Insolvency Law means Spanish law 22/2003 of 9 July on Insolvency (*Ley, 22/2003 de 9 de Julio, Concursal*), as amended from time to time.

Spanish Security means a Security governed by the laws of Spain and any other security designated as such by any Obligor or the Security Agent.

Sponsor Affiliate has the meaning given to the term "Sponsor Affiliate" in the Senior Facilities Agreement.

Subsidiary has the meaning given to the term "Subsidiary" in the Senior Facilities Agreement.

Target has the meaning given to the term "Target" in the Senior Facilities Agreement.

Tax has the meaning given to the term "Tax" in the Senior Facilities Agreement and **Taxes** shall be construed accordingly.

Term Facilities means the Senior Term Facilities, the Second Lien Facility or a Senior Subordinated Facility.

Term Outstandings means, at any time, the aggregate of the amounts of principal (not including any capitalised or deferred interest) then outstanding under the Term Facilities.

Termination Date has the meaning given to the term "Termination Date" in the Senior Facilities Agreement.

Total Exchange Rate Hedged Amount means, at any time, the aggregate of each Aggregate Exchange Rate Hedged Amount at that time.

Total Interest Rate Hedged Amount means, at any time, the aggregate of each Aggregate Interest Rate Hedged Amount at that time.

Transaction Security means the Security created or evidenced or expressed to be created or evidenced under or pursuant to the Security Documents.

Transaction Security Documents has the meaning given to the term "Transaction Security Documents" in the Senior Facilities Agreement.

VAT means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax as amended (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:
 - (i) any Agent, Ancillary Lender, Arranger, Creditor, Debtor, Hedge Counterparty, Intra-Group Lender, Investor, Issuing Bank, Parent, Party, Primary Creditor, Priority Secured Parties, Second Lien Agent, Second Lien Arranger, Second Lien Borrower, Second Lien Creditors, Second Lien Guarantor, Second Lien Lender, Second Lien Notes Trustee, Second Lien Noteholder, Security Agent, Senior Agent, Senior Arranger, Senior Borrower, Senior Creditor, Senior Guarantor, Senior Lender, Senior Secured Creditor, Senior Secured Notes Creditors, Senior Secured Notes Guarantor, Senior Secured Notes Trustee, Senior Secured Noteholder, Senior Subordinated Agent, Senior Subordinated Arranger, Senior Subordinated Borrower, Senior Subordinated Creditor, Senior Subordinated Creditor Representative, Senior Subordinated Facility Creditors, Senior Subordinated Facility Guarantor, Senior Subordinated Guarantor, Senior Subordinated Lender, Senior Subordinated Notes Creditor, Senior Subordinated Notes Guarantor, Senior Subordinated Notes Trustee or Senior Subordinated Noteholder shall be construed to be a reference to it in its capacity as such and not in any other capacity;

- (ii) any **Agent, Ancillary Lender, Arranger, Creditor, Debtor, Hedge Counterparty, Issuing Bank, any Party, any Second Lien Notes Trustee, any Senior Secured Notes Trustee, any Senior Subordinated Notes Trustee, or the Security Agent** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with this Agreement;
 - (iii) assets includes present and future properties, revenues and rights of every description;
 - (iv) a Debt Document or any other agreement or instrument is (other than a reference to a Debt Document or any other agreement or instrument in original form) a reference to that Debt Document, or other agreement or instrument, as amended, novated, supplemented, extended or restated as permitted by this Agreement;
 - (v) enforcing (or any derivation) the Transaction Security shall include the appointment of an administrator of a Debtor by the Security Agent;
 - (vi) indebtedness includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (vii) the original form of a Debt Document or any other agreement or instrument is a reference to that Debt Document, agreement or instrument as originally entered into and, unless specified otherwise, a reference to the original form of the Senior Facilities Agreement is a reference to the Senior Facilities Agreement entered into on the date of this Agreement and a reference to the original form of the Second Lien Facility Agreement is a reference to the Second Lien Facility Agreement entered into on the date of this Agreement;
 - (viii) a person includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
 - (ix) a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and
 - (x) a provision of law is a reference to that provision as amended or re-enacted.
- (b) Section, Clause and Schedule headings are for ease of reference only.
 - (c) A Default or an Event of Default is continuing if it has not been remedied or waived.
 - (d) The determination that a Second Lien Payment Stop Notice is outstanding is to be made by reference to the provisions of Clause 6.4 (Issue of Second Lien Payment Stop Notice).
 - (e) The determination that a Senior Subordinated Payment Stop Notice is outstanding is to be made by reference to the provisions of Clause 7.4 (Issue of Senior Subordinated Payment Stop Notice).
 - (f) Secured Parties may only benefit from Group Recoveries to the extent that the Liabilities of such Secured Parties has the benefit of the guarantees or security under which such Group Recoveries are received and provided that, in all cases, the rights of such Secured Parties shall in any event be subject to the priorities set out in Clause 16 (Application of Proceeds) and provided further, however, that this shall not prevent the Senior Secured Notes Trustee from claiming and being paid

the Senior Secured Notes Trustee Amounts, the Second Lien Agent from claiming and being paid the Second Lien Agent Amounts, the Second Lien Notes Trustee from claiming and being paid the Second Lien Notes Trustee Amounts, the Senior Subordinated Creditor Representative from claiming and being paid the Senior Subordinated Agent Liabilities or the Senior Subordinated Notes Trustee from claiming and being paid the Senior Subordinated Notes Trustee Amounts. This paragraph (f) shall not prevent a Senior Secured Creditor benefiting from such Group Recoveries where it was not legally possible or otherwise as a result of the Agreed Security Principles for the Senior Secured Creditor to obtain the relevant guarantees or security or affect, in any way, the operation of Clause 17 (Equalisation).

- (g) In determining whether or not any Liabilities have been fully and finally discharged, the relevant Agent will disregard contingent liabilities (such as the risk of claw back flowing from a preference) except to the extent the relevant Agent reasonably believes (after taking such legal advice as it considers appropriate) that there is a reasonable likelihood that those liabilities will become actual liabilities.
- (h) Where any consent is required under this Agreement from:
 - (i) a Senior Lender or Senior Finance Party where such consent is required after the Senior Lender Discharge Date;
 - (ii) a Senior Creditor where such consent is required after the Senior Discharge Date;
 - (iii) a Senior Secured Note Creditor where such consent is required after the Senior Secured Note Discharge Date;
 - (iv) a Second Lien Lender or Second Lien Finance Party where such consent is required after the Second Lien Lender Discharge Date;
 - (v) a Second Lien Notes Creditor where such consent is required after the Second Lien Notes Discharge Date;
 - (vi) a Senior Subordinated Lender or Senior Subordinated Finance Party where such consent is required after the Senior Subordinated Facility Discharge Date; or
 - (vii) a Senior Subordinated Notes Creditor where such consent is required after the Senior Subordinated Notes Discharge Date,

such consent requirement will cease to apply.

- (i) References to the Senior Secured Notes Trustee acting on behalf of the Senior Secured Noteholders means such Senior Secured Notes Trustee acting on behalf of the Senior Secured Noteholders which it represents or, if applicable, with the consent of the requisite number of Senior Secured Noteholders required under and in accordance with the applicable Senior Secured Notes Indenture. A Senior Secured Notes Trustee will be entitled to seek instructions from the Senior Secured Noteholders which it represents to the extent required by the applicable Senior Secured Notes Indenture as to any action to be taken by it under this Agreement.
- (j) References to the Second Lien Notes Trustee acting on behalf of the Second Lien Noteholders means such Second Lien Notes Trustee acting on behalf of the Second Lien Noteholders which it represents or, if applicable, with the consent of the requisite number of Second Lien Noteholders required under and in accordance with the applicable Second Lien Notes Indenture. A Second Lien Notes Trustee will be entitled to seek instructions from the Second Lien Noteholders which it represents to the

extent required by the applicable Second Lien Notes Indenture as to any action to be taken by it under this Agreement.

- (k) References to the Senior Subordinated Notes Trustee acting on behalf of the Senior Subordinated Noteholders means such Senior Subordinated Notes Trustee acting on behalf of the Senior Subordinated Noteholders which it represents or, if applicable, with the consent of the requisite number of Senior Subordinated Noteholders required under and in accordance with the applicable Senior Subordinated Notes Indenture. A Senior Subordinated Notes Trustee will be entitled to seek instructions from the Senior Subordinated Noteholders which it represents to the extent required by the applicable Senior Subordinated Notes Indenture as to any action to be taken by it under this Agreement.
- (l) References to any matter being **permitted** under one or more of the Debt Documents shall include references to such matters not being prohibited or otherwise approved under those Debt Documents.
- (m) Any consent to be given under this Agreement shall mean such consent is to be given in writing, which for the purposes of this Agreement will be deemed to include any instructions, waivers or consents provided through any applicable clearance system in accordance with the terms of the relevant Debt Document.
- (n) Until the relevant proceeds are released from such escrow, the provisions of this Agreement shall not apply to or create any restriction in respect of any escrow arrangement pursuant to which the proceeds of any Senior Subordinated Notes, Second Lien Notes and/or Senior Secured Notes are subject and this Agreement shall not govern the rights and obligations of the Senior Subordinated Noteholders, Second Lien Noteholders or, as the case may be, Senior Secured Noteholders concerned until such proceeds are released from such escrow arrangement in accordance with the terms thereof.
- (o) Any references to terms that are defined in the Second Lien Facility Agreement or a Senior Subordinated Facility Agreement (the **Defined Term**) shall include not only the definition thereof but also terms or mechanics which are equivalent or similar to the manner in which such Defined Term is interpreted under this Agreement.

1.3 Third Party Rights

- (a) Unless expressly provided to the contrary in this Agreement, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the **Third Parties Rights Act**) to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of this Agreement, the consent of any person who is not a Party is not required to terminate, rescind, amend or otherwise vary this Agreement at any time.
- (c) Any Receiver, Delegate or any other person described in Clause 19.12 (No Proceedings) may, subject to this Clause 1.3 and the Third Parties Rights Act, rely on any Clause of this Agreement which expressly confers rights on it.
- (d) The Third Parties Rights Act shall apply in respect of this Agreement in respect of any Senior Secured Noteholder which by holding a Senior Secured Note, has effectively agreed to be bound by the provisions of this Agreement and will be deemed to receive the benefits hereof, and be subject to the terms and conditions hereof, as if such person was a Party hereto. For the purposes of the preceding sentence, upon any person becoming a Senior Secured Noteholder, such person shall be deemed a Party to this Agreement under the terms of the relevant Senior Secured Notes Indenture.

- (e) The Third Parties Rights Act shall apply in respect of this Agreement in respect of any Second Lien Noteholder which by holding a Second Lien Note, has effectively agreed to be bound by the provisions of this Agreement and will be deemed to receive the benefits hereof, and be subject to the terms and conditions hereof, as if such person was a Party hereto. For the purposes of the preceding sentence, upon any person becoming a Second Lien Noteholder, such person shall be deemed a Party to this Agreement under the terms of the relevant Second Lien Notes Indenture.
- (f) The Third Parties Rights Act shall apply in respect of this Agreement in respect of any Senior Subordinated Noteholder which by holding a Senior Subordinated Note, has effectively agreed to be bound by the provisions of this Agreement and will be deemed to receive the benefits hereof, and be subject to the terms and conditions hereof, as if such person was a Party hereto. For the purposes of the preceding sentence, upon any person becoming a Senior Subordinated Noteholder, such person shall be deemed a Party to this Agreement under the terms of the relevant Senior Subordinated Notes Indenture.

1.4 Belgian terms

In this Agreement, where it relates to a Belgian entity or Belgian security, a reference to:

- (a) a “liquidator”, “receiver”, “administrator”, “administrative receiver”, “conservator”, “custodian”, “trustee” or “similar officer” includes a *curator/curateur, vereffenaar/liquidateur, voorlopig bewindvoerder/administrateur provisoire, commissaris inzake opschorting/commissaire au sursis, mandataris ad hoc/mandataire ad hoc, ondernemingsbemiddelaar/médiateur d’entreprise, and sekwester/sequester*;
- (b) a “Security” includes a mortgage (*hypothek/hypothèque*), a pledge (*pand/nantissement*), a privilege (*voorrecht/privilege*), a retention of title (*eigendomsvoorbehoud/réserve de propriété*), a real surety (*zakelijke zekerheid/sûreté réelle*), a transfer by way of security (*overdracht ten titel van zekerheid/transfert à titre de garantie*) and a promise or mandate to create any of the security interest mentioned above;
- (c) a “suspension of payments” or “moratorium of any indebtedness” includes any *moratorium/moratoire* and any procedure under the Belgian law of 31 January 2009 on *de continuïteit van de ondernemingen/la continuité des entreprises*;
- (d) a person being “unable to pay its debts” is that person being in a state of cessation of payments (*staking van betaling/cessation de paiements*);
- (e) a “composition”, “assignment” or “similar arrangement with any creditor” includes *gerechtelijke reorganisatie/réorganisation judiciaire, and minnelijk akkoord met schuldeisers/accord amiable avec des créanciers* as applicable;
- (f) “commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness” includes any negotiations conducted with a view to reaching a settlement agreement (*minnelijk akkoord/accord amiable*) with one or more of its creditors pursuant to the Belgian Act of 31 January 2009 on *de continuïteit van de ondernemingen/la continuité des entreprises*;
- (g) an “insolvency” includes *gerechtelijk akkoord/concordat judiciaire, faillissement/faillite, gerechtelijke reorganisatie/réorganisation judiciaire* and any other concurrence between creditors (*samenloop van schuldeisers/concours des créanciers*);

- (h) a “winding up”, “liquidation”, “administration” or “dissolution” includes *vereffening/liquidation, ontbinding/dissolution, faillissement/faillite* and *sluiking van een onderneming/fermeture d'entreprise*;
- (i) an “attachment”, “sequestration”, “distress”, “execution” or “analogous events” includes *uitvoerend beslag/saisie exécutoire* and *bewaard beslag/saisie conservatoire*; and
- (j) an “amalgamation”, “demerger”, “merger”, “consolidation” or “corporate reconstruction” includes a *overdracht van algemeenheid/transfert d'universalité, overdracht van bedrijfstak/transfert de branche d'activité, splitting/scission* and *fusie/fusion* and assimilated transaction in accordance with article 676 and 677 of the Belgian Companies Code (*gelijkgestelde verrichting/opération assimilée*).

1.5 Danish Terms

In this Agreement, where it relates to a Danish entity or Danish security, a reference to:

- (a) a composition, assignment or similar arrangement with any creditor includes a *rekonstruktion* or *konkursbehandling* under Part IA or II of the Danish Bankruptcy Act;
- (b) a receiver, compulsory manager, trustee or administrator includes a *rekonstruktør*, a *kurator* or *likvidator* under Danish law;
- (c) gross negligence means *grov uagtsomhed* under Danish law;
- (d) a guarantee includes any *garanti* or *kautions* under Danish law which is independent from the debt to which it relates;
- (e) a reorganisation includes any merger (*fusion*), any contribution of part of its business in consideration of shares (*apportindskud*) and any demerger (*spaltning*) implemented in accordance with Section 160 and/or Sections 254 to 270 (included) of the Danish Companies Act; and
- (f) a winding-up, administration, liquidation or dissolution includes a *likvidation, opløsning på grundlag af betalingserklæring* or *tvangsopløsning ved likvidationsbehandling* under Chapter 14 of the Danish Companies Act.

1.6 Dutch terms

In this Agreement, where it relates to a Dutch entity, or Dutch security, a reference to:

- (a) a “necessary action to authorise” where applicable, includes without limitation:
 - (i) any action required to comply with the Works Councils Act of The Netherlands (*Wet op de ondernemingsraden*); and
 - (ii) obtaining a positive advice (*advies*) from the competent works council(s) if a positive advice is required pursuant to the Dutch Works Councils Act (*Wet op de ondernemingsraden*);
- (b) a “security interest” includes any mortgage (*hypotheek*), pledge (*pandrecht*), retention of title arrangement (*eigendomsvoorbehoud*), privilege (*voorrecht*), right of retention (*recht van retentie*), right to reclaim goods (*recht van reclame*), and, in general, any right in rem

(*beperkt recht*), created for the purpose of granting security (*goederenrechtelijk zekerheidsrecht*);

- (c) a “winding up”, “administration” or “dissolution” (and any of those terms) includes a Dutch entity being declared bankrupt (*failliet verklaard*) or dissolved (*ontbonden*);
- (d) a “moratorium” includes *surseance van betaling* and a moratorium is declared or occurs includes *surseance verleend*;
- (e) any “step” or “procedure” taken in connection with insolvency proceedings” includes a Dutch entity having filed a notice under Section 36 of the Dutch Tax Collection Act (*Invorderingswet 1990*);
- (f) an “administrative receiver” or “receiver” includes a *curator*;
- (g) an “administrator” includes a *bewindvoerder*;
- (h) an “attachment” includes a *beslag*;
- (i) a “merger” includes a *juridische fusie*;
- (j) a “demerger” includes a *juridische splitsing*; and
- (k) “financial assistance” means any act not permitted by section 2:98(c) of the Dutch Civil Code.

1.7 French terms

In this Agreement, where it relates to a French Obligor a reference to:

- (a) a “winding-up”, “administration” or “dissolution” includes a *redressement judiciaire*, a *cession totale de l'entreprise*, a *liquidation judiciaire*, a *sauvegarde*, a *sauvegarde accélérée* or a *sauvegarde financière accélérée* under the Livre VI of the French Commercial Code;
- (b) a “composition”, “assignment” or similar arrangement with any creditor includes a *conciliation* or a *mandat ad hoc* under the Livre VI of the French Commercial Code;
- (c) a “compulsory manager”, “receiver” or “administrator” includes an *administrateur judiciaire*, a *mandataire ad hoc*, a *conciliateur*, a *mandataire liquidateur* or any other person appointed as a result of any proceedings described in paragraphs (i) and (ii) above;
- (d) “gross negligence” means “*faute lourde*”;
- (e) a “guarantee” includes any *cautionnement*, *aval* or any *garantie* which is independent from the debt to which it relates;
- (f) a “grant”, “creation” or “transfer” of a “security interest” or a “collateral” includes a *sûreté réelle* and any transfer by way of security;
- (g) a “lease” includes an *opération de crédit-bail*;
- (h) a “merger” includes any fusion implemented in accordance with articles L.236-1 to L.236-24 of the French Commercial Code;

- (i) a “security” includes any titre financier within the meaning of article L.211-1 of the French Monetary Code;
- (j) a person being “unable to pay its debts” includes that person being in a state of '*cessation des paiements*' as defined in article L. 631-1 of the French Commercial Code;
- (k) a “corporate reconstruction” includes in relation to any company any contribution of part of its business in consideration of shares (*apport partiel d’actifs*), any merger (*fusion*) or demerger (*scission*) implemented in accordance with articles L.236-1 to L.236-24 of the French Commercial Code;
- (l) “trustee”, “fiduciary” and “fiduciary duty” has in each case the meaning given to such term under any applicable law; and
- (m) “wilful misconduct” means *dol*.

1.8 German terms

In this Agreement, where it relates to a German entity, or German security, a reference to:

- (a) is overindebted within the meaning of section 19 InsO, in a state of impending illiquidity (*drohender Zahlungsunfähigkeit*) or the managing directors of the person being required by law to file for insolvency;
- (b) a “liquidator”, “receiver”, “administrative”, “compulsory manager” or other similar officer includes an insolvency administrator (*Insolvenzverwalter*), interim insolvency administrator (*vorläufiger Insolvenzverwalter*) or custodian (*Sachwalter*) or preliminary custodian (*vorläufiger Sachwalter*);
- (c) an “order for winding up”, “administration” or “dissolution” includes an order for liquidation, the opening of insolvency proceedings (*Insolvenzeröffnungsbeschluss*), for admissibility of the application for the opening of insolvency proceedings (*Entscheidung über Zulässigkeit des Insolvenzantrags*) or for rejection of insolvency proceedings due to lack of funds (*Abweisungsbeschluss mangels Masse*); and
- (d) a “step” or “procedure” taken in connection with insolvency proceedings for a German entity includes it being subject to a filing for insolvency (*Antrag auf Eröffnung eines Insolvenzverfahrens*) for any of the reasons set out in section 17 to 19 (inclusive) InsO including, for the avoidance of doubt, a filing for preliminary proceedings according to section 270a and 270b InsO.

1.9 Spanish terms

In this Agreement, where it relates to a Spanish entity or Spanish security a reference to:

- (a) an “insolvency proceeding” includes a *declaración de concurso* (either a *declaración de concurso necesario* or a *declaración de concurso voluntario*) and any step or proceeding related to a *concurso* under the Spanish Insolvency Law (including, without limitation, any petition filed under article 5 bis or article 231 of the Spanish Insolvency Law);
- (b) a “winding-up”, “administration” or “dissolution” includes a *liquidación*, *disolución*, *procedimiento concursal* or any similar situation under the Spanish corporate, commercial and civil law regulation;

- (c) a “composition”, “assignment” or “similar arrangement” with any creditor includes a *convenio* or *acuerdo extrajudicial de refinanciación* for the purposes of the Spanish Insolvency Law;
- (d) a “compulsory manager”, “receiver” or “administrator” includes an *administrador concursal*, *liquidador* or any other person performing a similar function appointed as a result of any proceedings described in paragraphs (i), (ii) and (iii) above;
- (e) a “matured obligation” includes, without limitation, any *crédito líquido, vencido y exigible*;
- (f) a “guarantee” includes any *garantía (real o personal)*, *aval* or security or guarantee which is independent from the debt to which it relates;
- (g) a grant, creation or transfer of a “security interest” or a collateral includes any in rem or *garantía real*, *derecho de retención*, *crédito privilegiado*, *preminencia en el orden de prelación de créditos* and any transfer by way of security or other transaction having the same effect as each of the foregoing;
- (h) a “security” includes any financial collateral or guarantee under Spanish law including Royal Decree 5/2005;
- (i) a person being “unable to pay its debts” includes that person being in a state of *concurso* or *insolvencia* as defined in Spanish Insolvency Law;
- (j) “trustee”, “fiduciary” and “fiduciary duty” has in each case the meaning given to such term under any applicable law;
- (k) “set-off rights” would include to the extent legally possible the rights to *compensar* under Spanish Royal Decree 5/2005 of 11 March, on urgent reforms to encourage, among others, productivity and improve public procurement (*Real Decreto Ley 5/2005, de 11 de marzo, de reformas urgentes para el impulso a la productividad y para la mejora de la contratación pública*); and
- (l) “wilful misconduct” means *dolo*.

1.10 Creditor Rights prior to relevant Debt Issuance

To the extent that this Agreement grants rights for the benefit of any Senior Subordinated Creditor, Second Lien Notes Creditor or Senior Secured Note Creditors, no such rights shall accrue or be enforceable against any other Primary Creditors prior to the incurrence of the relevant indebtedness.

1.11 Additional Debt

Notwithstanding anything to the contrary, (other than compliance with (as applicable) Clause 2.6 (Anti-layering), Clause 5 (Issue of Senior Secured Notes), Clause 6.1 (Issue of Second Lien Notes or Second Lien Facility), and Clause 7.1 (Entry into a Senior Subordinated Facility / Issue of Senior Subordinated Notes) and Clauses 21.12 (Accession of Senior Subordinated Facility Creditors under New Senior Subordinated Facility) to Clause 21.15 (Accession of Second Lien Notes Trustee)) no provision of this Agreement shall (a) restrict or condition the incurrence of any Liabilities (or any other similar liabilities, rights and obligations) under or in connection with any Permitted Debt or Permitted Structural Adjustment; or (b) limit or restrict (prior to the occurrence of a Senior Event of Default or (as the case may be) such later date as specifically provided for in this Agreement) the making of any Payment of any amount due and payable thereunder or in connection therewith but

which is not an amount of principal or capitalised interest; provided that in each case, the incurrence or implementation of the principal amount of such any Permitted Debt or Permitted Structural Adjustment is permitted under the Senior Facilities Agreement, and the Second Lien Facility Agreement (and, if any Senior Secured Notes, Second Lien Notes or Senior Subordinated Liabilities are outstanding, the incurrence or implementation of the principal amount of such any Permitted Debt or Permitted Structural Adjustment is not prohibited by the Senior Secured Notes Finance Documents, Second Lien Notes Finance Documents or Senior Subordinated Finance Documents (as applicable)); and each other restriction, condition or provision in this Agreement shall be construed accordingly and deemed to include any applicable exception (or as the case may be, permission) therefor.

1.12 Holding Company Debt

Notwithstanding any term of this Agreement, no provision of this Agreement shall (a) restrict or prohibit the Investor(s) or any other Holding Company of the Parent from incurring any indebtedness, granting any Security over its assets directly owned by it (including, without limitation, the shares in the Parent and/or any rights under the Investor Liabilities due or owing to the Investor(s) by the Parent) or providing any guarantees or any other Security which is not over any assets of the Group, or (b) require any creditor in respect of indebtedness to any Investor or any other Holding Company of the Parent to become a party to (or be bound by) the provisions of this Agreement.

2. RANKING AND PRIORITY

2.1 Primary Creditor Liabilities

Each of the Parties agrees that:

- (a) Each of the Parties agrees that the Liabilities owed by the Debtors (other than to the Parent to the extent relating to any Senior Subordinated Liabilities) to the Primary Creditors shall rank in right and priority of payment in the following order and are postponed and subordinated to any prior ranking Liabilities as follows:
 - (i) **first**, the Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Hedging Liabilities, the Senior Secured Notes Trustee Amounts, the Second Lien Notes Trustee Amounts, the Senior Agent Liabilities, the Second Lien Agent Liabilities, Senior Subordinated Agent Liabilities and the Senior Subordinated Notes Trustee Amounts *pari passu* and without any preference between them;
 - (ii) **second**, the Second Lien Lender Liabilities and the Second Lien Notes Liabilities *pari passu* between themselves and without any preference between them; and
 - (iii) **third**, the Senior Subordinated Facility Liabilities and the Senior Subordinated Notes Liabilities *pari passu* between themselves and without any preference between them; and
- (b) the Senior Subordinated Liabilities owed by the Parent to the Primary Creditors shall rank *pari passu* in right and priority of payment without any preference amongst them and the Parties acknowledge that the Senior Subordinated Liabilities owed by the Parent are senior obligations of the Parent.

2.2 Transaction Security

Each of the Parties agrees that the Transaction Security shall rank and secure the following Liabilities (only to the extent that such Transaction Security is expressed to secure those Liabilities, but in the case of the Senior Liabilities, the Senior Secured Notes Liabilities and the Hedging Liabilities, without prejudice to Clause 17 (Equalisation)) in the following order:

- (a) **first**, the Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Hedging Liabilities, the Senior Secured Notes Trustee Amounts, the Second Lien Notes Trustee Amounts, the Senior Agent Liabilities, the Second Lien Agent Liabilities, Senior Subordinated Agent Liabilities and the Senior Subordinated Notes Trustee Amounts *pari passu* and without any preference between them; and
- (b) **second**, the Second Lien Lender Liabilities and the Second Lien Notes Liabilities *pari passu* between themselves and without any preference between them; and
- (c) **third**, the Senior Subordinated Facility Liabilities and the Senior Subordinated Notes Liabilities *pari passu* and without any preference between them.

2.3 Intra-Group Liabilities

- (a) Each of the Parties agrees that the Intra-Group Liabilities are postponed and subordinated to the Liabilities owed by the Debtors to the Primary Creditors.
- (b) This Agreement does not purport to rank any of the Intra-Group Liabilities as between themselves.

2.4 Investor Liabilities and Parent Liabilities

- (a) Each of the Parties agrees that the Investor Liabilities and the Parent Liabilities are postponed and subordinated to the Liabilities owed by the Debtors to the Primary Creditors and the Intra-Group Lenders.
- (b) This Agreement does not purport to rank any of the Investor Liabilities and the Parent Liabilities as between themselves.

2.5 Additional and/or Refinancing Debt

The Creditors acknowledge that the Debtors (or any of them) may wish to (a) incur incremental Borrowing Liabilities and/or Guarantee Liabilities in respect of incremental Borrowing Liabilities or (b) refinance Borrowing Liabilities and/or incur Guarantee Liabilities in respect of any such refinancing of Borrowing Liabilities (in each case, including without limitation, any Permitted Debt), which in any such case is intended to rank *pari passu* with or in priority to any existing Liabilities and/or share *pari passu* with or in priority to any existing Security and/or to rank behind any existing Liabilities and/or to share in any existing Security behind such existing Liabilities. Without limiting the generality of any other applicable provision of this Agreement, the Creditors confirm that if and to the extent such a financing or refinancing and such ranking and such Security is permitted or not otherwise prohibited by the terms of the Debt Documents at such time, they will (at the cost of the Debtors) co-operate with the Debtors with a view to enabling such financing or refinancing and such sharing in the Security to take place. In particular, but without limitation, the Senior Lenders, the Hedge Counterparties, the Senior Secured Noteholders, the Second Lien Lenders, the Second Lien Noteholders, the Senior Subordinated Lenders and the Senior Subordinated Noteholders hereby authorise and direct its Agent to execute any amendment to this Agreement and such other Debt

Documents required to reflect such arrangements to the extent such financing, refinancing and/or sharing is permitted by such Debt Documents.

2.6 Anti-layering

Notwithstanding anything in any Debt Document to the contrary, until the Second Lien Discharge Date, no Debtor shall, without the approval of the Majority Second Lien Lenders, the requisite majority of and/or affected Second Lien Noteholders and the requisite majority of and/or affected Senior Secured Creditors in accordance with the Second Lien Facility Agreement, the Second Lien Notes Indenture, the Senior Facilities Agreement and the Senior Secured Notes Indentures, issue or allow to remain outstanding any Liabilities that:

- (a) are secured or expressed to be secured by Transaction Security on a basis (i) junior to any of the Senior Secured Liabilities but (ii) senior to any of the Second Lien Liabilities;
- (b) are expressed to rank so that they are subordinated to any of the Senior Secured Liabilities but are senior to any of the Second Lien Liabilities; or
- (c) are contractually subordinated in right of payment to any of the Senior Secured Liabilities and senior in right of payment to the Second Lien Liabilities;

in each case, unless such ranking or subordination arises as a matter of law.

3. SENIOR SECURED CREDITORS AND SENIOR SECURED LIABILITIES

3.1 Payments of Senior Secured Creditor Liabilities

The Debtors may make Payments in respect of the Senior Secured Creditor Liabilities at any time provided that, following the occurrence of a Senior Acceleration Event, a Senior Secured Notes Acceleration Event or an Insolvency Event with respect to a member of the Group, no Debtor may make (and no Senior Secured Creditor may receive) Payments of the Senior Lender Liabilities or Senior Secured Notes Liabilities except from Group Recoveries distributed in accordance with Clause 16 (Application of Proceeds).

3.2 Amendments and Waivers

- (a) Subject to paragraphs (b), (c), (d) and (e) below and to Clause 4.6 (Amendments and Waivers: Hedging Agreements), the relevant Senior Secured Creditors and the Debtors may amend or waive the terms of the Senior Secured Finance Documents in accordance with their terms (and subject to any consent required under them) at any time.
- (b) At any time prior to the Second Lien Discharge Date, the Senior Lenders (or the appropriate class of Senior Lenders) may not amend or waive the terms of the Senior Finance Documents without the prior consent of the Majority Second Lien Creditors if the amendment or waiver is, in relation to the original form of the Senior Finance Documents:
 - (i) an amendment or waiver constituting a Senior Principal Increase (other than one falling within Clause 3.4 (Increase of Principal: Senior Lenders));
 - (ii) an amendment to, or waiver of, the basis on which interest, fees (including any original issue discount to face value amortised over an assumed three-year life to maturity) or commission accrue, are calculated or are payable (including any increase in an interest rate floor) and which results in an increased obligation on the Group or an additional or more frequent

payment obligation or an increase in the applicable Margin, or the inclusion of an additional margin, relating to the Senior Lender Liabilities under the relevant Senior Finance Documents other than one:

- (A) which is contemplated by the original form of the Senior Finance Documents;
- (B) (without limiting the generality of paragraph (A) above), which implements or is entered into in connection with any Permitted Senior Increase (including, for the avoidance of doubt, any increase in the Margin under (and as defined in) the Senior Facilities Agreement up to and above the MFN Rate (as defined in and as required by paragraph (b)(i) thereof) in order to implement such Additional Facility) (as set out in the original form of the Senior Facilities Agreement);
- (C) where the increase or addition is in consideration for the amendment or waiver of, or the giving of a consent under, any term of a Senior Finance Document provided that, to the extent a similar amendment or waiver of, or the giving of a consent under, any corresponding term of a Second Lien Finance Document is required, the same proportionate amount of increase or addition is offered to the Second Lien Lenders in respect of the Second Lien Facility;
- (D) where the effect of that increase or addition (in aggregate over the duration of the Senior Facilities but for this purpose disregarding all incremental costs attributable to any conversion of cash pay interest to capitalised interest), when amortised (on a straight line basis) over the Relevant Period and aggregated with any increase in Margin pursuant to paragraph (E) below is no greater than the effect of the maximum increase in the interest rate thereafter applicable to the Senior Facilities (when compared with the rate that it would have been but for that increase) which is permitted under paragraph (E) below; or
- (E) which increases (in aggregate over the duration of the Senior Facilities but for this purpose disregarding all incremental costs attributable to any conversion of cash pay interest to capitalised interest) the applicable Margin relating to the relevant Senior Facility such that the effect of that increase (when aggregated with any increase or addition pursuant to paragraph (D) above) is that the interest rate thereafter applicable to the relevant Senior Facility (when compared with the rate that it would have been but for that increase) is increased by up to one per cent. per annum in aggregate (being a weighted average across the Senior Facilities); or

(iii) any other amendment or waiver the effect of which is to make any Debtor liable to make additional or increased payments other than one:

- (A) which is contemplated by the original form of the Senior Finance Documents;
- (B) which is permitted under Clause 3.4 (Increase of Principal: Senior Lenders); or
- (C) which is permitted as a consequence of paragraphs (i) and (ii) above.

(c) The terms of a Senior Secured Notes Finance Document may not be amended or waived without the consent of the Majority Senior Lenders if such amendment or waiver would result in any Senior Secured Notes Finance Document in respect of which any Senior Secured Notes Liabilities remain outstanding ceasing to comply with the Senior Secured Notes Major Terms.

(d) Without prejudice to Clause 15.2 (Distressed Disposals), the Senior Lenders may not:

- (i) amend or waive the terms of the Senior Finance Documents if the amendment or waiver:
 - (A) would have the effect of changing the nature or scope of the guarantee and indemnity granted under clause 23 (Guarantees and Indemnity) of the Senior Facilities Agreement; or
 - (B) relates to the release of any guarantee and indemnity granted under clause 23 (Guarantees and Indemnity) of the Senior Facilities Agreement unless expressly envisaged by the original form of a Senior Finance Document or relating to a sale or disposal of an asset which is a Non-Distressed Disposal; or
- (ii) consent to the resignation of a member of the Group which has granted a guarantee and indemnity under clause 23 (Guarantees and Indemnity) of the Senior Facilities Agreement,

unless:

- (A) each Hedge Counterparty has notified the Security Agent that no payment (which is permitted under Clause 4.9 (Permitted Enforcement: Hedge Counterparties)) is at that date due and payable from that member of the Group under clause 23 (Guarantees and Indemnity) of the Senior Facilities Agreement; or
- (B) the prior consent of the Hedge Counterparties is obtained, provided that nothing in this Clause 3 or the other provisions of this Agreement shall restrict the Senior Lenders (nor the Senior Agent or Security Agent) from effecting or implementing any release or resignation (or consent thereto) of any guarantee and indemnity granted under clause 23 (Guarantees and Indemnity) of the Senior Facilities Agreement as expressly envisaged by the original form of Senior Finance Document or relating to a sale or disposal of an asset which is a Non-Distressed Disposal.

(e) Notwithstanding the foregoing:

- (i) nothing in this Clause 3.2 shall prevent the waiver of any breach of, or the relaxation of the terms of, any of the covenants in any Senior Facilities Agreement or Senior Secured Notes Indenture or any amendment or waiver in order to implement any market flex relating to any Senior Facilities Agreement or Senior Secured Notes Indenture; and
- (ii) each Creditor agrees that any Permitted Senior Increase is permitted under the relevant Debt Documents it is a party to (including any actions or steps that are necessary or appropriate in order to give effect to the terms or to facilitate the establishment of any Permitted Senior Increase).

3.3 Designation of Senior Finance Documents

The Senior Agent(s), Senior Secured Notes Trustee(s) and the Parent agree that they will not designate a document a **Finance Document** for the purposes of the Senior Facilities Agreement or Senior Secured Notes (as applicable) without the prior consent of the Majority Second Lien Creditors and (to the extent otherwise prohibited under the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding) the relevant Second Lien Notes Trustee(s) if the terms of that document effect a change which would otherwise require the consent of the Majority Second Lien Creditors and the Second Lien Notes Trustee(s) under Clause 3.2 (Amendments and Waivers).

3.4 Increase of Principal: Senior Lenders

The Senior Lenders may from time to time (if permitted under the terms of the Senior Facilities Agreement) effect a Senior Principal Increase in an amount which:

- (a) is not prohibited by the Senior Secured Notes Finance Documents, Second Lien Lender Finance Documents, Second Lien Notes Finance Documents, Senior Subordinated Facility Finance Documents or the Senior Subordinated Notes Finance Documents; or
- (b) is otherwise approved by the relevant Senior Secured Notes Trustee(s), the Second Lien Agent, the relevant Second Lien Notes Trustee(s), the relevant Senior Subordinated Agent(s) and the relevant Senior Subordinated Notes Trustee(s) at that time,

and, in each case, the amount of that Senior Principal Increase (together with interest, fees and commission on that amount) shall be treated as being part of the Senior Liabilities and the Senior Lender Liabilities. Each Creditor agrees that any Permitted Senior Increase is permitted under the relevant Debt Documents to which it is a party (including any actions or steps that are necessary or appropriate in order to give effect to the terms or to facilitate the establishment of any Permitted Senior Increase).

3.5 Security and Guarantees: Senior Secured Creditors

Other than as set out in Clause 3.6 (Security: Ancillary Lenders and Issuing Banks), the Senior Lenders and the Senior Secured Note Creditors may take, accept or receive the benefit of:

- (a) any Security from any member of the Group in respect of the Senior Lender Liabilities or the Senior Secured Notes Liabilities in addition to the Common Transaction Security if (except for any Security, permitted under Clause 3.6 (Security: Ancillary Lenders and Issuing Banks)) and to the extent legally possible and subject to any Agreed Security Principles, at the same time it is also offered either:
 - (i) to the Security Agent as agent or trustee for the other Priority Secured Parties in respect of their Liabilities; or
 - (ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as agent or trustee for the Priority Secured Parties:
 - (A) to the other Priority Secured Parties in respect of their Liabilities; or
 - (B) to the Security Agent under a parallel debt structure, joint and several creditor structure or agency structure for the benefit of the other Priority Secured Parties,

and ranks in the same order of priority as that contemplated in Clause 2.2 (Transaction Security), provided that all amounts received or recovered by any Senior Secured Creditor with respect to such Security are immediately paid to the Security Agent and held and applied in accordance with Clause 16 (Application of Proceeds); and

- (b) any guarantee, indemnity or other assurance against loss from any member of the Group in respect of the Senior Lender Liabilities or the Senior Secured Notes Liabilities in addition to those in:

- (i) the original form of Senior Facilities Agreement or the Senior Secured Notes Indenture;
- (ii) this Agreement; or
- (iii) any Common Assurance,

if (except for any guarantee, indemnity or other assurance against loss permitted under Clause 3.6 (Security: Ancillary Lenders and Issuing Banks)) and to the extent legally possible and subject to any Agreed Security Principles, at the same time it is also offered to the other Priority Secured Parties in respect of their Liabilities and ranks in the same order of priority as that contemplated in Clause 2 (Ranking and Priority) and all amounts received or recovered by any Senior Secured Creditor with respect to such Security are immediately paid to the Security Agent and held and applied in accordance with Clause 16 Application of Proceeds).

- (c) This Clause 3.5 shall not require or otherwise limit any Security, guarantee, indemnity or other assurance against loss to be granted in respect of any Senior Subordinated Facility Liabilities or Senior Subordinated Notes Liabilities.

3.6 Security: Ancillary Lenders and Issuing Banks

- (a) No Ancillary Lender or Issuing Bank will, unless the prior consent of the Majority Senior Creditors is obtained, take, accept or receive from any member of the Group the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities owed to it other than:
 - (i) the Common Transaction Security;
 - (ii) each guarantee, indemnity or other assurance against loss contained in:
 - (A) the original form of Senior Facilities Agreement;
 - (B) this Agreement; or
 - (C) any Common Assurance;
 - (iii) indemnities and assurances against loss contained in the Ancillary Documents no greater in extent than any of those referred to in paragraph (ii) above;
 - (iv) any SFA Cash Cover permitted under the Senior Facilities Agreement relating to any Ancillary Facility or for any Letter of Credit issued by the Issuing Bank;
 - (v) the indemnities or any netting or set-off arrangement contained in an ISDA Master Agreement; or
 - (vi) any Security, guarantee, indemnity or other assurance against loss giving effect to, or arising as a result of the effect of, any netting or set-off arrangement relating to the Ancillary Facilities for the purpose of netting debit and credit balances arising under the Ancillary Facilities.

- (b) This Clause 3.6 shall not require or otherwise limit any Security, guarantee, indemnity or other assurance against loss to be granted in respect of any Senior Subordinated Facility Liabilities or Senior Subordinated Notes Liabilities.

3.7 Restriction on Enforcement: Senior Lenders and Senior Secured Note Creditors

No Senior Secured Lender or Senior Secured Note Creditor may take any Enforcement Action against a member of the Group under paragraph (c) of the definition thereof without the prior written consent of an Instructing Group.

3.8 Restriction on Enforcement: Ancillary Lenders and Issuing Banks

Subject to Clause 3.9 (Permitted Enforcement: Ancillary Lenders and Issuing Banks), so long as any of the Senior Liabilities (other than any Liabilities owed to the Ancillary Lenders or Issuing Banks) are or may be outstanding, none of the Ancillary Lenders nor the Issuing Banks shall be entitled to take any Enforcement Action against a member of the Group in respect of any of the Liabilities owed to it.

3.9 Permitted Enforcement: Ancillary Lenders and Issuing Banks

- (a) The Ancillary Lenders and Issuing Banks may take Enforcement Action if:
- (i) at the same time as, or prior to, that action, Enforcement Action has been taken in respect of the Senior Lender Liabilities (excluding the Liabilities owing to Ancillary Lenders and the Issuing Banks), in which case the Ancillary Lenders and the Issuing Banks may take the same Enforcement Action as has been taken in respect of those Senior Lender Liabilities;
 - (ii) that action is contemplated by, and can be taken by the Ancillary Lenders and Issuing Banks under, the Senior Facilities Agreement (including under clause 9.4 (Repayment of Ancillary Facility) of the Senior Facilities Agreement) or Clause 3.6 (Security: Ancillary Lenders and Issuing Banks);
 - (iii) that Enforcement Action is taken in respect of SFA Cash Cover which has been provided in accordance with the Senior Facilities Agreement;
 - (iv) at the same time as or prior to, that action, the consent of the Majority Senior Creditors to that Enforcement Action is obtained; or
 - (v) to the extent permitted under applicable law, an Insolvency Event has occurred in relation to any member of the Group, in which case after the occurrence of that Insolvency Event, each Ancillary Lender and each Issuing Bank shall be entitled (if it has not already done so) to exercise any right it may otherwise have in respect of that member of the Group to:
 - (A) accelerate any of that member of the Group's Senior Lender Liabilities or declare them prematurely due and payable on demand;
 - (B) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Senior Lender Liabilities;
 - (C) exercise any right of set-off or take or receive any Payment in respect of any Senior Lender Liabilities of that member of the Group; or

- (D) claim and prove in the liquidation of that member of the Group for the Senior Lender Liabilities owing to it.

(b) Clause 3.8 (Restriction on Enforcement: Ancillary Lenders and Issuing Banks) shall not restrict:

- (i) any right of an Ancillary Lender to net or set-off in relation to a Multi-account Overdraft Facility, in accordance with the terms of the Senior Facilities Agreement, to the extent that the netting or set-off represents a reduction from a Permitted Gross Amount of that Multi-account Overdraft Facility to or towards its Designated Net Amount; and
- (ii) any right of an Ancillary Lender to continue to collect instruments/credits payable to or endorsed in favour of the Obligors to its accounts with such Ancillary Lender; the Obligors to draw against any existing credit balance and the proceeds of instruments/credits collected from time to time to its accounts; and continue to exercise its rights of set-off or combination of accounts.

3.10 Option to Purchase: Senior Secured Note Creditors

(a) The Senior Secured Note Creditors may, after a Distress Event, by giving not less than ten days' notice to the Security Agent, require the transfer to them (or to a nominee or nominees), in accordance with clause 29.3 (Conditions of assignment or transfer) of the Senior Facilities Agreement, of all, but not part, of the rights, benefits and obligations in respect of the Senior Lender Liabilities if:

- (i) that transfer is lawful and, subject to paragraph (ii) below, otherwise permitted by the terms of the Senior Facilities Agreement;
- (ii) any conditions relating to such a transfer contained in the Senior Facilities Agreement are complied with, other than any requirement to obtain the consent of, or consult with, a Debtor relating to such transfer, which consent or consultation shall not be required;
- (iii) the Senior Agent, on behalf of the Senior Lenders, is paid an amount equal to the aggregate of:
 - (A) all of the Senior Lender Liabilities at that time (whether or not due), including all amounts that would have been payable under the Senior Facilities Agreement if the Senior Facilities were being prepaid by the relevant Debtors on the date of that payment; and
 - (B) all costs and expenses (including legal fees) incurred by the Senior Agent and/or the Senior Lenders and/or the Security Agent as a consequence of giving effect to that transfer;
- (iv) as a result of that transfer, the Senior Lenders have no further actual or contingent liability to a Debtor under the relevant Debt Documents;
- (v) an indemnity is provided from each Senior Secured Note Creditor (but, for the avoidance of doubt, this does not include a Senior Secured Notes Trustee) or from another third party acceptable to all the Senior Lenders in a form reasonably satisfactory to each Senior Lender in respect of all losses which may be sustained or incurred by any Senior Lender in consequence of any sum received or recovered by any Senior Lender from any person being required (or it being alleged that it is required) to be paid back by or clawed back from any Senior Lender for any reason;

- (vi) the transfer is made without recourse to, or representation or warranty from, the Senior Lenders, except that each Senior Lender shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer;
 - (vii) the Second Lien Creditors have not exercised their rights under Clause 6.16 (Option to Purchase: Second Lien Creditors) or, having exercised such rights, have failed to complete the acquisition of the Senior Liabilities and Senior Secured Notes Liabilities in accordance with Clause 6.16 (Option to Purchase: Second Lien Creditors); and
 - (viii) the Senior Subordinated Creditors have not exercised their rights under Clause 7.15 (Option to Purchase: Senior Subordinated Creditors) or, having exercised such rights, have failed to complete the acquisition of the Senior Liabilities and Senior Secured Notes Liabilities in accordance with Clause 7.15 (Option to Purchase: Senior Subordinated Creditors).
- (b) Subject to paragraph (b) of Clause 3.11 (Hedge Transfer: Senior Secured Note Creditors) the Senior Secured Note Creditors may only require a Senior Lender Liabilities Transfer if, at the same time, they require a Hedge Transfer in accordance with Clause 3.11 (Hedge Transfer: Senior Secured Note Creditors) and if, for any reason, a Hedge Transfer cannot be made in accordance with Clause 3.11 (Hedge Transfer: Senior Secured Note Creditors), no Senior Lender Liabilities Transfer may be required to be made.
- (c) The Senior Agent shall, at the request of all the Senior Secured Note Creditors (acting as a whole) notify the Senior Secured Note Creditors of the sum of the amounts described in paragraphs (a)(iii)(A) and (a)(iii)(B) above.

3.11 Hedge Transfer: Senior Secured Note Creditors

- (a) The Senior Secured Notes Trustees (on behalf of the Senior Secured Note Creditors) may, by giving not less than ten days' notice to the Security Agent, require a Hedge Transfer:
- (i) if either:
 - (A) the Senior Secured Note Creditors require, at the same time, a Senior Lender Liabilities Transfer under Clause 3.10 (Option to Purchase: Senior Secured Note Creditors); or
 - (B) the Senior Secured Note Creditors require that Hedge Transfer at any time on or after the Senior Lender Discharge Date; and
 - (ii) if:
 - (A) that transfer is lawful and otherwise permitted by the terms of the Hedging Agreements in which case no Debtor or other member of the Group shall be entitled to withhold its consent to that transfer;
 - (B) any conditions (other than the consent of, or any consultation with, any Debtor or other member of the Group) relating to that transfer contained in the Hedging Agreements are complied with;
 - (C) each Hedge Counterparty is paid (in the case of a positive number) or pays (in the case of a negative number) an amount equal to the aggregate of (I) the Hedging Purchase Amount in respect of the hedging transactions under the relevant Hedging

Agreement at that time and (II) all costs and expenses (including legal fees) incurred as a consequence of giving effect to that transfer;

- (D) as a result of that transfer, the Hedge Counterparties have no further actual or contingent liability to any Debtor under the Hedging Agreements;
- (E) an indemnity is provided from each Senior Secured Note Creditor (but, for the avoidance of doubt, this does not include any Senior Secured Notes Trustee) which is receiving (or for which a nominee is receiving) that transfer (or from another third party acceptable to the relevant Hedge Counterparty) in a form reasonably satisfactory to the relevant Hedge Counterparty in respect of all losses which may be sustained or incurred by that Hedge Counterparty in consequence of any sum received or recovered by that Hedge Counterparty being required (or it being alleged that it is required) to be paid back by or clawed back from the Hedge Counterparty for any reason;
- (F) that transfer is made without recourse to, or representation or warranty from, the relevant Hedge Counterparty, except that the relevant Hedge Counterparty shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer;
- (G) the Second Lien Creditors have not exercised their rights under Clause 6.17 (Hedge Transfer: Second Lien Creditors) or, having exercised such rights, have failed to complete the Hedge Transfer concerned in accordance with Clause 6.17 (Hedge Transfer: Second Lien Creditors); and
- (H) the Senior Subordinated Creditors have not exercised their rights under Clause 7.16 (Hedge Transfer: Senior Subordinated Creditors) or, having exercised such rights, have failed to complete the Hedge Transfer concerned in accordance with Clause 7.16 (Hedge Transfer: Senior Subordinated Creditors).

- (b) The Senior Secured Notes Trustees (acting on behalf of all the Senior Secured Note Creditors, acting as a whole) and any Hedge Counterparty may agree (in respect of the Hedging Agreements (or one or more of them) to which that Hedge Counterparty is a party) that a Hedge Transfer required by all the Senior Secured Note Creditors (acting as a whole) pursuant to paragraph (a) above shall not apply to that Hedging Agreement(s) or to the Hedging Liabilities and Hedge Counterparty Obligations under that Hedging Agreement(s).

4. HEDGE COUNTERPARTIES AND HEDGING LIABILITIES

4.1 Identity of Hedge Counterparties

- (a) Subject to paragraph (b) below, no person providing hedging arrangements to any Debtor shall be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity in respect of any of the liabilities arising in relation to those hedging arrangements nor shall those liabilities be treated as Hedging Liabilities unless that person is or becomes a party to this Agreement as a Hedge Counterparty.
- (b) Paragraph (a) above shall not apply to a Hedging Ancillary Lender.

4.2 Restriction on Payment: Hedging Liabilities

Prior to the later to occur of (a) the Senior Lender Discharge Date and (b) the Senior Secured Note Discharge Date, the Debtors shall not, and shall procure that no other member of the Group will, make any Payment of the Hedging Liabilities at any time unless:

- (a) that Payment is permitted under Clause 4.3 (Permitted Payments: Hedging Liabilities); or
- (b) the taking or receipt of that Payment is permitted under paragraph (c) of Clause 4.9 (Permitted Enforcement: Hedge Counterparties).

4.3 Permitted Payments: Hedging Liabilities

- (a) Subject to paragraph (b) below, the Debtors may make Payments to any Hedge Counterparty in respect of the Hedging Liabilities then due to that Hedge Counterparty under any Hedging Agreement in accordance with the terms of that Hedging Agreement:
 - (i) if the Payment is a scheduled Payment arising under the relevant Hedging Agreement;
 - (ii) to the extent that the relevant Debtor's obligation to make the Payment arises as a result of the operation of:
 - (A) any of sections 2(d) (Deduction or Withholding for Tax), 2(e) (Default Interest; Other Amounts), 8(a) (Payment in the Contractual Currency), 8(b) (Judgments) and 11 (Expenses) of the 1992 ISDA Master Agreement (if the Hedging Agreement is based on a 1992 ISDA Master Agreement);
 - (B) any of sections 2(d) (Deduction or Withholding for Tax), 8(a) (Payment in the Contractual Currency), 8(b) (Judgments), 9(h)(i) (Prior to Early Termination) and 11 (Expenses) of the 2002 ISDA Master Agreement of that Hedging Agreement (if the Hedging Agreement is based on a 2002 ISDA Master Agreement); or
 - (C) any provision of a Hedging Agreement giving rise to an effect similar to that of any provision listed in paragraph (A) or (B) above (if that Hedging Agreement is not based on an ISDA Master Agreement);
 - (iii) to the extent that the relevant Debtor's obligation to make the Payment arises from a Non-Credit Related Close-Out;
 - (iv) to the extent that:
 - (A) the relevant Debtor's obligation to make the Payment arises from a Credit Related Close-Out in relation to that Hedging Agreement; and
 - (B) no Senior Default or Senior Secured Notes Default is continuing at the time of that Payment;
 - (v) if the Payment is a Payment pursuant to Clause 16.1 (Order of Application of Group Recoveries);
 - (vi) subject to Clause 4.14 (On or After Senior Lender Discharge Date/Senior Secured Note Discharge Date), if the Majority Senior Creditors give prior consent to the Payment being made; or

(vii) to the extent that the relevant Debtor's obligation to make the Payment arises out of a reduction in the hedged amount in accordance with Clause 4.13 (Total Interest Rate Hedged Amount and Total Exchange Rate Hedged Amount).

(b) No Payment may be made to a Hedge Counterparty under paragraph (a) above if:

- (i) any scheduled Payment due from that Hedge Counterparty to a Debtor under a Hedging Agreement to which they are both party is due and unpaid; or
- (ii) a Senior Acceleration Event, a Senior Secured Notes Acceleration Event or an Insolvency Event in relation to a member of the Group has occurred except from Group Recoveries distributed in accordance with Clause 16 (Application of Proceeds),

unless the prior consent of the Majority Senior Creditors and the Majority Second Lien Creditors is obtained.

- (c) Failure by a Debtor to make a Payment to a Hedge Counterparty which results solely from the operation of paragraph (b) above shall, without prejudice to Clause 4.4 (Payment Obligations Continue), not result in a default (however described) in respect of that Debtor under that Hedging Agreement or any other Senior Secured Finance Documents, Second Lien Finance Documents or Senior Subordinated Finance Documents (as applicable).
- (d) Nothing in this Agreement obliges a Hedge Counterparty to make a payment to a Debtor under a Hedging Agreement to which they are both party if any scheduled Payment due from that Debtor to the Hedge Counterparty under that Hedging Agreement is due and unpaid. For the avoidance of doubt, this provision shall not affect any Payment which is due from a Hedge Counterparty to a Debtor as a result of a Hedging Agreement to which they are both a party being terminated or closed-out.

4.4 Payment Obligations Continue

No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 4.2 (Restriction on Payment: Hedging Liabilities) and 4.3 (Permitted Payments: Hedging Liabilities) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

4.5 No Acquisition of Hedging Liabilities

Without prejudice to Clause 4.6 (Amendments and Waivers: Hedging Agreements), the Debtors shall not, and shall procure that no other member of the Group will:

- (a) enter into any Liabilities Acquisition; or
- (b) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any of the Hedging Liabilities unless, subject to Clause 4.14 (On or After Senior Lender Discharge Date/Senior Secured Note Discharge Date), the prior consent of the Majority Senior Creditors and the Majority Second Lien Creditors is obtained.

4.6 Amendments and Waivers: Hedging Agreements

- (a) Subject to paragraph (b) below, the Hedge Counterparties may not, at any time, amend or waive any term of the Hedging Agreements.
- (b) A Hedge Counterparty may amend or waive any term of a Hedging Agreement in accordance with the terms of that Hedging Agreement if:
 - (i) that amendment or waiver does not breach another term of this Agreement; and
 - (ii) that amendment or waiver would not result in a breach of:
 - (A) clause 27.6 (Hedging Agreements) or clause 27.20 (Treasury Transactions) of the Senior Facilities Agreement;
 - (B) clause 24.6 (Hedging Agreements) or clause 24.20 (Treasury Transactions) of the Second Lien Facility Agreement; or
 - (C) or any equivalent clause in the Senior Secured Notes Indenture(s), the Second Lien Notes Indenture(s), a Senior Subordinated Facility Agreement(s) or the Senior Subordinated Notes Indenture(s).

4.7 Security: Hedge Counterparties

- (a) The Hedge Counterparties may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss from any member of the Group in respect of the Hedging Liabilities other than:
 - (i) the Common Transaction Security;
 - (ii) any guarantee, indemnity or other assurance against loss contained in:
 - (A) the original form of Senior Facilities Agreement;
 - (B) this Agreement;
 - (C) any Common Assurance; or
 - (iii) the relevant Hedging Agreement no greater in extent than any of those referred to in paragraphs (A) to (C) above;
 - (iv) to the extent such Security, guarantee, indemnity or other assurance against loss has (or could have) been granted in compliance with or is as otherwise contemplated by Clause 3.5 (Security and Guarantees: Senior Secured Creditors); and
 - (v) the indemnities contained in the ISDA Master Agreements (in the case of a Hedging Agreement which is based on an ISDA Master Agreement) or any indemnities which, in terms of the rights to which they give rise, are similar to those indemnities (in the case of a Hedging Agreement which is not based on an ISDA Master Agreement).
- (b) This Clause 4.7 shall not require or otherwise limit any Security, guarantee, indemnity or other assurance against loss to be granted in respect of any Senior Subordinated Facility Liabilities or Senior Subordinated Notes Liabilities.

4.8 **Restriction on Enforcement: Hedge Counterparties**

Subject to Clause 4.9 (Permitted Enforcement: Hedge Counterparties) and Clause 4.10 (Required Enforcement: Hedge Counterparties) and without prejudice to each Hedge Counterparty's rights under Clauses 14.2 (Enforcement Instructions) and 14.3 (Manner of Enforcement), the Hedge Counterparties shall not take any Enforcement Action in respect of any of the Hedging Liabilities or any of the hedging transactions under any of the Hedging Agreements at any time.

4.9 **Permitted Enforcement: Hedge Counterparties**

- (a) To the extent it is able to do so under the relevant Hedging Agreement, a Hedge Counterparty may terminate or close-out in whole or in part any hedging transaction under that Hedging Agreement prior to its stated maturity:
 - (i) if, prior to a Distress Event, the Parent has certified to that Hedge Counterparty that that termination or close-out would not result in a breach of clause 27.20 (Treasury Transactions) of the Senior Facilities Agreement or any equivalent clause in the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, clause 24.20 (Treasury Transactions) of the Second Lien Facility Agreement or any equivalent clause of the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding or any Senior Subordinated Facility Agreement(s) pursuant to which any Senior Subordinated Commitment remains outstanding or Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes remain outstanding, provided that the Parent shall not withhold its certification for any reason other than where such breach would occur as a result of such termination or close-out;
 - (ii) if a Distress Event has occurred;
 - (iii) if:
 - (A) in relation to a Hedging Agreement which is based on the 1992 ISDA Master Agreement:
 - I. an Illegality or Tax Event or Tax Event Upon Merger (each as defined in the 1992 ISDA Master Agreement); or
 - II. an event similar in meaning and effect to a Force Majeure Event (as defined in paragraph (B) below),has occurred in respect of that Hedging Agreement; or
 - (B) in relation to a Hedging Agreement which is based on the 2002 ISDA Master Agreement, an **Illegality** or **Tax Event**, **Tax Event Upon Merger** or a **Force Majeure Event** (each as defined in the 2002 ISDA Master Agreement) has occurred in respect of that Hedging Agreement;
 - (C) in relation to a Hedging Agreement which is not based on an ISDA Master Agreement, any event which, in terms of circumstances that it involves and the rights to which it gives rise, is similar to an event mentioned in paragraph (A) or (B) above has occurred under and in respect of that Hedging Agreement;
 - (iv) if an Event of Default has occurred under either clause 28.7 (Insolvency) or clause 28.8 (Insolvency Proceedings) of the Senior Facilities Agreement or the equivalent clauses of any

other Additional Senior Facilities Agreement in relation to a Debtor which is party to that Hedging Agreement, and the relevant Hedging Document may provide for automatic termination of hedging transactions entered into under such Hedging Document upon or immediately prior to the occurrence of any such Event of Default;

- (v) subject to Clause 4.14 (On or After Senior Lender Discharge Date/Senior Secured Note Discharge Date), if the Majority Senior Creditors give prior consent to that termination or close-out being made;
 - (vi) following a Senior Lender Refinancing or Second Lien Refinancing; or
 - (vii) to the extent that that termination or close-out is necessary to comply with paragraph (c) of Clause 4.13 (Total Interest Rate Hedged Amount and Total Exchange Rate Hedged Amount).
- (b) If a Debtor has defaulted on any Payment due under a Hedging Agreement (after allowing any applicable notice or grace periods) and the default has continued unwaived for more than five Business Days after notice of that default has been given to the Security Agent pursuant to paragraph (m) of Clause 24.3 (Notification of Prescribed Events), the relevant Hedge Counterparty:
- (i) may, to the extent it is able to do so under the relevant Hedging Agreement, terminate or close-out in whole or in part any hedging transaction under that Hedging Agreement; and
 - (ii) until such time as the Security Agent has given notice to that Hedge Counterparty that the Transaction Security is being enforced (or that any formal steps are being taken to enforce the Transaction Security), shall be entitled to exercise any right it might otherwise have to sue for, commence or join legal or arbitration proceedings against any Debtor to recover any Hedging Liabilities due under that Hedging Agreement.
- (c) To the extent permitted under applicable law, after the occurrence of an Insolvency Event in relation to any member of the Group, each Hedge Counterparty shall be entitled to exercise any right it may otherwise have in respect of that member of the Group to:
- (i) prematurely close-out or terminate any Hedging Liabilities of that member of the Group;
 - (ii) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Hedging Liabilities;
 - (iii) exercise any right of set-off or take or receive any Payment in respect of any Hedging Liabilities of that member of the Group; or
 - (iv) claim and prove in the liquidation of that member of the Group for the Hedging Liabilities owing to it.

4.10 Required Enforcement: Hedge Counterparties

- (a) Subject to paragraph (b) below, a Hedge Counterparty shall promptly terminate or close-out in full any hedging transaction under all or any of the Hedging Agreements to which it is party prior to their stated maturity, following:
- (i) the occurrence of a Senior Acceleration Event or a Senior Secured Notes Acceleration Event and delivery to it of a notice from the Security Agent that that Senior Acceleration Event or Senior Secured Notes Acceleration Event (as applicable) has occurred; and

- (ii) delivery to it of a subsequent notice from the Security Agent (acting on the instructions of an Instructing Group) instructing it to do so.
- (b) Paragraph (a) above shall not apply to the extent that that Senior Acceleration Event or Senior Secured Notes Acceleration Event (as applicable) occurred as a result of an arrangement made between any Debtor and any Primary Creditor with the purpose of bringing about that Senior Acceleration Event or Senior Secured Notes Acceleration Event (as applicable).
- (c) If a Hedge Counterparty is entitled to terminate or close-out any hedging transaction under paragraph (b) of Clause 4.9 (Permitted Enforcement: Hedge Counterparties) (or would have been able to if that Hedge Counterparty had given the notice referred to in that paragraph) but has not terminated or closed out each such hedging transaction, that Hedge Counterparty shall promptly terminate or close-out in full each such hedging transaction following a request to do so by the Security Agent (acting on the instructions of an Instructing Group).

4.11 Treatment of Payments due to Debtors on Termination of Hedging Transactions

- (a) If, on termination of any hedging transaction under any Hedging Agreement occurring after a Distress Event, a settlement amount or other amount (following the application of any Close-Out Netting, Payment Netting or Inter-Hedging Agreement Netting in respect of that Hedging Agreement) falls due from a Hedge Counterparty to the relevant Debtor then that amount shall be paid by that Hedge Counterparty to the Security Agent, treated as the proceeds of enforcement of the Transaction Security and applied in accordance with the terms of this Agreement.
- (b) The payment of that amount by the Hedge Counterparty to the Security Agent in accordance with paragraph (a) above shall discharge the Hedge Counterparty's obligation to pay that amount to that Debtor.

4.12 Terms of Hedging Agreements

The Hedge Counterparties (to the extent party to the Hedging Agreement in question) and the Debtors party to the Hedging Agreements shall ensure that, at all times:

- (a) each Hedging Agreement documents only hedging arrangements entered into for the purpose of hedging the types of liabilities described in the definition of "Hedging Agreement" and that no other hedging arrangements are carried out under or pursuant to a Hedging Agreement;
- (b) each Hedging Agreement is based either:
 - (i) on an ISDA Master Agreement; or
 - (ii) another framework agreement which is similar in effect to an ISDA Master Agreement;
- (c) in the event of a termination of the hedging transaction entered into under a Hedging Agreement, whether as a result of the occurrence of:
 - (i) a Termination Event or an Event of Default, each as defined in the relevant Hedging Agreement (where that Hedging Agreement is based on an ISDA Master Agreement); or

- (ii) an event which, in terms of the circumstances that it involves and the rights to which it gives rise, is similar to either of those referred to in paragraph (i) above (where that Hedging Agreement is not based on an ISDA Master Agreement),

that Hedging Agreement will:

- (A) if it is based on a 1992 ISDA Master Agreement, provide for payments under the **Second Method** and will make no material amendment to section 6(e) (Payments on Early Termination) of the ISDA Master Agreement; or
- (B) if it is based on a 2002 ISDA Master Agreement, make no material amendment to the provisions of section 6(e) (Payments on Early Termination) of the ISDA Master Agreement; or
- (C) if it is not based on an ISDA Master Agreement, provide for any other method of determining the amount, if any, payable in respect of that termination the effect of which is that the party to which that event is referable will be entitled to receive payment under the relevant termination provisions if the net replacement value of all terminated transactions entered into under that Hedging Agreement is in its favour;
- (d) each Hedging Agreement will provide that the relevant Hedge Counterparty will be entitled to designate an Early Termination Date or otherwise be able to terminate each transaction under such Hedging Agreement if so required pursuant to Clause 4.10 (Required Enforcement: Hedge Counterparties); and
- (e) each Hedging Agreement will permit the relevant Hedge Counterparty and each relevant Debtor to take such action as may be necessary to comply with Clause 4.13 (Total Interest Rate Hedged Amount and Total Exchange Rate Hedged Amount).

4.13 Total Interest Rate Hedged Amount and Total Exchange Rate Hedged Amount

- (a) The Parent shall procure that, at all times:
 - (i) the Total Interest Rate Hedged Amount does not exceed the Permitted Maximum Interest Rate Hedged Amount; and
 - (ii) the Total Exchange Rate Hedged Amount does not exceed the Permitted Maximum Exchange Rate Hedged Amount.
- (b) Subject to paragraph (a) above, if:
 - (i) the Total Interest Rate Hedged Amount is less than the Permitted Maximum Interest Rate Hedged Amount, a Debtor may (but, subject to clause 27.6 (Hedging Agreements) of the Senior Facilities Agreement and any equivalent clause in the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes are outstanding, clause 24.6 (Hedging Agreements) of the Second Lien Facility Agreement and any equivalent clause in the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes are outstanding or any Senior Subordinated Facility Agreement(s) pursuant to which any Senior Subordinated Commitment remains outstanding or the Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes are outstanding, shall be under no obligation to) enter into additional hedging arrangements to increase the Total Interest Rate Hedged Amount; or

- (ii) the Total Exchange Rate Hedged Amount is less than the Permitted Maximum Exchange Rate Hedged Amount, a Debtor may (but, subject to clause 27.6 (Hedging Agreements) of the Senior Facilities Agreement and any equivalent clause in the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes are outstanding, clause 24.6 (Hedging Agreements) of the Second Lien Facility Agreement and any equivalent clause in the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes are outstanding or any Senior Subordinated Facility Agreement(s) pursuant to which any Senior Subordinated Commitment remains outstanding or the Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes are outstanding, shall be under no obligation to) enter into additional hedging arrangements to increase the Total Exchange Rate Hedged Amount.
- (c) If any reduction in the Senior Secured Liabilities (excluding the Hedging Liabilities), the Second Lien Liabilities or the Senior Subordinated Liabilities results in:
 - (i) an Interest Rate Hedge Excess then, on the same day as that reduction becomes effective in accordance with the terms of the relevant Debt Document, the relevant Debtor(s) shall, and the Parent shall procure that the relevant Debtor(s) shall, reduce the Total Interest Rate Hedged Amount by that Interest Rate Hedge Excess by terminating or closing out any relevant hedging transaction(s) in full or in part, as may be necessary; or
 - (ii) an Exchange Rate Hedge Excess then, on the same day as that reduction becomes effective in accordance with the terms of the relevant Debt Document, the relevant Debtor(s) shall, and the Parent shall procure that the relevant Debtor(s) shall, reduce the Total Exchange Rate Hedged Amount by that Exchange Rate Hedge Excess by terminating or closing out any relevant hedging transaction(s) in full or in part, as may be necessary.
- (d) The relevant Debtor(s) shall, and the Parent shall procure that the relevant Debtor(s) shall, pay to the relevant Hedge Counterparty (in accordance with the relevant Hedging Agreement) an amount equal to the sum of all payments (if any) that become due from each relevant Debtor to a Hedge Counterparty under the relevant Hedging Agreement(s) as a result of any action described in paragraph (c) above.
- (e) Each Hedge Counterparty shall co-operate in any process described in paragraph (d) above and shall pay (in accordance with the relevant Hedging Agreement(s)) any amount that becomes due from it under the relevant Hedging Agreement(s) to a Debtor as a result of any action described in paragraph (c) above.

4.14 On or After Senior Lender Discharge Date/Senior Secured Note Discharge Date

At any time on or after the later of:

- (a) the Senior Lender Discharge Date; and
- (b) the Senior Secured Note Discharge Date,

any action which is permitted under any of Clause 4.3 (Permitted Payments: Hedging Liabilities), Clause 4.5 (No Acquisition of Hedging Liabilities) or Clause 4.9 (Permitted Enforcement: Hedge Counterparties) by reason of the prior consent of the Majority Senior Creditors will only be permitted to the extent that that action would not result in a breach of clause 24.6 (Hedging Agreements) of the Second Lien Facility Agreement (unless the prior consent of the Majority Second Lenders is obtained) or any equivalent clause of any Second Lien Notes Indenture(s) (unless

the prior consent of the relevant Second Lien Notes Trustee(s) is obtained) or unless the Second Lien Discharge Date has occurred.

At any time after the Priority Discharge Date, any action which is permitted under any of Clause 4.3 (Permitted Payments: Hedging Liabilities), Clause 4.5 (No Acquisition of Hedging Liabilities) or Clause 4.9 (Permitted Enforcement: Hedge Counterparties) by reason of the prior consent of the Majority Senior Creditors and/or the Majority Second Lien Creditors will only be permitted to the extent that that action would not result in a breach of any clause contained in a Senior Subordinated Facility Agreement or Senior Subordinated Notes Indenture (as applicable at such time) equivalent to clause 27.6 (Hedging Agreements) of the Senior Facilities Agreement, if any (unless the prior consent of the relevant Senior Subordinated Agent and Senior Subordinated Notes Trustee(s) is obtained) or unless the Senior Subordinated Discharge Date (as applicable) has occurred.

4.15 Notice and Acknowledgement of Transaction Security

Each Hedge Counterparty, by its entry into this Agreement (or, as the case may be, by its entry into a Creditor/Agent Accession Undertaking as a Hedge Counterparty) acknowledges receipt of notice of assignment pursuant to the applicable Transaction Security Documents of the proceeds owing by that Hedge Counterparty to any Debtor pursuant to the Hedging Agreement(s) to which that Hedge Counterparty is a party.

4.16 Novation, Termination and Amendments: Hedging Agreements

Notwithstanding any other clause in this Agreement, the Debtors and the Hedge Counterparties may terminate, close-out (in whole or in part), amend, assign, novate or otherwise modify any Hedging Agreement (in each case, subject to the terms set out in the relevant Hedging Agreement) in connection with any novation of any hedging arrangements required under the Hedging Letter from one Obligor as defined in the Senior Facilities Agreement to another Obligor.

4.17 Guarantee of Hedging Liabilities

Each Guarantor (as defined in the Senior Facilities Agreement) irrevocably and unconditionally jointly and severally guarantee to each Hedge Counterparty performance by each other Obligor (as defined in the Senior Facilities Agreement) of all that Obligor's obligations under the Hedging Agreements on the same terms as are set out in clause 23 (Guarantees and Indemnity) of the Senior Facilities Agreement (in its original form) and, if applicable, the Creditor/Agent Accession Undertaking by which that Obligor became an Additional Guarantor (each as defined in the Senior Facilities Agreement) as though they were set out in full in this Agreement and such guarantee is subject to the rights, obligations and exceptions (including waiver, amendment, consent to resignation thereof by the Senior Lenders only) as set out in paragraph (d) of Clause 3.2 (Amendments and Waivers).

5. ISSUE OF SENIOR SECURED NOTES

Except as otherwise approved in writing by the Majority Senior Lenders and the Majority Second Lien Lenders, no member of the Group shall enter into any Senior Secured Notes Indenture or issue any Senior Secured Notes unless:

- (a) the Senior Agent, the Second Lien Agent and any Second Lien Notes Trustee receive copies of the Senior Secured Notes Finance Documents as soon as practicable after the relevant Senior Secured Notes are issued;

- (b) the terms of the Senior Secured Notes are consistent with the Senior Secured Notes Major Terms;
- (c) the issuer of the Senior Secured Notes, the Senior Secured Notes Trustee and each of the Senior Secured Notes Guarantors execute this Agreement or sign an Creditor/Agent Accession Undertaking before or concurrently with the issuance of the Senior Secured Notes;
- (d) if the Senior Lender Discharge Date has not occurred, such issue of Senior Secured Notes and the application of the proceeds thereof is not otherwise in breach of the Senior Facilities Agreement; and
- (e) if the Second Lien Lender Discharge Date has not occurred, such issue of Senior Secured Notes and the application of the proceeds thereof is not otherwise in breach of the Second Lien Facility Agreement and the Second Lien Notes Indentures.

6. SECOND LIEN CREDITORS AND SECOND LIEN LIABILITIES

6.1 Issue of Second Lien Notes or Second Lien Facility

Except as otherwise approved in writing by the Majority Senior Lenders and the Majority Second Lien Lenders (each acting reasonably), no member of the Group shall enter into any Second Lien Facility Agreement or borrow any Second Lien Facility or enter into any Second Lien Notes Indenture or issue any Second Lien Notes unless:

- (a) the Senior Agent, the Senior Secured Notes Trustee, the Second Lien Agent and the Second Lien Notes Trustee receive copies of:
 - (i) in the case of a Second Lien Facility, the Second Lien Lender Finance Documents as soon as practicable after the relevant Second Lien Facility is entered into; and
 - (ii) in the case of a Second Lien Notes, the Second Lien Notes Finance Documents as soon as practicable after the relevant Second Lien Notes are issued;
- (b) the only issuer or borrower of any Second Lien Facility is the Company or the Parent;
- (c) the terms of any Second Lien Notes are consistent with the Second Lien Notes Major Terms;
- (d) the borrower under the Second Lien Facility and issuer of the Second Lien Notes, the Second Lien Agent, the Second Lien Notes Trustee and each of the Second Lien Guarantors (as applicable) execute this Agreement or sign an Creditor/Agent Accession Undertaking before or concurrently with becoming a Second Lien Guarantor under the Second Lien Facility or the issuance of the Second Lien Notes;
- (e) if the Senior Lender Discharge Date has not occurred, such borrowing of the Second Lien Facility or issue of Second Lien Notes and the application of the proceeds thereof is not otherwise in breach of the Senior Facilities Agreement or the Senior Secured Notes Indenture; and
- (f) if the Second Lien Discharge Date has not occurred, such borrowing of the Second Lien Facility or issue of Second Lien Notes and the application of the proceeds thereof is not otherwise in breach of the Second Lien Facility Agreement.

6.2 Restriction on Payment and Dealings: Second Lien Liabilities

Until the Senior Secured Discharge Date, except with the prior consent of the Senior Agent under the Senior Facilities Agreement and (to the extent otherwise prohibited under the relevant Senior Secured Notes Indenture(s)) the relevant Senior Secured Notes Trustee under such Senior Secured Notes Finance Document, the Parent shall not (and the Parent shall ensure that no member of the Group will):

- (a) pay, repay, prepay, redeem, acquire or defease any principal, interest or other amount on or in respect of, or make any distribution in respect of, any Second Lien Liabilities in cash or in kind or apply any such money or property in or towards discharge of any Second Lien Liabilities except as permitted by Clause 6.3 (Permitted Second Lien Payments), Clause 6.13 (Permitted Second Lien Enforcement), Clause 11.5 (Filing of Claims) or Clause 18.2 (Second Lien Creditor Liabilities Refinancing);
- (b) exercise any set-off against any Second Lien Liabilities, except as permitted by Clause 6.3 (Permitted Second Lien Payments), Clause 6.13 (Permitted Second Lien Enforcement) or Clause 11.5 (Filing of Claims); or.
- (c) create or permit to subsist any Security over any assets of any member of the Group or give any guarantee (and the Second Lien Notes Trustee may not and no Second Lien Noteholder may, accept the benefit of any such Security or guarantee) from any member of the Group for, or in respect of, any Second Lien Notes Liabilities other than to the extent consistent with Clause 6.11 (Security: Second Lien Creditors).

6.3 Permitted Second Lien Payments

- (a) The Debtors may prior to the Senior Secured Discharge Date, make Payments to the Second Lien Creditors in respect of the Second Lien Liabilities then due in accordance with the Second Lien Finance Documents if:
 - (i) the Payment is:
 - (A) of any principal amount of the Second Lien Liabilities or any Liabilities Acquisition:
 - I. in accordance with clause 8.1 (Illegality) of the Second Lien Facility Agreement or any equivalent clause in any other Second Lien Facility Agreement or Second Lien Notes Indenture;
 - II. expressly permitted by the Senior Facilities Agreement;
 - III. in accordance with clause 39.5 (Replacement of Lender) of the Second Lien Facility Agreement or any equivalent clause in any other Second Lien Facility Agreement or Second Lien Notes Indenture;
 - IV. in accordance with Clause 15.1 (Non-Distressed Disposals) or Clause 15.5 (Report Proceeds and Insurance Proceeds (before Distress Event)) to Clause 15.8 (Adjustment of Mandatory Prepayments); or
 - V. an amount equal to the amount of any Senior Mandatory Prepayment the subject of a Senior Mandatory Prepayment Waiver;

- (B) of cash interest in accordance with the terms of the relevant Second Lien Facility Agreement or Second Lien Notes Indenture;
- (C) made by way of the capitalisation of interest or by the issuance of a non-cash pay financial instrument evidencing the same which is subordinated to the Senior Secured Liabilities on the same terms as the Second Lien Liabilities or otherwise on terms satisfactory to the Majority Senior Creditors (acting reasonably);
- (D) in respect of commercially reasonable advisory fees and professional fees for restructuring advice and valuations (including legal advice and the advice of other appropriate financial and/or restructuring advisors) and any fees or expenses of a Second Lien Agent or Second Lien Notes Trustee not covered by paragraph (F) below in an aggregate amount to all Second Lien Agents under this paragraph (D) not exceeding EUR1,000,000 (or its equivalent in other currencies) in aggregate over the life of the Second Lien Liabilities, but excluding any fees incurred in connection with any current, threatened or pending litigation against any Senior Secured Creditor or any Affiliate of any Senior Secured Creditor (in its capacity as such);
- (E) of an amount due under the original form of the fee letters dated on or about the date of this Agreement relating to the Second Lien Facility Agreement or any other fee letters relating to (and entered into at the same time as) any other Second Lien Facility Agreement or Second Lien Notes Indenture;
- (F) made in pursuance of a Liabilities Acquisition or the principal amount permitted to be repaid pursuant to the other provisions of this Agreement in relation to Second Lien Liabilities that was established with the approval of the Majority Senior Secured Creditors;
- (G) of any consent and/or waiver fee in respect of any consent granted under, or waiver or amendment of any provision of, a Second Lien Finance Document in an amount which, when expressed as a percentage of the principal amount of the Second Lien Liabilities (or the affected principal amount thereof), does not exceed the amount of the corresponding consent and/or waiver fee paid to the Senior Secured Creditors (when expressed as a percentage of the principal amount of the Senior Secured Liabilities (or the affected principal amount thereof));
- (H) payments where that amount is outstanding as a result of the accrual of cash interest payable in respect of the Second Lien Liabilities during a period when a Second Lien Payment Stop Notice was outstanding; and
- (I) following the occurrence of an Event of Default under a Second Lien Facility Agreement or Second Lien Notes Indenture (which is continuing), all or part of the Second Lien Liabilities as a result of those Second Lien Liabilities being released or otherwise discharged solely in consideration for the issue of shares in any Holding Company of the Parent (each a **Debt for Equity Swap**) provided that no cash or cash equivalent payment is made in respect of the Second Lien Liabilities and any Liabilities owed by a member of the Group to another member of the Group, the Investors, any other Holding Company of the Parent that arise as a result of any such Debt for Equity Swap are subordinated to the Senior Secured Liabilities and the Hedging Liabilities pursuant to this Agreement and the Senior Secured Creditors are granted Transaction Security in respect of any of those Liabilities owed by a member of the Group;

- (J) of any costs, commissions, taxes, consent fees and expenses (other than any costs, commission, taxes, consent fees and expenses which are permitted under subparagraph (D) or (G) above) incurred in respect of (or reasonably incidental to) the Second Lien Finance Documents (including in relation to any reporting or listing requirements under the Second Lien Finance Documents);
 - (K) of any costs, commissions, taxes, premiums and any expenses incurred in respect of (or reasonably incidental to) any refinancing of a Second Lien Facility Agreements or the Second Lien Notes in compliance with this Agreement and the Second Lien Agreement;
 - (L) in the case of any Second Lien Notes, of any of the principal amount thereof at the original scheduled maturity date thereof provided that such maturity date is a date not earlier than six months after the original termination date of the latest Senior Secured Liabilities outstanding at the time such Second Lien Notes are issued (it being acknowledged that any Second Lien Notes may also have customary optional redemption, change of control, asset sale and other comparable redemption provisions); and
- (ii) (except in the case of the payment of amounts referred to in paragraphs (a)(i)(D) and (a)(i)(E) (only with respect to agency fees or Notes Trustee Amounts) and (a)(i)(G) above in circumstances where the corresponding amounts (if any) then payable to the Senior Secured Creditors or their advisors in accordance with the Senior Secured Finance Documents have been paid in full and except in the case of the payments contemplated by paragraphs (a)(i)(A)I, (a)(i)(C), (a)(i)(I) and (a)(i)(J) above (other than with respect to consent fees)) no Second Lien Payment Stop Notice is outstanding and no Senior Secured Payment Default has occurred and is continuing.
- (b) On and after the Senior Secured Discharge Date, the Debtors may make Payments to the Second Lien Creditors in respect of the Second Lien Liabilities in accordance with the Second Lien Finance Documents.

6.4 Issue of Second Lien Payment Stop Notice

- (a) A Second Lien Payment Stop Notice is **outstanding** during the period from the date on which, following the occurrence of a Material Event of Default, the Security Agent (acting on the instructions of the Majority Senior Creditors) issues a notice (a **Second Lien Payment Stop Notice**) to any Second Lien Agent and/or any Second Lien Notes Trustee (with a copy to the Company) advising that a Material Event of Default has occurred and is then continuing and suspending Payments of the Second Lien Liabilities in respect of the relevant Second Lien Facility or Second Lien Notes, as the case may be (other than those expressly permitted under paragraph (a)(ii) of Clause 6.3 (Permitted Second Lien Payments)).
- (b) Until the Senior Secured Discharge Date except with the prior consent of the Senior Agent under the Senior Facilities Agreement, (to the extent otherwise prohibited under the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes are outstanding) the consent of the relevant Senior Secured Notes Trustee(s) under such Senior Secured Notes Finance Documents and subject to Clause 11 (Effect of Insolvency Event), if a Second Lien Payment Stop Notice is outstanding, Payments of the Second Lien Liabilities (other than those expressly envisaged under paragraph (a)(ii) of Clause 6.3 (Permitted Second Lien Payments)) shall be suspended until the first to occur of:
- (i) the date falling 120 days after delivery of that Second Lien Payment Stop Notice;

- (ii) if a Second Lien Standstill Period commences after the issue of that Second Lien Payment Stop Notice, the date on which that Second Lien Standstill Period expires;
 - (iii) the date on which the Material Event of Default in respect of which that Second Lien Payment Stop Notice was issued is no longer continuing;
 - (iv) the date on which the Security Agent (acting on the instructions of the Majority Senior Secured Creditors) cancels that Second Lien Payment Stop Notice by notice to the applicable Second Lien Agent and/or any Second Lien Notes Trustee (with a copy to the Company); and
 - (v) the Senior Secured Discharge Date.
- (c) Unless the Second Lien Agent(s) and Second Lien Notes Trustee(s) waive this requirement:
- (i) a new Second Lien Payment Stop Notice may not be delivered unless and until 360 days have elapsed since the delivery of the immediately prior Second Lien Payment Stop Notice; and
 - (ii) no Second Lien Payment Stop Notice may be delivered in reliance on a Material Event of Default more than 120 days after the date the Senior Agent and each Senior Secured Notes Trustee (as applicable) received notice of that Material Event of Default.
- (d) The Senior Agent and the Senior Secured Notes Trustee(s) may only serve one Second Lien Payment Stop Notice with respect to the same event or set of circumstances. Subject to paragraph (c) above, this shall not affect the right of the Senior Agent or the Senior Secured Notes Trustee(s) to:
- (i) issue a Second Lien Payment Stop Notice to each Second Lien Agent and each Second Lien Notes Trustee with respect to the same event or set of circumstances; or
 - (ii) issue a Second Lien Payment Stop Notice in respect of any other event or set of circumstances.
- (e) No Second Lien Payment Stop Notice may be served by a Senior Agent or a Senior Secured Notes Trustee in respect of a Material Event of Default which had been notified to the Senior Agent and the Senior Secured Notes Trustees at the time at which an earlier Second Lien Payment Stop Notice was issued.
- (f) For the avoidance of doubt, this Clause 6.4:
- (i) acts as a suspension of payment and not as a waiver of the right to receive payment on the date such payments are due;
 - (ii) will not prevent the accrual or capitalisation of interest (including default interest) in accordance with the Second Lien Finance Documents;
 - (iii) will not prevent the payment of any Second Lien Agent Liabilities or Second Lien Notes Trustee Amounts; and
 - (iv) will not prevent the payment of audit fees, directors' fees, taxes and other proper and incidental expenses required to maintain existence.

6.5 Effect of Material Event of Default or Senior Secured Payment Default

Any failure to make a Payment due under the Second Lien Finance Documents as a result of the issue of a Second Lien Payment Stop Notice or the occurrence of a Senior Secured Payment Default shall not prevent:

- (a) the occurrence of an Event of Default as a consequence of that failure to make a Payment in relation to the relevant Second Lien Finance Document; or
- (b) the issue of a Second Lien Enforcement Notice on behalf of the Second Lien Creditors.

6.6 Payment Obligations and Capitalisation of Interest Continue

- (a) No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Second Lien Notes Finance Document by the operation of Clauses 6.2 (Restriction on Payment and Dealings: Second Lien Liabilities) to 6.5 (Effect of Material Event of Default or Senior Secured Payment Default) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.
- (b) The accrual and capitalisation of interest (if any) in accordance with the Second Lien Finance Documents shall continue notwithstanding the issue of a Second Lien Payment Stop Notice.

6.7 Cure of Payment Stop: Second Lien Creditors

If:

- (a) at any time following the issue of a Second Lien Payment Stop Notice or the occurrence of a Senior Secured Payment Default, that Second Lien Payment Stop Notice ceases to be outstanding and/or (as the case may be) the Senior Secured Payment Default ceases to be continuing; and
- (b) the relevant Debtor then promptly pays to the Second Lien Creditors an amount equal to any Payments which had accrued under the Second Lien Finance Documents and which would have been Permitted Second Lien Payments but for that Second Lien Payment Stop Notice or Senior Secured Payment Default,

then any Event of Default which may have occurred as a result of that suspension of Payments shall be waived and any Second Lien Enforcement Notice which may have been issued as a result of that Event of Default shall be waived, in each case without any further action being required on the part of the Second Lien Creditors.

6.8 Amendments and Waivers: Second Lien Creditors

- (a) Subject to paragraphs (b), (c) and (d) below, the Second Lien Creditors and the Debtors may amend or waive the terms of the Second Lien Finance Documents (other than this Agreement or any Security Document) in accordance with their terms (and subject to any consent required under them) at any time.
- (b) Prior to the Senior Secured Discharge Date, the Second Lien Notes Finance Parties may not, without the consent of the Majority Senior Lenders and (to the extent otherwise prohibited under the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes are outstanding) the relevant Senior Secured Notes Trustee(s), amend or waive the terms of the Second Lien Notes Finance Documents if the amendment or waiver would result in the Second Lien Notes Finance

Documents in respect of which any Second Lien Notes remain outstanding ceasing to comply with the Second Lien Notes Major Terms.

- (c) Prior to the Senior Secured Discharge Date, the Second Lien Lenders (or the appropriate class of Second Lien Lenders) may not amend or waive the terms of the Second Lien Lender Finance Documents without the prior consent of the Majority Senior Secured Creditors if the amendment or waiver is, in relation to the original form of the Second Lien Lender Finance Documents:
 - (i) an amendment to, or waiver of, the amount, currency, dates or terms of repayment or prepayment (mandatory or otherwise) of a Second Lien Facility other than one:
 - (A) which is contemplated by the original form of the Second Lien Lender Finance Documents;
 - (B) (without limiting the generality of paragraph (A) above), which implements or is entered into in connection with any Permitted Second Lien Increase (including any increase in the Margin under (and as defined in) the Second Lien Facility Agreement up to and above the MFN Rate (as defined in and as required by paragraph (b)(i) thereof) in order to implement such Second Lien Additional Facility) (as set out in the original form of the Second Lien Facility Agreement); or
 - (C) the sole effect of which is to defer the due date for a scheduled repayment of Second Lien Liabilities or for a Second Lien Lender Mandatory Prepayment;
 - (ii) an amendment to, or waiver of, the basis on which interest, fees (including any original issue discount to face value amortised over an assumed three-year life to maturity) or commission accrue, are calculated or are payable (including any increase in an interest rate floor) and which results in an increased obligation on the Group or an additional or more frequent payment obligation other than one:
 - (A) which is contemplated by the original form of the Second Lien Finance Documents;
 - (B) (without limiting the generality of paragraph (A) above), which implements or is entered into in connection with any Permitted Second Lien Increase;
 - (C) the sole effect of which is to capitalise interest that would otherwise have been required to be paid in cash under the relevant Second Lien Facility Agreement on the basis that interest so capitalised will at all times thereafter be treated as principal under the relevant Second Lien Facility Agreement or converting any interest which was previously cash pay interest and which has been converted into capitalising interest back into cash pay interest (provided that such conversion back to cash pay interest takes effect no earlier than the date of such amendment and interest which has been capitalised prior to that date shall continue to form part of the outstanding principal); or
 - (D) the sole effect of which (when taken together with all other such amendments and waivers) is to increase interest payable (whether in cash or in kind) under the relevant Second Lien Facility Agreement by an aggregate amount of up to one per cent. per annum;
 - (iii) any other amendment or waiver the effect of which is to make any Debtor liable to make additional or increased payments; or

- (iv) any amendment or waiver which would result in any member of the Group (other than the Company or the Parent) becoming a borrower or principal debtor under a Second Lien Facility Agreement or Second Lien Notes Indenture, unless such member of the Group is:
 - (A) a Holding Company of the Company; or
 - (B) if at such time a Holding Company or a Subsidiary of the Company (the **New Senior Term Borrower**) has become a borrower of the Senior Term Facilities in place of the Company, the New Senior Term Borrower or a Holding Company of the New Senior Term Borrower.
- (d) Notwithstanding the foregoing:
 - (i) nothing in this Clause 6.8 shall prevent the waiver of any breach of, or the relaxation of the terms of, any of the covenants in any Second Lien Facility Agreement or Second Lien Notes Indenture or any amendment or waiver in order to implement any market flex relating to any Second Lien Facility Agreement or Second Lien Notes Indenture; and
 - (ii) each Creditor agrees that any Permitted Second Lien Increase is permitted under the relevant Debt Documents it is a party (including any actions or steps that are necessary or appropriate in order to give effect to the terms or to facilitate the establishment of any Permitted Second Lien Increase).

6.9 Designation of Second Lien Finance Documents

The Second Lien Agent(s), Second Lien Notes Trustee(s) and the Parent agree that they will not designate a document a **Finance Document** for the purposes of the Second Lien Facility Agreement or Second Lien Notes (as applicable) without the prior consent of the Majority Senior Creditors and (to the extent otherwise prohibited under the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding) the relevant Senior Secured Notes Trustee(s) if the terms of that document effect a change which would otherwise require the consent of the Majority Senior Creditors and the Senior Secured Notes Trustee(s) under Clause 6.8 (Amendments and Waivers: Second Lien Creditors).

6.10 Second Lien Facility Debt

Notwithstanding anything to the contrary in Clauses 6.8 (Amendments and Waivers: Second Lien Creditors) and 6.9 (Designation of Second Lien Finance Documents) (the **Relevant Second Lien Clauses**), nothing in the Relevant Second Lien Clauses restricts the incurrence of any Liabilities under or in connection with any Second Lien Liabilities which is to be incurred after the Closing Date (provided that the incurrence of such Liabilities is not prohibited under the Senior Secured Finance Documents, the Second Lien Finance Documents and the Senior Subordinated Finance Documents and complies with the provisions of Clause 2.6 (Anti-layering)).

6.11 Security: Second Lien Creditors

At any time prior to the Senior Secured Discharge Date, the Second Lien Creditors may not take, accept or receive from any member of the Group the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of the Second Lien Liabilities other than:

- (a) the Common Transaction Security;
- (b) any guarantee, indemnity or other assurance against loss contained in:

- (i) the original form of any Second Lien Finance Document;
 - (ii) this Agreement;
 - (iii) any Common Assurance; and
- (c) to the extent such Security, guarantee, indemnity or other assurance against loss has (or could have) been granted in compliance with or is otherwise contemplated by Clause 3.5 (Security and Guarantees: Senior Secured Creditors),

unless the prior consent of the Majority Senior Secured Creditors is obtained.

6.12 Restrictions on Enforcement by Second Lien Creditors

Until the Senior Secured Discharge Date, except with the prior consent of or as required by an Instructing Group, no Second Lien Creditor shall take or require the taking of any Enforcement Action against a member of the Group in relation to the Second Lien Liabilities, except as permitted under Clause 6.13 (Permitted Second Lien Enforcement) provided, however, that no such action required by an Instructing Group need be taken except to the extent that such Instructing Group otherwise is entitled under this Agreement to direct such action.

6.13 Permitted Second Lien Enforcement

- (a) Each Second Lien Creditor may take Enforcement Action available to it but for Clause 6.12 (Restrictions on Enforcement by Second Lien Creditors) in respect of any of the Second Lien Liabilities owed to it if at the same time as, or prior to, that action:
- (i) a Senior Acceleration Event or a Senior Secured Notes Acceleration Event has occurred in which case each Second Lien Creditor may take the same Enforcement Action (but in respect of the Second Lien Liabilities) as constitutes that Senior Acceleration Event or Senior Secured Notes Acceleration Event;
 - (ii) (A) a Second Lien Agent or Second Lien Notes Trustee has given notice (a **Second Lien Enforcement Notice**) to the Security Agent specifying that a Second Lien Event of Default under the Second Lien Finance Documents in respect of which it is an agent has occurred and is continuing; and
 - (B) a period (a **Second Lien Standstill Period**) of not less than:
 - I. 90 days in the case of a failure to make a payment of an amount of principal, interest or fees representing the Second Lien Liabilities;
 - II. 120 days in the case of an Event of Default arising as a result of a breach of any financial covenant under the relevant Second Lien Facility Agreement and/or the Second Lien Notes Indenture; and
 - III. 150 days in the case of any other Second Lien Event of Default,
 has elapsed from the date on which that Second Lien Enforcement Notice becomes effective in accordance with Clause 25.4 (Delivery); and
 - (C) that Second Lien Event of Default is continuing at the end of the Second Lien Standstill Period; or

- (iii) the Majority Senior Creditors have given their prior consent.
- (b) To the extent permitted under applicable law, after the occurrence of an Insolvency Event in relation to any Debtor, each Second Lien Creditor may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Second Lien Creditor in accordance with Clause 11.5 (Filing of Claims)) exercise any right they may otherwise have against that Debtor to:
 - (i) accelerate any of that Debtor's Second Lien Liabilities or declare them prematurely due and payable or payable on demand;
 - (ii) make a demand under any guarantee, indemnity or other assurance against loss given by that Debtor in respect of any Second Lien Liabilities;
 - (iii) exercise any right of set-off or take or receive any Payment or claim in respect of any Second Lien Liabilities of that Debtor; or
 - (iv) claim and prove in the liquidation, administration or other insolvency proceedings of that Debtor for the Second Lien Liabilities owing to it.

6.14 Subsequent Second Lien Defaults

The Second Lien Finance Parties may take Enforcement Action under Clause 6.13 (Permitted Second Lien Enforcement) in relation to a Second Lien Event of Default even if, at the end of any relevant Second Lien Standstill Period or at any later time, a further Second Lien Standstill Period has begun as a result of any other Second Lien Event of Default.

6.15 Enforcement on behalf of Second Lien Creditors

- (a) If the Security Agent has notified the Second Lien Agents and Second Lien Notes Trustees that it is enforcing Security created pursuant to any Security Document over shares of a Debtor, no Second Lien Finance Party may take any action referred to in Clause 6.13 (Permitted Second Lien Enforcement) against that Debtor and/or any of its Subsidiaries while the Security Agent is taking steps to enforce that Security in accordance with the instructions of the Instructing Group where such action might be reasonably likely to adversely affect such enforcement or the amount of proceeds to be derived therefrom.
- (b) If the Second Lien Creditors are permitted to give instructions to the Security Agent to require the enforcement of the Security constituted pursuant to any Security Document in accordance with the provisions of this Clause 6.15, such Enforcement Action must require the realisation of the relevant Security by way of a sale or disposal conducted in compliance with the provisions of paragraph (d) of Clause 15.2 (Distressed Disposals).

6.16 Option to Purchase: Second Lien Creditors

- (a) Subject to paragraphs (b) and (c) below, the Second Lien Agent or Second Lien Notes Trustee (on behalf of the Second Lien Creditors) may after a Distress Event, by giving not less than ten days' notice to the Security Agent, require the transfer to the Second Lien Creditors (or to a nominee or nominees), in accordance with Clause 21.3 (Change of Primary Creditors), of all, but not part, of the rights, benefits and obligations in respect of the Senior Lender Liabilities and the Senior Secured Notes Liabilities if:

- (i) that transfer is lawful and subject to paragraph (ii) below, otherwise permitted by the terms of the Senior Facilities Agreement (in the case of the Senior Lender Liabilities) and the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding (in the case of the Senior Secured Notes Liabilities), as applicable;
- (ii) any conditions relating to such a transfer contained in the Senior Facilities Agreement (in the case of the Senior Lender Liabilities) and the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding (in the case of the Senior Secured Notes Liabilities), as applicable, are complied with, other than:
 - (A) any requirement to obtain the consent of, or consult with, any Debtor or other member of the Group relating to such transfer, which consent or consultation shall not be required; and
 - (B) to the extent to which all the Second Lien Creditors (acting as a whole) provide cash cover for any Letter of Credit, the consent of the relevant Issuing Bank relating to such transfer;
- (iii) the Senior Agent, on behalf of the Senior Lenders, is paid an amount equal to the aggregate of:
 - (A) any amounts provided as cash cover by the Second Lien Creditors for any Letter of Credit (as envisaged in paragraph (ii)(B) above);
 - (B) all of the Senior Liabilities (other than the Hedging Liabilities) at that time (whether or not due), including all amounts that would have been payable under the Senior Facilities Agreement if the Senior Facilities were being prepaid by the relevant Debtors on the date of that payment; and
 - (C) all costs and expenses (including legal fees) incurred by the Senior Agent and/or the Senior Lenders as a consequence of giving effect to that transfer;
- (iv) the Senior Secured Notes Trustee(s), on behalf of the Senior Secured Note Creditors, are paid an amount equal to the aggregate of:
 - (A) all of the Senior Secured Notes Liabilities at that time (whether due or not due), including all amounts that would have been payable under the Senior Secured Notes Indenture if the Senior Secured Notes were being redeemed (as applicable) by the relevant Debtors on the date of that payment; and
 - (B) all costs and expenses (including legal fees) incurred by the Senior Secured Notes Trustee(s) and/or the Senior Secured Note Creditors as a consequence of giving effect to that transfer;
- (v) as a result of that transfer the Senior Lenders and Senior Secured Note Creditors have no further actual or contingent liability to any Debtor under the Senior Secured Finance Documents;
- (vi) an indemnity is provided from each Second Lien Creditor (but, for the avoidance of doubt, this does not include a Second Lien Agent or a Second Lien Notes Trustee) (or from another third party acceptable to all the Senior Lenders and Senior Secured Note Creditors) in a form reasonably satisfactory to each Senior Lender and Senior Secured Note Creditors in respect of all losses which may be sustained or incurred by any Senior Lender or Senior Secured

Note Creditor in consequence of any sum received or recovered by any Senior Lender or Senior Secured Note Creditor from any person being required (or it being alleged that it is required) to be paid back by or clawed back from any Senior Lender or Senior Secured Note Creditor for any reason; and

- (vii) the transfer is made without recourse to, or representation or warranty from, the Senior Lenders or the Senior Secured Note Creditors, except that each Senior Lender and Senior Secured Note Creditor shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.
- (b) Subject to paragraph (b) of Clause 6.17 (Hedge Transfer: Second Lien Creditors), the Second Lien Agent or Second Lien Notes Trustee (on behalf of all the Second Lien Creditors) may only require a Senior Secured Creditor Liabilities Transfer if, at the same time, they require a Hedge Transfer in accordance with Clause 6.17 (Hedge Transfer: Second Lien Creditors) and if, for any reason, a Hedge Transfer cannot be made in accordance with Clause 6.17 (Hedge Transfer: Second Lien Creditors), no Senior Secured Creditor Liabilities Transfer may be required to be made.
- (c) At the request of the Second Lien Agent or Second Lien Notes Trustee (on behalf of all the Second Lien Creditors):
 - (i) the Senior Agent shall notify the Second Lien Creditors of:
 - (A) the sum of the amounts described in paragraphs (a)(iii)(A)II and (a)(iii)(A)III of Clause 7.15 (Option to Purchase: Senior Subordinated Creditors); and
 - (B) the amount of each Letter of Credit for which cash cover is to be provided by all the Second Lien Creditors (acting as a whole); and
 - (ii) the Senior Secured Notes Trustee(s) shall notify the Second Lien Creditors of the sum of amounts described in paragraphs (a)(iii)(B)I and (a)(iii)(B)II of Clause 7.15 (Option to Purchase: Senior Subordinated Creditors).

6.17 Hedge Transfer: Second Lien Creditors

- (a) The Second Lien Agent or Second Lien Notes Trustee (on behalf of all the Second Lien Creditors, acting as a whole) may, by giving not less than ten days' notice to the Security Agent, require a Hedge Transfer:
 - (i) if either:
 - (A) the Second Lien Creditors require, at the same time, a Senior Secured Creditor Liabilities Transfer under Clause 6.16 (Option to Purchase: Second Lien Creditors); or
 - (B) all the Second Lien Creditors (acting as a whole) require that Hedge Transfer at any time on or after the later of the Senior Lender Discharge Date and the Senior Secured Note Discharge Date; and
 - (ii) if:

- (A) that transfer is lawful and otherwise permitted by the terms of the Hedging Agreements in which case no Debtor or other member of the Group shall be entitled to withhold its consent to that transfer;
 - (B) any conditions (other than the consent of, or any consultation with, any Debtor or other member of the Group) relating to that transfer contained in the Hedging Agreements are complied with;
 - (C) each Hedge Counterparty is paid (in the case of a positive number) or pays (in the case of a negative number) an amount equal to the aggregate of (I) the Hedging Purchase Amount in respect of the hedging transactions under the relevant Hedging Agreement at that time and (II) all costs and expenses (including legal fees) incurred as a consequence of giving effect to that transfer;
 - (D) as a result of that transfer, the Hedge Counterparties have no further actual or contingent liability to any Debtor under the Hedging Agreements;
 - (E) an indemnity is provided from each Second Lien Creditor (but for the avoidance of doubt this does not include a Second Lien Agent or a Second Lien Notes Trustee) which is receiving (or for which a nominee is receiving) that transfer (or from another third party acceptable to the relevant Hedge Counterparty) in a form reasonably satisfactory to the relevant Hedge Counterparty in respect of all losses which may be sustained or incurred by that Hedge Counterparty in consequence of any sum received or recovered by that Hedge Counterparty being required (or it being alleged that it is required) to be paid back by or clawed back from the Hedge Counterparty for any reason; and
 - (F) that transfer is made without recourse to, or representation or warranty from, the relevant Hedge Counterparty, except that the relevant Hedge Counterparty shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.
- (b) The Second Lien Agent or Second Lien Notes Trustee (acting on behalf of all the Second Lien Creditors,) and any Hedge Counterparty may agree (in respect of the Hedging Agreements (or one or more of them) to which that Hedge Counterparty is a party) that a Hedge Transfer required by all the Second Lien Creditors (acting as a whole) pursuant to paragraph (a) above shall not apply to that Hedging Agreement(s) or to the Hedging Liabilities and Hedge Counterparty Obligations under that Hedging Agreement(s).
 - (c) If the Second Lien Agent or Second Lien Notes Trustee is entitled to require a Hedge Transfer under this Clause, the Hedge Counterparties shall at the request of the Second Lien Agent or Second Lien Notes Trustee, provide details of the amounts referred to in paragraph (a)(ii)(C) above).

7. SENIOR SUBORDINATED CREDITORS AND SENIOR SUBORDINATED LIABILITIES

7.1 Entry into a Senior Subordinated Facility / Issue of Senior Subordinated Notes

Except as otherwise approved in writing by the Majority Senior Lenders and the Majority Second Lien Lenders (each acting reasonably), no member of the Group shall enter into any Senior Subordinated Facility Agreement or borrow any Senior Subordinated Facility or enter into any Senior Subordinated Notes Indenture or issue any Senior Subordinated Notes unless:

- (a) each of the Senior Agent and the Second Lien Agent receives copies of:
 - (i) in the case of a Senior Subordinated Facility, the Senior Subordinated Facility Finance Documents as soon as practicable after the relevant Senior Subordinated Facility is entered into; and
 - (ii) in the case of a Senior Subordinated Notes, the Senior Subordinated Notes Finance Documents as soon as practicable after the relevant Senior Subordinated Notes are issued;
- (b) the terms of the Senior Subordinated Facility and the Senior Subordinated Notes are consistent with the Senior Subordinated Liabilities Major Terms;
- (c) the borrower under the Senior Subordinated Facility and issuer of the Senior Subordinated Notes, the Senior Subordinated Agent, the Senior Subordinated Notes Trustee and each of the Senior Subordinated Guarantors (as applicable) execute this Agreement or sign an Creditor/Agent Accession Undertaking before or concurrently with becoming a Senior Subordinated Facility Guarantor under the Senior Subordinated Facility or the issuance of the Senior Subordinated Notes;
- (d) if the Senior Lender Discharge Date has not occurred, such borrowing of the Senior Subordinated Facility or issue of Senior Subordinated Notes and the application of the proceeds thereof is not otherwise in breach of the Senior Facilities Agreement; and
- (e) if the Second Lien Lender Discharge Date has not occurred, such borrowing of the Senior Subordinated Facility or issue of Senior Subordinated Notes and the application of the proceeds thereof is not otherwise in breach of the Second Lien Facility Agreement.

7.2 Restriction on Payment and Dealings: Senior Subordinated Liabilities

Until the Priority Discharge Date, except with the prior consent of the Senior Agent under the Senior Facilities Agreement, (to the extent otherwise prohibited under the relevant Senior Secured Notes Indenture(s)) the relevant Senior Secured Notes Trustee under such Senior Secured Notes Finance Documents, the Second Lien Agent under the Second Lien Facility Agreement and (to the extent otherwise prohibited under the relevant Second Lien Notes Indenture(s)) the relevant Second Lien Notes Trustee under such Second Lien Notes Finance Documents, the Parent shall not (and the Parent shall ensure that no member of the Group will):

- (a) pay, repay, prepay, redeem, acquire or defease any principal, interest or other amount on or in respect of, or make any distribution in respect of, any Senior Subordinated Liabilities in cash or in kind or apply any such money or property in or towards discharge of any Senior Subordinated Liabilities except as permitted by Clause 7.3 (Permitted Senior Subordinated Payments), Clause 7.11 (Permitted Senior Subordinated Enforcement), Clause 11.5 (Filing of Claims) or Clause 18.3 (Senior Subordinated Notes Refinancing);
- (b) exercise any set-off against any Senior Subordinated Liabilities, except as permitted by Clause 7.3 (Permitted Senior Subordinated Payments), Clause 7.10 (Restrictions on Enforcement by Senior Subordinated Finance Party) or Clause 11.5 (Filing of Claims); or
- (c) create or permit to subsist any Security over any assets of any member of the Group or give any guarantee (and no Senior Subordinated Agent, Senior Subordinated Finance Party, Senior Subordinated Notes Trustee and Senior Subordinated Noteholder may, accept the benefit of any such Security or guarantee) from any member of the Group for, or in respect

of, any Senior Subordinated Notes Liabilities other than (i) (in the case of guarantees) Senior Subordinated Guarantees and (ii) (in the case of Security) Senior Subordinated Shared Security.

7.3 Permitted Senior Subordinated Payments

The Debtors may:

(a) prior to the Priority Discharge Date, make Payments to the Senior Subordinated Creditors in respect of the Senior Subordinated Liabilities then due in accordance with the Senior Subordinated Finance Documents:

(i) if:

(A) the Payment is of:

I. any of the principal amount of the Senior Subordinated Liabilities or any Liabilities Acquisition but only to the extent funded from the proceeds of Repayment Sources and which is either (aa) expressly permitted to be paid (or not prohibited) by the Senior Facilities Agreement and is not prohibited from being paid by the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes are outstanding or (bb) paid on or after the final maturity date of the Senior Subordinated Liabilities (provided that such maturity date is consistent with any provisions applicable thereto in the Senior Facilities Agreement and Second Lien Facility Agreement (and, if any Senior Secured Notes, Second Lien Notes or Senior Subordinated Liabilities are outstanding, any provisions applicable thereto in the Senior Secured Notes Finance Documents, Second Lien Notes Finance Documents or Senior Subordinated Finance Documents (as applicable))); or

II. any other amount which is not an amount of principal or capitalised interest (or a corresponding amount under the Proceeds Loan);

(B) no Senior Subordinated Payment Stop Notice is outstanding;

(C) no Senior Secured Payment Default has occurred and is continuing; and

(D) no Second Lien Payment Default has occurred and is continuing; or

(ii) the Payment is:

(A) of any principal amount of the Senior Subordinated Liabilities or any Liabilities Acquisition:

I. in accordance with any clause in any Senior Subordinated Facility Agreement or Senior Subordinated Notes Indenture which is equivalent to clause 11.1 (Illegality) of the Senior Facilities Agreement;

II. expressly permitted by the Senior Facilities Agreement;

- III. in accordance with any clause in any Senior Subordinated Facility Agreement or Senior Subordinated Notes Indenture which is equivalent to clause 41.4 (Replacement of Lender) of the Senior Facilities Agreement; or
 - IV. in accordance with Clause 15.1 (Non-Distressed Disposals) or Clause 15.5 (Report Proceeds and Insurance Proceeds (before Distress Event)) to Clause 15.8 (Adjustment of Mandatory Prepayments);
- (B) of an amount due under any fee letters relating to (and entered into at the same time as) any other Senior Subordinated Facility Agreement or Senior Subordinated Notes Indenture;
 - (C) made in pursuance of a Liabilities Acquisition or the principal amount permitted to be repaid pursuant to the other provisions of this Agreement in relation to Senior Subordinated Liabilities that was established with the approval of the Majority Senior Secured Creditors;
 - (D) of any consent and/or waiver fee in respect of any consent granted under, or waiver or amendment of any provision of, a Senior Subordinated Finance Document in an amount which, when expressed as a percentage of the principal amount of the Senior Subordinated Liabilities (or the affected principal amount thereof), does not exceed the amount of the corresponding consent and/or waiver fee paid to the Senior Secured Creditors (when expressed as a percentage of the principal amount of the Senior Secured Liabilities (or the affected principal amount thereof)) or Second Lien Creditors (when expressed as a percentage of the principal amount of the Second Lien Liabilities (or the affected principal amount thereof));
 - (E) payments where that amount is outstanding as a result of the accrual of cash interest payable in respect of the Senior Subordinated Liabilities during a period when a Senior Subordinated Payment Stop Notice was outstanding;
 - (F) following the occurrence of an Event of Default under a Senior Subordinated Facility Agreement or Senior Subordinated Notes Indenture (which is continuing), of all or part of the Senior Subordinated Liabilities as a result of those Senior Subordinated Liabilities being released or otherwise discharged solely in consideration for the issue of shares in any Holding Company of the Parent (each a **Senior Subordinated Debt for Equity Swap**) provided that no cash or cash equivalent payment is made in respect of the Senior Subordinated Liabilities and any Liabilities owed by a member of the Group to another member of the Group, the Investors, any other Holding Company of the Parent that arise as a result of any such Senior Subordinated Debt for Equity Swap are subordinated to the Senior Secured Liabilities and the Hedging Liabilities pursuant to this Agreement and the Senior Secured Creditors are granted Transaction Security in respect of any of those Liabilities owed by a member of the Group;
 - (G) of any costs, commissions, taxes, consent fees and expenses incurred in respect of (or reasonably incidental to) the Senior Subordinated Finance Documents (including in relation to any reporting or listing requirements

under the Senior Subordinated Finance Documents) but only to the extent funded from the proceeds of Repayment Sources; and

- (H) made by way of capitalisation of interest or by the issuance of a non-cash pay financial instrument evidencing the same which is pari passu and on the same intercreditor terms as (or subordinated to) the Senior Subordinated Liabilities,

and (except in the case of the payment of amounts referred to in paragraphs (a)(ii)(B) (only with respect to agency fees and Notes Trustee Amounts), and (a)(ii)(C) above in circumstances where the corresponding amounts (if any) then payable to the Senior Secured Creditors, Second Lien Creditors or their advisors in accordance with the Senior Secured Finance Documents and Second Lien Finance Documents have been paid in full and except in the case of the payments contemplated by subparagraph (a)(ii)(A)I, (a)(ii)(F) and (a)(ii)(G) above (other than with respect to consent fees)) no Senior Subordinated Payment Stop Notice is outstanding and no Senior Secured Payment Default or Second Lien Payment Default has occurred and is continuing; or

- (iii) if the Majority Senior Lenders, the Senior Secured Notes Trustee(s), Majority Second Lien Lenders and the Second Lien Notes Trustee(s) give prior consent to that Payment being made; or
 - (iv) if the Payment is of a Senior Subordinated Creditor Representative Amount or a Senior Subordinated Notes Trustee Amount; or
 - (v) any Permitted Administrative Costs and Note Security Costs;
 - (vi) of any other amount not exceeding EUR1,000,0000 (or its equivalent in other currencies) in aggregate in any 12-month period but only to the extent funded from the proceeds of Repayment Sources; and
 - (vii) of any costs, commissions, taxes, premiums and any expenses incurred in respect of (or reasonably incidental to) any refinancing of a Senior Subordinated Facility Agreements or the Senior Subordinated Notes in compliance with this Agreement and the Senior Facilities Agreement but only to the extent funded from the proceeds of Repayment Sources.
- (b) on or after the Priority Discharge Date, make Payments to the Senior Subordinated Creditors in respect of the Senior Subordinated Liabilities in accordance with the Senior Subordinated Finance Documents and the Parent may make Payments to the Senior Subordinated Creditors at any time in accordance with the terms of the relevant Senior Subordinated Finance Documents.

7.4 Issue of Senior Subordinated Payment Stop Notice

- (a) Until the Priority Discharge Date except with the prior consent of the Senior Agent under the Senior Facilities Agreement, (to the extent otherwise prohibited under the relevant Senior Secured Notes Indenture(s)) the relevant Senior Secured Notes Trustee under such Senior Secured Notes Finance Documents, the Second Lien Agent under the Second Lien Facility Agreement and (to the extent otherwise prohibited under the relevant Second Lien Notes Indenture(s)) the relevant Second Lien Notes Trustee under such Second Lien Notes Finance Documents and subject to Clause 11 (Effect of Insolvency Event), the Parent shall not make (and shall procure that no member of the Group shall),

and no Senior Subordinated Creditor may receive from Parent or any of its Subsidiaries, any Permitted Senior Subordinated Payment under paragraph (a)(i) or (a)(ii) (other than as expressly permitted under paragraph (a)(ii)) of Clause 7.3 (Permitted Senior Subordinated Payments) if:

- (i) a Senior Secured Payment Default or Second Lien Payment Default has occurred and is continuing; or
 - (ii) a Senior Secured Event of Default (other than a Senior Secured Payment Default) and/or a Second Lien Event of Default (other than a Second Lien Payment Default) has occurred and is continuing, from the date which is one Business Day after the date on which the Senior Agent, the Senior Secured Notes Trustee(s), the Second Lien Agent or the Second Lien Notes Trustee (as the case may be) delivers a notice (a **Senior Subordinated Payment Stop Notice**) specifying the event or circumstance in relation to that Senior Secured Event of Default or Second Lien Event of Default to the Parent, the Security Agent, the Senior Subordinated Agent(s) and the Senior Subordinated Notes Trustee(s) until the earliest of:
 - (A) the date falling 179 days after delivery of that Senior Subordinated Payment Stop Notice;
 - (B) in relation to payments of Senior Subordinated Liabilities, if a Senior Subordinated Standstill Period is in effect at any time after delivery of that Senior Subordinated Payment Stop Notice, the date on which that Senior Subordinated Standstill Period expires;
 - (C) the date on which the relevant Senior Secured Event of Default or Second Lien Event of Default has been remedied or waived in accordance with the Senior Facilities Agreement, the Senior Secured Finance Documents, the Second Lien Finance Documents or the Second Lien Notes Finance Documents (as applicable);
 - (D) the date on which the Senior Agent, the Senior Secured Notes Trustee(s), the Second Lien Agent or the Second Lien Notes Trustee (as the case may be) (as applicable) delivers a notice to the Parent, the Security Agent, the Senior Subordinated Agent(s) and the Senior Subordinated Notes Trustees(s) cancelling the Senior Subordinated Payment Stop Notice;
 - (E) the Priority Discharge Date; and
 - (F) the date on which the Security Agent, the Senior Subordinated Agent or a Senior Subordinated Notes Trustee takes Enforcement Action permitted under this Agreement against an Obligor.
- (b) Unless the Senior Subordinated Agent(s) and Senior Subordinated Notes Trustee(s) waive this requirement:
- (i) a new Senior Subordinated Payment Stop Notice may not be delivered unless and until 360 days have elapsed since the delivery of the immediately prior Senior Subordinated Payment Stop Notice; and
 - (ii) no Senior Subordinated Payment Stop Notice may be delivered in reliance on a Senior Secured Event of Default or a Second Lien Event of Default more than 45 days after the date the Senior Agent and each Senior Secured Notes Trustee or the Second Lien Agent and each Second Lien Notes Trustee (as applicable) received notice of that Senior Secured Event of Default or Second Lien Event of Default.

- (c) The Agent, the Senior Secured Notes Trustee(s), the Second Lien Agent and the Second Lien Notes Trustee(s) may only serve one Senior Subordinated Payment Stop Notice with respect to the same event or set of circumstances. Subject to paragraph (b) above, this shall not affect the right of the Senior Agent, the Senior Secured Notes Trustee(s), the Second Lien Agent or the Second Lien Notes Trustee(s) to issue a Senior Subordinated Payment Stop Notice in respect of any other event or set of circumstances.
- (d) No Senior Subordinated Payment Stop Notice may be served by a Senior Agent, Senior Secured Notes Trustee, Second Lien Agent or Second Lien Notes Trustee in respect of a Senior Secured Event of Default or Second Lien Event of Default (as applicable) which had been notified to the Senior Agent, the Senior Secured Notes Trustees, the Second Lien Agent and the Second Lien Notes Trustee at the time at which an earlier Senior Subordinated Payment Stop Notice was issued.
- (e) For the avoidance of doubt, this Clause 7.4:
 - (i) acts as a suspension of payment and not as a waiver of the right to receive payment on the date such payments are due;
 - (ii) will not prevent the accrual or capitalisation of interest (including default interest) in accordance with the Senior Subordinated Notes Finance Documents;
 - (iii) will not prevent the payment of any Senior Subordinated Agent Liabilities or Senior Subordinated Notes Trustee Amounts; and
 - (iv) will not prevent the payment of audit fees, directors' fees, taxes and other proper and incidental expenses required to maintain existence.

7.5 Effect of Senior Subordinated Payment Stop Event, Senior Secured Payment Default or Second Lien Payment Default

Any failure to make a Payment due under the Senior Subordinated Finance Documents as a result of the issue of a Senior Subordinated Payment Stop Notice or the occurrence of a Senior Secured Payment Default or Second Lien Payment Default shall not prevent:

- (a) the occurrence of an Event of Default as a consequence of that failure to make a Payment in relation to the relevant Senior Subordinated Finance Document; or
- (b) the issue of a Senior Subordinated Enforcement Notice on behalf of the Senior Subordinated Creditors.

7.6 Payment Obligations and Capitalisation of Interest Continue

- (a) No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Senior Subordinated Notes Finance Document by the operation of Clauses 7.2 (Restriction on Payment and Dealings: Senior Subordinated Liabilities) to 7.5 (Effect of Senior Subordinated Payment Stop Event, Senior Secured Payment Default or Second Lien Payment Default) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.
- (b) The accrual and capitalisation of interest (if any) in accordance with the Senior Subordinated Finance Documents shall continue notwithstanding the issue of a Senior Subordinated Payment Stop Notice.

7.7 Cure of Payment Stop: Senior Subordinated Creditors

If:

- (a) at any time following the issue of a Senior Subordinated Payment Stop Notice or the occurrence of a Senior Secured Payment Default or Second Lien Payment Default, that Senior Subordinated Payment Stop Notice ceases to be outstanding and/or (as the case may be) the Senior Secured Payment Default or Second Lien Payment Default ceases to be continuing; and
- (b) the relevant Debtor then promptly pays to the Senior Subordinated Creditors an amount equal to any Payments which had accrued under the Senior Subordinated Finance Documents and which would have been Permitted Senior Subordinated Payments but for that Senior Subordinated Payment Stop Notice or Senior Secured Payment Default or Second Lien Payment Default,

then any Event of Default which may have occurred as a result of that suspension of Payments shall be waived and any Senior Subordinated Enforcement Notice which may have been issued as a result of that Event of Default shall be waived, in each case without any further action being required on the part of the Senior Subordinated Creditors.

7.8 Amendments and Waivers: Senior Subordinated Creditors

- (a) Subject to paragraph (b) below, the Senior Subordinated Creditors may amend or waive the terms of the Senior Subordinated Finance Documents (other than this Agreement or any Security Document) in accordance with their terms (and subject to any consent required under them) at any time.
- (b) Prior to the Senior Secured Discharge Date, the Senior Subordinated Finance Parties may not, without the consent of the Majority Senior Lenders, (to the extent otherwise prohibited under the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes are outstanding) the relevant Senior Secured Notes Trustee(s), the Majority Second Lien Lenders and (to the extent otherwise prohibited under the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes are outstanding) the relevant Second Lien Notes Trustee(s), amend or waive the terms of the Senior Subordinated Finance Documents if the amendment or waiver would result in the Senior Subordinated Finance Documents being inconsistent with the Senior Subordinated Liabilities Major Terms.

7.9 Designation of Senior Subordinated Finance Documents

The Senior Subordinated Agent(s), Senior Subordinated Notes Trustee(s) and the Parent agree that they will not designate a document a **Finance Document** for the purposes of a Senior Subordinated Facility Agreement or Senior Subordinated Notes (as applicable) without the prior consent of the Majority Senior Lenders, (to the extent otherwise prohibited under the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes are outstanding) the relevant Senior Secured Notes Trustee(s), the Majority Second Lien Lenders and (to the extent otherwise prohibited under the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes are outstanding) the relevant Second Lien Notes Trustee(s) if the terms of that document effect a change which would otherwise require the consent of the Majority Senior Lenders, the Senior Secured Notes Trustee(s), the Majority Second Lien Lenders and the Second Lien Notes Trustee under Clause 7.8 (Amendments and Waivers: Senior Subordinated Creditors).

7.10 Restrictions on Enforcement by Senior Subordinated Finance Party

Until the Priority Discharge Date, except with the prior consent of or as required by an Instructing Group:

- (a) no Senior Subordinated Finance Party shall direct the Security Agent to enforce or otherwise (to the extent applicable), require the enforcement of, any Transaction Security Documents; and
- (b) no Senior Subordinated Finance Party shall take or require the taking of any Enforcement Action against a member of the Group (other than the Parent in its capacity as the issuer of the Senior Subordinated Notes or the borrower of the Senior Subordinated Facilities, as applicable) in relation to the Senior Subordinated Liabilities (for the avoidance of doubt, other than with respect to any Security over the Investor(s) or any other Holding Company of the Parent assets directly owned by it (including, without limitation, the shares in the Parent and/or any rights under the Investor Liabilities due or owing to the Investor(s) by the Parent) or any guarantees provided by the Investor or its Holding Company in respect of any of the Senior Subordinated Liabilities or indebtedness or any other Security which is not over any assets of the Group),

except as permitted under Clause 7.11 (Permitted Senior Subordinated Enforcement) and provided, however, that no such action required by an Instructing Group need be taken except to the extent that such Instructing Group otherwise is entitled under this Agreement to direct such action.

7.11 Permitted Senior Subordinated Enforcement

- (a) Subject to Clause 7.14 (Enforcement on behalf of Senior Subordinated Finance Parties) the restrictions in Clause 7.10 (Restrictions on Enforcement by Senior Subordinated Finance Party) will not apply in respect of the Senior Subordinated Liabilities or the Transaction Security Documents (if any) which secure Senior Subordinated Liabilities as permitted by paragraph (c) of Clause 7.2 (Restriction on Payment and Dealings: Senior Subordinated Liabilities), if:
 - (i) a Senior Subordinated Default (the **Relevant Senior Subordinated Default**) is continuing;
 - (ii) the Senior Agent, the Senior Secured Notes Trustee(s), the Second Lien Agent and the Second Lien Notes Trustee(s) have received notice of the Relevant Senior Subordinated Default specifying the event or circumstance in relation to the Relevant Senior Subordinated Default from the relevant the Senior Subordinated Agent or Senior Subordinated Notes Trustee;
 - (iii) a Senior Subordinated Standstill Period has elapsed; and
 - (iv) the Relevant Senior Subordinated Default is continuing at the end of the relevant Senior Subordinated Standstill Period.
- (b) Promptly upon becoming aware of a Senior Subordinated Default, the relevant Senior Subordinated Agent(s) or Senior Subordinated Notes Trustee(s) may by notice (a **Senior Subordinated Enforcement Notice**) in writing notify the Senior Agent, the Senior Secured Notes Trustee(s), the Second Lien agent and the Second Lien Notes Trustee(s) of the existence of such Senior Subordinated Default.

7.12 Senior Subordinated Standstill Period

In relation to a Relevant Senior Subordinated Default, a Senior Subordinated Standstill Period shall mean the period beginning on the date (the **Senior Subordinated Standstill Start Date**) the relevant Senior Subordinated Agent(s) or Senior Subordinated Notes Trustee(s) serves a Senior Subordinated Enforcement Notice on the Senior Agent, the Senior Secured Notes Trustee(s), the Second Lien Agent and the Second Lien Notes Trustee(s) in respect of such Relevant Senior Subordinated Default and ending on the earlier to occur of:

- (a) the date falling 230 days after the Senior Subordinated Standstill Start Date (the **Senior Subordinated Standstill Period**);
- (b) the date the Priority Creditors take any Enforcement Action in relation to a particular Debtor provided, however, that:
 - (i) if a Senior Subordinated Standstill Period ends pursuant to this Clause 7.12(b), the Senior Subordinated Finance Parties may only take the same Enforcement Action in relation to the Debtor as the Enforcement Action taken by the Priority Creditors against such Debtor and not against any other member of the Group; and
 - (ii) Enforcement Action for the purpose of this Clause 7.12(b) shall not include action taken to preserve or protect any Security as opposed to realise it;
- (c) the date of an Insolvency Event in relation to a particular Debtor against whom Enforcement Action is to be taken; and
- (d) the expiry of any other Senior Subordinated Standstill Period outstanding at the date such first mentioned Senior Subordinated Standstill Period commenced (unless that expiry occurs as a result of a cure, waiver or other permitted remedy).

7.13 Subsequent Senior Subordinated Defaults

The Senior Subordinated Finance Parties may take Enforcement Action under Clause 7.11 (Permitted Senior Subordinated Enforcement) in relation to a Relevant Senior Subordinated Default even if, at the end of any relevant Senior Subordinated Standstill Period or at any later time, a further Senior Subordinated Standstill Period has begun as a result of any other Senior Subordinated Default.

7.14 Enforcement on behalf of Senior Subordinated Finance Parties

- (a) If the Security Agent has notified the Senior Subordinated Agents and Senior Subordinated Notes Trustees that it is enforcing Security created pursuant to any Security Document over shares of a Debtor, no Senior Subordinated Finance Party may take any action referred to in Clause 7.11 (Permitted Senior Subordinated Enforcement) against that Debtor and/or any of its Subsidiaries while the Security Agent is taking steps to enforce that Security in accordance with the instructions of the Instructing Group where such action might be reasonably likely to adversely affect such enforcement or the amount of proceeds to be derived therefrom.
- (b) If the Senior Subordinated Creditors (or any of them) are permitted to give instructions to the Security Agent to require the enforcement of the Security constituted pursuant to any Security Document in accordance with the provisions of this Clause 7.14, such Enforcement Action must require the realisation of the relevant Security by way of a sale or disposal conducted in compliance with the provisions of paragraph (e) of Clause 15.2 (Distressed Disposals).

7.15 Option to Purchase: Senior Subordinated Creditors

- (a) Subject to paragraphs (b) and (c) below, the Senior Subordinated Creditor Representative(s) (on behalf of the Senior Subordinated Creditors) may after a Distress Event, by giving not less than ten days' notice to the Security Agent, require the transfer to the Senior Subordinated Creditors (or to a nominee or nominees), in accordance with Clause 21.3 (Change of Primary Creditors), of all, but not part, of the rights, benefits and obligations in respect of the Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Second Lien Lender Liabilities and the Second Lien Notes Liabilities if:
- (i) that transfer is lawful and subject to paragraph (ii) below, otherwise permitted by the terms of the Senior Facilities Agreement (in the case of the Senior Lender Liabilities), the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, as applicable (in the case of the Senior Secured Notes Liabilities), the Second Lien Facility Agreement (in the case of the Second Lien Lender Liabilities) and the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding, as applicable (in the case of the Second Lien Notes Liabilities);
 - (ii) any conditions relating to such a transfer contained in the Senior Facilities Agreement (in the case of the Senior Lender Liabilities), the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, as applicable (in the case of the Senior Secured Notes Liabilities), the Second Lien Facility Agreement (in the case of the Second Lien Lender Liabilities) and the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding, as applicable (in the case of the Second Lien Notes Liabilities), as applicable are complied with, other than:
 - (A) any requirement to obtain the consent of, or consult with, any Debtor or other member of the Group relating to such transfer, which consent or consultation shall not be required; and
 - (B) to the extent to which all the Senior Subordinated Creditors (acting as a whole) provide cash cover for any Letter of Credit, the consent of the relevant Issuing Bank relating to such transfer;
 - (iii) (A) the Senior Agent, on behalf of the Senior Lenders, is paid an amount equal to the aggregate of:
 - I. any amounts provided as cash cover by the Senior Subordinated Creditors for any Letter of Credit (as envisaged in paragraph (ii)(B) above;
 - II. all of the Senior Liabilities (other than the Hedging Liabilities) at that time (whether or not due), including all amounts that would have been payable under the Senior Facilities Agreement if the Senior Facilities were being prepaid by the relevant Debtors on the date of that payment; and
 - III. all costs and expenses (including legal fees) incurred by the Senior Agent and/or the Senior Lenders as a consequence of giving effect to that transfer; and
 - (B) the Senior Secured Notes Trustee(s), on behalf of the Senior Secured Note Creditors, are paid an amount equal to the aggregate of:

- I. all of the Senior Secured Notes Liabilities at that time (whether due or not due), including all amounts that would have been payable under the Senior Secured Notes Indenture if the Senior Secured Notes were being redeemed (as applicable) by the relevant Debtors on the date of that payment; and
 - II. all costs and expenses (including legal fees) incurred by the Senior Secured Notes Trustee(s) and/or the Senior Secured Note Creditors as a consequence of giving effect to that transfer;
- (C) the Second Lien Agent, on behalf of the Second Lien Lenders, is paid an amount equal to the aggregate of:
 - I. all of the Second Lien Lender Liabilities at that time (whether or not due), including all amounts that would have been payable under the Second Lien Facility Agreement if the Second Lien Liabilities were being prepaid by the relevant Debtors on the date of that payment; and
 - II. all costs and expenses (including legal fees) incurred by the Second Lien Agent and/or the Second Lien Lenders as a consequence of giving effect to that transfer; and
- (D) the Second Lien Notes Trustee(s), on behalf of the Second Lien Notes Creditors, are paid an amount equal to the aggregate of:
 - I. all of the Second Lien Notes Liabilities at that time (whether due or not due), including all amounts that would have been payable under the Second Lien Notes Indenture if the Second Lien Notes were being redeemed (as applicable) by the relevant Debtors on the date of that payment; and
 - II. all costs and expenses (including legal fees) incurred by the Second Lien Notes Trustee(s) and/or the Second Lien Notes Creditors as a consequence of giving effect to that transfer;
- (iv) as a result of that transfer the Senior Lenders, the Senior Secured Note Creditors, the Second Lien Lenders and the Second Lien Notes Creditors have no further actual or contingent liability to any Debtor under the relevant Debt Documents;
- (v) an indemnity is provided from each Senior Subordinated Creditor (but, for the avoidance of doubt, this does not include a Senior Subordinated Creditor Representative) (or from another third party acceptable to all the Senior Lenders, the Senior Secured Note Creditors, the Second Lien Lenders and the Second Lien Notes Creditors) in a form reasonably satisfactory to each Senior Lender, Senior Secured Note Creditor, Second Lien Lender and Second Lien Notes Creditor in respect of all losses which may be sustained or incurred by any Senior Lender, Senior Secured Note Creditor, Second Lien Lender or Second Lien Notes Creditor in consequence of any sum received or recovered by any Senior Lender, Senior Secured Note Creditor, Second Lien Lender or Second Lien Notes Creditor from any person being required (or it being alleged that it is required) to be paid back by or clawed back from any Senior Lender, Senior Secured Note Creditor, Second Lien Lender or Second Lien Notes Creditor for any reason; and
- (vi) the transfer is made without recourse to, or representation or warranty from, the Senior Lenders, Senior Secured Note Creditors, Second Lien Lenders and Second Lien Notes Creditors, except that each Senior Lender, Senior Secured Note Creditor, Second Lien

Lender and Second Lien Notes Creditor shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.

- (b) Subject to paragraph (b) of Clause 7.16 (Hedge Transfer: Senior Subordinated Creditors), the Senior Subordinated Creditor Representative (on behalf of all the Senior Subordinated Creditors) may only require a Senior Secured Creditor Liabilities Transfer and a Second Lien Creditor Liabilities Transfer if, at the same time, they require a Hedge Transfer in accordance with Clause 7.16 (Hedge Transfer: Senior Subordinated Creditors) and if, for any reason, a Hedge Transfer cannot be made in accordance with Clause 7.16 Hedge Transfer: Senior Subordinated Creditors, no Senior Secured Creditor Liabilities Transfer or and a Second Lien Creditor Liabilities Transfer may be required to be made.
- (c) At the request of the Senior Subordinated Creditor Representative (on behalf of all the Senior Subordinated Creditors):
 - (i) the Senior Agent shall notify the Senior Subordinated Creditors of:
 - (A) the sum of the amounts described in paragraphs (a)(iii)(A)II and (a)(iii)(A)III above; and
 - (B) the amount of each Letter of Credit for which cash cover is to be provided by all the Senior Subordinated Creditors (acting as a whole);
 - (ii) the Senior Secured Notes Trustee(s) shall notify the Senior Subordinated Creditors of the sum of amounts described in paragraphs (a)(iii)(B)I and (a)(iii)(B)II above;
 - (iii) the Second Lien Agent shall notify the Senior Subordinated Creditors of the sum of the amounts described in paragraphs (a)(iii)(C)I and (a)(iii)(C)II above; and
 - (iv) the Second Lien Notes Trustee(s) shall notify the Senior Subordinated Creditors of the sum of amounts described in paragraphs (a)(iii)(D)I and (a)(iii)(D)II above;

7.16 Hedge Transfer: Senior Subordinated Creditors

- (a) The Senior Subordinated Creditor Representative(s) (on behalf of all the Senior Subordinated Creditors, acting as a whole) may, by giving not less than ten days' notice to the Security Agent, require a Hedge Transfer:
 - (i) if either:
 - (A) the Senior Subordinated Creditors require, at the same time, a Senior Secured Creditor Liabilities Transfer and a Second Lien Creditor Liabilities Transfer under Clause 7.15 (Option to Purchase: Senior Subordinated Creditors); or
 - (B) all the Senior Subordinated Creditors (acting as a whole) require that Hedge Transfer at any time on or after the latest of the Senior Lender Discharge Date, the Senior Secured Note Discharge Date and the Second Lien Discharge Date; and
 - (ii) if:

- (A) that transfer is lawful and otherwise permitted by the terms of the Hedging Agreements in which case no Debtor or other member of the Group shall be entitled to withhold its consent to that transfer;
 - (B) any conditions (other than the consent of, or any consultation with, any Debtor or other member of the Group) relating to that transfer contained in the Hedging Agreements are complied with;
 - (C) each Hedge Counterparty is paid (in the case of a positive number) or pays (in the case of a negative number) an amount equal to the aggregate of (I) the Hedging Purchase Amount in respect of the hedging transactions under the relevant Hedging Agreement at that time and (II) all costs and expenses (including legal fees) incurred as a consequence of giving effect to that transfer;
 - (D) as a result of that transfer, the Hedge Counterparties have no further actual or contingent liability to any Debtor under the Hedging Agreements;
 - (E) an indemnity is provided from each Senior Subordinated Creditor (but for the avoidance of doubt this does not include a Senior Subordinated Creditor Representative) which is receiving (or for which a nominee is receiving) that transfer (or from another third party acceptable to the relevant Hedge Counterparty) in a form reasonably satisfactory to the relevant Hedge Counterparty in respect of all losses which may be sustained or incurred by that Hedge Counterparty in consequence of any sum received or recovered by that Hedge Counterparty being required (or it being alleged that it is required) to be paid back by or clawed back from the Hedge Counterparty for any reason; and
 - (F) that transfer is made without recourse to, or representation or warranty from, the relevant Hedge Counterparty, except that the relevant Hedge Counterparty shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.
- (b) The Senior Subordinated Creditor Representative(s) (acting on behalf of all the Senior Subordinated Creditors,) and any Hedge Counterparty may agree (in respect of the Hedging Agreements (or one or more of them) to which that Hedge Counterparty is a party) that a Hedge Transfer required by all the Senior Subordinated Creditors (acting as a whole) pursuant to paragraph (a) above shall not apply to that Hedging Agreement(s) or to the Hedging Liabilities and Hedge Counterparty Obligations under that Hedging Agreement(s).
 - (c) If the Senior Subordinated Creditor Representative(s) are entitled to require a Hedge Transfer under this Clause, the Hedge Counterparties shall at the request of the Senior Subordinated Creditor Representative(s) provide details of the amounts referred to in paragraph (a)(ii)(C) above).

7.17 Security Interest in Parent Shares

Notwithstanding anything herein to the contrary but subject to the terms of such Security, in no event shall the Senior Subordinated Creditors be prohibited from taking any Enforcement Action with respect to any Security over the Investor(s) assets directly owned by it (including, without limitation, the shares in the Parent and/or any rights under the Investor Liabilities due or owing to the Investor(s) by the Parent) or any guarantees provided by the Investor or any other Holding Company of the Parent in respect of any of the Senior Subordinated Liabilities or other indebtedness; or any Security which is not over any assets of the Group.

7.18 Senior Subordinated Liabilities

Notwithstanding anything to the contrary in Clauses 7.8 (Amendments and Waivers: Senior Subordinated Creditors) and 7.9 (Designation of Senior Subordinated Finance Documents) (the **Relevant Senior Subordinated Clauses**), nothing in the Senior Subordinated Clauses restricts the incurrence of any Liabilities under or in connection with any Senior Subordinated Liabilities which is to be incurred after the Closing Date (provided that the incurrence of such Liabilities is not prohibited under the Senior Secured Finance Documents, the Second Lien Finance Documents and the Senior Subordinated Finance Documents).

8. INVESTOR LIABILITIES

8.1 Investor Restrictions

Subject to Clause 8.2 (Permitted Investor Payments), until after the Final Discharge Date:

- (a) no Debtor will, and each Debtor will procure that none of its Subsidiaries will make, and no Investor will receive, any payment or distribution of any kind whatsoever in respect or on account of the Investor Liabilities (including in relation to the direct or indirect purchase or other acquisition of the Investor Liabilities); and
- (b) no Debtor will, and each Debtor will procure that none of its Subsidiaries will, create or permit to subsist, and no Investor will receive from any member of the Group, any Security over any asset of any member of the Group or give or permit to subsist any guarantee in respect of any part of the Investor Liabilities,

in each case, without the prior consent of (i) (to the extent otherwise prohibited under the Senior Facilities Agreement) the Majority Senior Lenders (if on or before the Senior Discharge Date), (ii) (to the extent otherwise prohibited under the Senior Secured Notes Indenture) the relevant Senior Secured Notes Trustee(s) (if on or before the Senior Secured Note Discharge Date) (iii) (to the extent otherwise prohibited under the Second Lien Facility Agreement) the Majority Second Lien Lenders (if on or before the Second Lien Lender Discharge Date), (iv) (to the extent otherwise prohibited under the Second Lien Notes Indenture) the relevant Second Lien Notes Trustee(s) (if on or before the Second Lien Notes Discharge Date), (v) (to the extent otherwise prohibited under a Senior Subordinated Facility Agreement pursuant to which any Senior Subordinated Commitment remains in force) the relevant Senior Subordinated Agent(s) (if on or before the Senior Subordinated Facility Discharge Date) and (vi) (to the extent otherwise prohibited under any Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes remain outstanding) the relevant Senior Subordinated Notes Trustee(s) (if on or before the Senior Subordinated Notes Discharge Date).

8.2 Permitted Investor Payments

- (a) The Parent may pay interest, principal or other amounts in respect of the Investor Liabilities if such payment is:
 - (i) (if prior to the Senior Discharge Date), not prohibited by the Senior Facilities Agreement;
 - (ii) (if prior to the Senior Secured Note Discharge Date), not prohibited by the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding;
 - (iii) (if prior to the Second Lien Lender Discharge Date), not prohibited by the Second Lien Facility Agreement;

- (iv) (if prior to the Second Lien Notes Discharge Date), not prohibited by the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding;
 - (v) (if prior to the Senior Subordinated Facility Discharge Date), not prohibited by a Senior Subordinated Facility Agreement pursuant to which any Senior Subordinated Commitment remain outstanding; and
 - (vi) (if prior to the Senior Subordinated Notes Discharge Date), not prohibited by the Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes remain outstanding.
- (b) Nothing in this Clause 8 will restrict the roll-up or capitalisation of interest on the Investor Liabilities or the payment of interest on Investor Liabilities by the issue of payment-in-kind instruments provided that, in any such case, there is no payment in cash or Cash Equivalent Investments.

8.3 Restrictions on Investor Enforcement Action

Until after the Final Discharge Date, no Investor may take Enforcement Action (other than the demand for any payment (or set-off account combination or payment netting in relation to any payment) permitted by Clause 8.2 (Permitted Investor Payments) at a time when no Acceleration Event is continuing) in relation to any Investor Liabilities without the prior consent of (a) the Majority Senior Lenders (if on or before the Senior Discharge Date), (b) the relevant Senior Secured Notes Trustee(s) (if on or before the Senior Secured Note Discharge Date) (c) the Majority Second Lien Lenders (if on or before the Second Lien Lender Discharge Date), (d) the relevant Second Lien Notes Trustee(s) (if on or before the Second Lien Notes Discharge Date), (e) the relevant Senior Subordinated Agent(s) (if on or before the Senior Subordinated Facility Discharge Date) and (f) the relevant Senior Subordinated Notes Trustee(s) (if on or before the Senior Subordinated Notes Discharge Date) except that after the occurrence of an Insolvency Event in relation to any member of the Group, each Investor may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Investor in accordance with Clause 11.5 (Filing of Claims)) exercise any right it may otherwise have in respect of that member of the Group to:

- (a) accelerate any of that member of the Group's Investor Liabilities or declare them prematurely due and payable or payable on demand;
- (b) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Investor Liabilities;
- (c) exercise any right of set-off or take or receive any Payment in respect of any Investor Liabilities of that member of the Group; or
- (d) claim and prove in the liquidation of that member of the Group for the Investor Liabilities owing to it.

8.4 Turnover of Investor Liabilities

If at any time on or before the Final Discharge Date:

- (a) any Investor receives or recovers a payment or distribution of any kind whatsoever (including by way of set-off or combination of accounts) in respect or on account of any of the Investor Liabilities which is not permitted by Clause 8.2 (Permitted Investor Payments);

- (b) any Investor receives or recovers proceeds pursuant to any Enforcement Action where the payment would not be permitted under Clause 8.2 (Permitted Investor Payments); or
- (c) any member of the Group makes any payment or distribution of any kind whatsoever in respect or on account of the purchase or other acquisition of any of the Investor Liabilities where the payment would not be permitted under Clause 8.2 (Permitted Investor Payments),

the recipient or beneficiary of that payment, distribution, set-off or combination will promptly pay all amounts and distributions received to the Security Agent for application under Clause 16.1 (Order of Application of Group Recoveries) (as applicable) after deducting the costs, liabilities and expenses (if any) reasonably incurred in recovering or receiving that payment or distribution and, pending that payment, will hold those amounts and distributions on trust for (or otherwise on behalf and for the account of) the Security Agent.

8.5 No Reduction or Discharge

As between the Debtors and the Investors, the Investor Liabilities will be deemed not to have been reduced or discharged to the extent of any payment or distribution to the Security Agent under Clause 8.4 (Turnover of Investor Liabilities) and no Debtor shall be released from the liability to make any payment or distribution of any kind whatsoever (including of default interest, which shall continue to accrue) with respect to or on account of any Investor Liabilities by the operation of Clause 8.1 (Investor Restrictions) even if its obligation to make that payment or distribution is restricted at any time by the terms of Clause 8.1 (Investor Restrictions).

8.6 Indemnity

Immediately after the Final Discharge Date, the Obligors will (to the extent permitted by law) fully indemnify each Investor upon demand for the amount of any payment or distribution to the Security Agent under Clause 8.4 (Turnover of Investor Liabilities).

8.7 No Subrogation of Investors

Without the prior consent of (a) the Majority Senior Creditors (if on or before the Senior Discharge Date), (b) the relevant Senior Secured Notes Trustee(s) (if on or before the Senior Secured Note Discharge Date) (c) the Majority Second Lien Lenders (if on or before the Second Lien Lender Discharge Date), (d) the relevant Second Lien Notes Trustee(s) (if on or before the Second Lien Notes Discharge Date), (e) the relevant Senior Subordinated Agent(s) (if on or before the Senior Subordinated Facility Discharge Date) and (f) the relevant Senior Subordinated Notes Trustee(s) (if on or before the Senior Subordinated Notes Discharge Date), the Investors in respect of any Investor Liabilities may not in any circumstances exercise any subrogation rights relating to the rights of:

- (a) the Senior Lenders in respect of the Senior Debt;
- (b) the Senior Secured Note Creditors in respect of any Senior Secured Notes Guarantee Liabilities;
- (c) the Second Lien Lenders in respect of the Second Lien Lender Liabilities;
- (d) the Second Lien Notes Creditors in respect of any Second Lien Notes Guarantee Liabilities;
- (e) the Senior Subordinated Creditors in respect of the Senior Subordinated Guarantee Liabilities; or

- (f) any Security or guarantee arising under the Senior Finance Documents, Senior Secured Notes Finance Document, Second Lien Lender Finance Documents, Second Lien Notes Finance Documents, Senior Subordinated Facility Finance Documents and/or Senior Subordinated Notes Finance Documents (as applicable).

8.8 Amendments to Investor Documents

Until after the Final Discharge Date, no Obligor will (and shall procure that no other member of the Group will) nor any Investor will amend any term of any Investor Document in a manner or to an extent which would:

- (a) result in any principal, interest, distribution or other amount payable under any Investor Document being payable on a date earlier or more frequently than, or in an amount greater than, provided in the relevant original Investor Documents as at the date of this Agreement or any relevant Investor Documents which may be executed after the date of this Agreement except to the extent such payment is not prohibited by (if prior to the Senior Discharge Date) the Senior Facilities Agreement, (if prior to the Senior Secured Note Discharge Date) the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, (if prior to the Second Lien Lender Discharge Date), the Second Lien Facility Agreement, (if prior to the Second Lien Notes Discharge Date), the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding, (if prior to the Senior Subordinated Facility Discharge Date), a Senior Subordinated Facility Agreement pursuant to which any Senior Subordinated Commitment remain outstanding and (if prior to the Senior Subordinated Notes Discharge Date) the Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes remain outstanding;
- (b) result in any Debtor being subject to obligations which would conflict with any provisions of this Agreement;
- (c) result in the ranking or subordination provided for in this Agreement being affected in any way that is materially adverse to the interests of the Senior Finance Parties, the Senior Secured Notes Finance Parties, the Second Lien Facility Finance Parties, the Second Lien Notes Finance Parties, the Senior Subordinated Facility Finance Parties and/or the Senior Subordinated Notes Finance Parties; or
- (d) otherwise be materially adverse (in the opinion of the relevant Agent, acting reasonably) to the interests of the Senior Finance Parties, the Senior Secured Notes Finance Parties, the Second Lien Facility Finance Parties, the Second Lien Notes Finance Parties, the Senior Subordinated Facility Finance Parties and/or the Senior Subordinated Notes Finance Parties,

in each case without the prior consent of (i) the Majority Senior Creditors (if on or before the Senior Discharge Date), (ii) (to the extent otherwise prohibited under the Senior Secured Notes Indenture) the relevant Senior Secured Notes Trustee(s) (if on or before the Senior Secured Note Discharge Date) (iii) the Majority Second Lien Lenders (if on or before the Second Lien Lender Discharge Date), (iv) (to the extent otherwise prohibited under the Second Lien Notes Indenture) the relevant Second Lien Notes Trustee(s) (if on or before the Second Lien Notes Discharge Date), (v) (to the extent otherwise prohibited under a Senior Subordinated Facility Agreement pursuant to which any Senior Subordinated Commitment remains in force) the relevant Senior Subordinated Agent(s) (if on or before the Senior Subordinated Facility Discharge Date) and (vi) (to the extent otherwise prohibited under the Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes remain outstanding) the relevant Senior Subordinated Notes Trustee(s) (if on or before the Senior Subordinated Notes Discharge Date).

8.9 Application of Reports Proceeds

If (before the Final Discharge Date) any Investor (or any Affiliate of an Investor which is not a member of the Group) receives any proceeds of a claim against the provider of any Report (in its capacity as provider of that Report), that Investor shall procure that an amount equal to those proceeds (after deducting any reasonable, fees, costs and expenses incurred by it (or any of its Affiliates) in relation to that claim and any tax incurred and required to be paid by it in respect of those proceeds) (the **Report Proceeds**) will be promptly applied as follows:

- (a) if no Senior Acceleration Event, Senior Secured Notes Acceleration Event, Second Lien Lender Acceleration Event, a Second Lien Notes Acceleration Event or Senior Subordinated Acceleration Event is continuing, in:
 - (i) (prior to the later of the Senior Lender Discharge Date and the Senior Secured Note Discharge Date) an Investor making a loan or equity contribution to the Parent (if the Report Proceeds were received by an Investor) and Parent making a New Shareholder Loan or equity contribution to the Company and the proceeds of that New Shareholder Loan or equity contribution shall then (to the extent required) be (A) applied by the Parent in accordance with clause 12.2 (Disposal, insurance and recovery proceeds) of the Senior Facilities Agreement or (B) (after the Senior Lender Discharge Date) applied by the Parent in accordance with any equivalent provision in the Senior Secured Notes Indenture (as applicable);
 - (ii) (after the later of the Senior Lender Discharge Date and the Senior Secured Note Discharge Date but prior to the later of the Second Lien Lender Discharge Date and the Second Lien Notes Discharge Date) an Investor making a loan or equity contribution to the Parent (if the Report Proceeds were received by an Investor) and Parent making a New Shareholder Loan or equity contribution to the Company and the proceeds of that New Shareholder Loan or equity contribution shall then (to the extent required) be (1) applied by the Parent in accordance with clause 9.2 (Disposal, Insurance and Recovery Proceeds) of the Second Lien Facility Agreement or (2) (after the Second Lien Lender Discharge Date) applied by the Parent in accordance with any equivalent provision in the Second Lien Notes Indenture (as applicable); or
 - (iii) (after the later of the Senior Lender Discharge Date, the Senior Secured Note Discharge Date, the Second Lien Lender Discharge Date and the Second Lien Notes Discharge Date) applied by the Parent in accordance with any equivalent provision in the Senior Subordinated Facility Agreement or the Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Liabilities remain outstanding (as applicable); or
- (b) if a Senior Acceleration Event, a Senior Secured Notes Acceleration Event, a Second Lien Lender Acceleration Event, a Second Lien Notes Acceleration Event or a Senior Subordinated Notes Acceleration Event is continuing, in payment to the Security Agent for application under Clause 16 (Application of Proceeds), provided that the payment shall be deemed to have been applied in making a New Shareholder Loan to the Parent.

9. PARENT AND PARENT LIABILITIES

9.1 Parent Restrictions

Subject to Clause 9.2 (Permitted Parent Payment), until after the Final Discharge Date:

- (a) no Debtor (other than the Parent) will, and each Debtor will procure that none of its Subsidiaries will make, and the Parent will not receive, any payment or distribution of any kind whatsoever in respect or on account of the Parent Liabilities (including in relation to the direct or indirect purchase or other acquisition of the Parent Liabilities); and
- (b) no Debtor (other than the Parent) will, and each Debtor will procure that none of its Subsidiaries will, create or permit to subsist, and the Parent will not receive from any member of the Group (other than the Parent), any Security over any asset of any such member of the Group or give or permit to subsist any guarantee in respect of any part of the Parent Liabilities,

in each case, without the prior consent of (i) (to the extent otherwise prohibited under the Senior Facilities Agreement) the Majority Senior Lenders (if on or before the Senior Discharge Date), (ii) (to the extent otherwise prohibited under the Senior Secured Notes Indenture) the relevant Senior Secured Notes Trustee(s) (if on or before the Senior Secured Note Discharge Date) (iii) (to the extent otherwise prohibited under the Second Lien Facility Agreement) the Majority Second Lien Lenders (if on or before the Second Lien Lender Discharge Date), (iv) (to the extent otherwise prohibited under the Second Lien Notes Indenture) the relevant Second Lien Notes Trustee(s) (if on or before the Second Lien Notes Discharge Date), (v) (to the extent otherwise prohibited under a Senior Subordinated Facility Agreement pursuant to which any Senior Subordinated Commitment remains in force) the relevant Senior Subordinated Agent(s) (if on or before the Senior Subordinated Facility Discharge Date) and (vi) (to the extent otherwise prohibited under any Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes remain outstanding) the relevant Senior Subordinated Notes Trustee(s) (if on or before the Senior Subordinated Notes Discharge Date).

9.2 Permitted Parent Payment

- (a) Each Debtor (other than the Parent) and each Subsidiary of a Debtor may pay interest, principal or other amounts in respect of the Parent Liabilities if such payment is:
 - (i) (if prior to the Senior Discharge Date), not prohibited by the Senior Facilities Agreement;
 - (ii) (if prior to the Senior Secured Note Discharge Date), not prohibited by the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding;
 - (iii) (if prior to the Second Lien Lender Discharge Date), not prohibited by the Second Lien Facility Agreement;
 - (iv) (if prior to the Second Lien Notes Discharge Date), not prohibited by the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding;
 - (v) (if prior to the Senior Subordinated Facility Discharge Date), not prohibited by a Senior Subordinated Facility Agreement pursuant to which any Senior Subordinated Commitment remains outstanding;
 - (vi) (if prior to the Senior Subordinated Notes Discharge Date), not prohibited by the Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes remain outstanding;
 - (vii) made to facilitate Payment of, to the extent payable by the Parent, the Senior Secured Liabilities, Senior Secured Notes Trustee Amounts and/or Permitted Second Lien Payments; and/or

- (viii) any Senior Subordinated Agent Liabilities, any Senior Subordinated Notes Trustee Amounts or, to the extent permitted by this Agreement to be paid, the Senior Subordinated Liabilities.
- (b) Nothing in this Clause 9 will restrict the roll up or capitalisation of interest on the Parent Liabilities or the payment of interest on Parent Liabilities by the issue of payment in kind instruments provided that, in any such case, there is no payment in cash or Cash Equivalent Investments.

9.3 Restrictions on Parent Enforcement Action

Until after the Final Discharge Date, the Parent may not take Enforcement Action (other than the demand for any payment (or set-off account combination or payment netting in relation to any payment) permitted by Clause 9.2 (Permitted Parent Payment) at a time when no Acceleration Event is continuing) in relation to any Parent Liabilities without the prior consent of (a) the Majority Senior Lenders (if on or before the Senior Discharge Date), (b) the relevant Senior Secured Notes Trustee(s) (if on or before the Senior Secured Note Discharge Date) (c) the Majority Second Lien Lenders (if on or before the Second Lien Lender Discharge Date), (d) the relevant Second Lien Notes Trustee(s) (if on or before the Second Lien Notes Discharge Date), (e) the relevant Senior Subordinated Agent(s) (if on or before the Senior Subordinated Facility Discharge Date) and (f) the relevant Senior Subordinated Notes Trustee(s) (if on or before the Senior Subordinated Notes Discharge Date) except that after the occurrence of an Insolvency Event in relation to any member of the Group, the Parent may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of the Parent in accordance with Clause 11.5 (Filing of Claims)), exercise any right it may otherwise have against that member of the Group to:

- (a) accelerate any of that member of the Group's Parent Liabilities or declare them prematurely due and payable or payable on demand;
- (b) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Parent Liabilities;
- (c) exercise any right of set-off or take or receive any Payment in respect of any Parent Liabilities of that member of the Group; or
- (d) claim and prove in the liquidation of that member of the Group for the Parent Liabilities owing to it.

9.4 Turnover of Parent Liabilities

If at any time on or before the Final Discharge Date:

- (a) the Parent receives or recovers a payment or distribution of any kind whatsoever (including by way of set-off or combination of accounts) in respect or on account of any of the Parent Liabilities which is not permitted by Clause 9.2 (Permitted Parent Payment);
- (b) the Parent receives or recovers proceeds pursuant to any Enforcement Action where the payment would not be permitted under Clause 9.2 (Permitted Parent Payment); or
- (c) any member of the Group (other than the Parent) makes any payment or distribution of any kind whatsoever in respect or on account of the purchase or other acquisition of any of the Parent Liabilities where the payment would not be permitted under Clause 9.2 (Permitted Parent Payment),

the recipient or beneficiary of that payment, distribution, set-off or combination will promptly pay all amounts and distributions received to the Security Agent for application under Clause 16.1 (Order of Application of Group Recoveries) (as applicable) after deducting the costs, liabilities and expenses (if any) reasonably incurred in recovering or receiving that payment or distribution and, pending that payment, will hold those amounts and distributions on trust for (or otherwise on behalf and for the account of) the Security Agent.

9.5 No Reduction or Discharge

As between the Debtors (other than the Parent) and the Parent, the Parent Liabilities will be deemed not to have been reduced or discharged to the extent or any payment or distribution to the Security Agent under Clause 9.4 (Turnover of Parent Liabilities) and no Debtor shall be released from the liability to make any payment or distribution of any kind whatsoever (including of default interest, which shall continue to accrue) with respect to or on account of any Parent Liabilities by the operation of Clause 9.1 (Parent Restrictions) even if its obligation to make that payment or distribution is restricted at any time by the terms of Clause 9.1 (Parent Restrictions).

9.6 Indemnity

Immediately after the Final Discharge Date, the Obligor(s) (other than the Parent) will (to the extent permitted by law) fully indemnify the Parent upon demand for the amount of any payment or distribution to the Security Agent under Clause 9.4 (Turnover of Parent Liabilities).

9.7 No Subrogation of Investors

Without the prior consent of (a) the Majority Senior Creditors (if on or before the Senior Discharge Date), (b) the relevant Senior Secured Notes Trustee(s) (if on or before the Senior Secured Note Discharge Date) (c) the Majority Second Lien Lenders (if on or before the Second Lien Lender Discharge Date), (d) the relevant Second Lien Notes Trustee(s) (if on or before the Second Lien Notes Discharge Date), (e) the relevant Senior Subordinated Agent(s) (if on or before the Senior Subordinated Facility Discharge Date) and (f) the relevant Senior Subordinated Notes Trustee(s) (if on or before the Senior Subordinated Notes Discharge Date), the Parent in respect of any Parent Liabilities may not in any circumstances exercise any subrogation rights relating to the rights of:

- (a) the Senior Lenders in respect of the Senior Debt;
- (b) the Senior Secured Note Creditors in respect of any Senior Secured Notes Guarantee Liabilities;
- (c) the Second Lien Lenders in respect of the Second Lien Lender Liabilities;
- (d) the Second Lien Notes Creditors in respect of any Second Lien Notes Guarantee Liabilities;
- (e) the Senior Subordinated Creditors in respect of the Senior Subordinated Guarantee Liabilities; or
- (f) any Security or guarantee arising under the Senior Finance Documents, Senior Secured Notes Finance Document, Second Lien Lender Finance Documents, Second Lien Notes Finance Documents, Senior Subordinated Facility Finance Documents and/or Senior Subordinated Notes Finance Documents (as applicable).

9.8 Amendments to Parent Documents

Until after the Final Discharge Date, no Obligor will (and shall procure that no other member of the Group will) amend any term of any Parent Document in a manner or to an extent which would:

- (a) result in any principal, interest, distribution or other amount payable under any Parent Document being payable on a date earlier or more frequently than, or in an amount greater than, provided in the relevant original Parent Documents as at the date of this Agreement or any relevant Parent Documents which may be executed after the date of this Agreement except to the extent such payment is not prohibited by (if prior to the Senior Discharge Date) the Senior Facilities Agreement, (if prior to the Senior Secured Note Discharge Date) the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, (if prior to the Second Lien Lender Discharge Date), the Second Lien Facility Agreement, (if prior to the Second Lien Notes Discharge Date), the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding, (if prior to the Senior Subordinated Facility Discharge Date), a Senior Subordinated Facility Agreement pursuant to which any Senior Subordinated Commitment remain outstanding and (if prior to the Senior Subordinated Notes Discharge Date) the Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes remain outstanding;
- (b) result in any Debtor being subject to obligations which would conflict with any provisions of this Agreement;
- (c) result in the ranking or subordination provided for in this Agreement being affected in any way that is materially adverse to the interests of the Senior Finance Parties, the Senior Secured Notes Finance Parties, the Second Lien Facility Finance Parties, the Second Lien Notes Finance Parties, the Senior Subordinated Facility Finance Parties and/or the Senior Subordinated Notes Finance Parties; or
- (d) otherwise be materially adverse (in the opinion of the relevant Agent, acting reasonably) to the interests of the Senior Finance Parties, the Senior Secured Notes Finance Parties, the Second Lien Facility Finance Parties, the Second Lien Notes Finance Parties, the Senior Subordinated Facility Finance Parties and/or the Senior Subordinated Notes Finance Parties,

in each case without the prior consent of (i) the Majority Senior Creditors (if on or before the Senior Discharge Date), (ii) (to the extent otherwise prohibited under any Senior Secured Notes Indenture) the relevant Senior Secured Notes Trustee(s) (if on or before the Senior Secured Note Discharge Date) (iii) the Majority Second Lien Lenders (if on or before the Second Lien Lender Discharge Date), (iv) (to the extent otherwise prohibited under any Second Lien Notes Indenture) the relevant Second Lien Notes Trustee(s) (if on or before the Second Lien Notes Discharge Date), (v) (to the extent otherwise prohibited under a Senior Subordinated Facility Agreement pursuant to which any Senior Subordinated Commitment remains in force) the relevant Senior Subordinated Agent(s) (if on or before the Senior Subordinated Facility Discharge Date) and (vi) (to the extent otherwise prohibited under any Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes remain outstanding) the relevant Senior Subordinated Notes Trustee(s) (if on or before the Senior Subordinated Notes Discharge Date).

10. INTRA-GROUP LENDERS AND INTRA-GROUP LIABILITIES

10.1 Restriction on Payment: Intra-Group Liabilities

Prior to the Final Discharge Date, the Debtors shall not, and shall procure that no other member of the Group will, make any Payments of the Intra-Group Liabilities at any time unless:

- (a) that Payment is permitted under Clause 10.2 (Permitted Payments: Intra-Group Liabilities); or
- (b) the taking or receipt of that Payment is permitted under paragraph (c) of Clause 10.7 (Permitted Enforcement: Intra-Group Lenders).

10.2 Permitted Payments: Intra-Group Liabilities

- (a) Subject to paragraph (b) below, the Debtors may make Payments in respect of the Intra-Group Liabilities (whether of principal, interest or otherwise) from time to time.
- (b) Payments in respect of the Intra-Group Liabilities may not be made pursuant to paragraph (a) above if, at the time of the Payment, an Acceleration Event has occurred unless:
 - (i) prior to the Senior Secured Discharge Date:
 - (A) (if paragraph (B) below does not apply) the Instructing Group consents to that Payment being made; or
 - (B) if, at that time, the Security Agent is obliged to give effect to instructions from the Majority Second Lien Creditors as to the manner of enforcement of the Transaction Security pursuant to paragraph (b) or paragraph (c) of Clause 14.3 (Manner of Enforcement), the Majority Second Lien Creditors or the Majority Senior Subordinated Creditors (as applicable) consent to that Payment being made;
 - (ii) after the Senior Secured Discharge Date but prior to the Second Lien Discharge Date:
 - (A) (if paragraph (B) below does not apply) the Instructing Group consents to that Payment being made; or
 - (B) if, at that time, the Security Agent is obliged to give effect to instructions from the Majority Senior Subordinated Creditors as to the manner of enforcement of the Transaction Security pursuant to paragraph (c) of Clause 14.3 (Manner of Enforcement), the Majority Senior Subordinated Creditors consent to that Payment being made;
 - (iii) on or after the Priority Discharge Date but prior to the Senior Subordinated Discharge Date, the Majority Senior Subordinated Facility Creditors (if on or before the Senior Subordinated Facility Discharge Date) and the Senior Subordinated Notes Trustee(s) (if on or before the Senior Subordinated Notes Discharge Date) consent to the payment being made or it is otherwise permitted by a Senior Subordinated Facility Agreement or Senior Subordinated Notes Indenture (as applicable); or
 - (iv) that Payment is made to facilitate Payment of the Senior Secured Liabilities, Senior Secured Notes Trustee Amounts, Permitted Second Lien Payments, any Senior Subordinated Agent Liabilities, any Senior Subordinated Notes Trustee Amounts or, to the extent permitted by this Agreement to be paid, the Senior Subordinated Liabilities.

10.3 Payment Obligations Continue

No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 10.1 (Restriction on Payment: Intra-Group Liabilities) and 10.2 (Permitted Payments: Intra-Group

Liabilities) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

10.4 Acquisition of Intra-Group Liabilities

- (a) Subject to paragraph (b) below, each Debtor may, and may permit any other member of the Group to:
 - (i) enter into any Liabilities Acquisition; or
 - (ii) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any Intra-Group Liabilities at any time.

- (b) Subject to paragraph (c) below, no action described in paragraph (a) above may take place in respect of any Intra-Group Liabilities if:
 - (i) that action would result in a breach of (A) (prior to the Senior Discharge Date) the Senior Facilities Agreement, (B) (prior to the Senior Secured Note Discharge Date) a Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding (as applicable), (C) (prior to the Second Lien Lender Discharge Date) the Second Lien Facility Agreement, (D) (prior to the Second Lien Notes Discharge Date) a Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding (as applicable) (E) (prior to the Senior Subordinated Facility Discharge Date) the Senior Subordinated Facility Agreement(s) pursuant to which any Senior Subordinated Commitment remain outstanding (as applicable) or (F) (prior to the Senior Subordinated Notes Discharge Date) the Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes remain outstanding (as applicable); or
 - (ii) at the time of that action, an Acceleration Event has occurred.
- (c) The restrictions in paragraph (b) above shall not apply if:
 - (i) prior to the Senior Secured Discharge Date:
 - (A) (if paragraph (B) below does not apply) an Instructing Group consents to that action; or
 - (B) if, at that time, the Security Agent is obliged to give effect to instructions from the Majority Second Lien Creditors as to the manner of enforcement of the Transaction Security pursuant to paragraph (b) of Clause 14.3 (Manner of Enforcement), the Majority Second Lien Creditors consent to that action;
 - (ii) after the Senior Secured Discharge Date but prior to the Second Lien Discharge Date:
 - (A) (if paragraph (B) below does not apply) an Instructing Group consents to that action; or
 - (B) if, at that time, the Security Agent is obliged to give effect to instructions from the Majority Senior Subordinated Creditors as to the manner of enforcement of the Transaction Security pursuant to paragraph (c) of Clause 14.3 (Manner of Enforcement), the Majority Senior Subordinated Creditors consent to that action;

- (iii) on or after the Priority Discharge Date but prior to the Senior Subordinated Facility Discharge Date, the relevant Senior Subordinated Agent(s) consent to the payment being made;
- (iv) after the Senior Subordinated Facility Discharge Date but prior to the Senior Subordinated Note Discharge Date, the Senior Subordinated Notes Trustee(s) consent to the payment being made; or
- (v) that action is taken to facilitate Payment of the Senior Secured Liabilities, Senior Secured Notes Trustee Amounts, Permitted Second Lien Payments, any Senior Subordinated Agent Liabilities, any Senior Subordinated Notes Trustee Amounts or, to the extent permitted by this Agreement to be paid, the Senior Subordinated Liabilities.

10.5 Security: Intra-Group Lenders

Prior to the Final Discharge Date, the Intra-Group Lenders may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of the Intra-Group Liabilities unless:

- (a) that Security, guarantee, indemnity or other assurance against loss is expressly permitted under the terms of the Senior Facilities Agreement and the Second Lien Facility Agreement;
- (b) prior to the Senior Secured Discharge Date, the prior consent of the Majority Senior Creditors and (to the extent otherwise prohibited under the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding) the relevant Senior Secured Notes Trustee is obtained and prior to the Second Lien Discharge Date, the prior consent of the Majority Second Lien Lenders and (to the extent otherwise prohibited under the Second Lien Notes Indenture(s) pursuant to which any Second Lien Notes remain outstanding) the relevant Second Lien Notes Trustee is obtained; or
- (c) on or after the Priority Discharge Date (to the extent otherwise prohibited under a Senior Subordinated Facility Agreement) the prior consent of the Majority Senior Subordinated Facility Creditors and (to the extent otherwise prohibited under a Senior Subordinated Notes Indenture), the prior consent of the Senior Subordinated Notes Trustees (as applicable) is obtained.

10.6 Restriction on Enforcement: Intra-Group Lenders

Subject to Clause 10.7 (Permitted Enforcement: Intra-Group Lenders), (other than the demand for any payment (or set-off account combination or payment netting in relation to any payment) permitted by Clause 10.2 (Permitted Payments: Intra-Group Liabilities) none of the Intra-Group Lenders shall be entitled to take any Enforcement Action in respect of any of the Intra-Group Liabilities at any time prior to the Final Discharge Date unless otherwise directed by the Security Agent.

10.7 Permitted Enforcement: Intra-Group Lenders

To the extent permitted under applicable law, after the occurrence of an Insolvency Event in relation to any member of the Group, each Intra-Group Lender may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Intra-Group Lender in accordance with Clause 11.5 (Filing of Claims)), exercise any right it may otherwise have against that member of the Group to:

- (a) accelerate any of that member of the Group's Intra-Group Liabilities or declare them prematurely due and payable or payable on demand;
- (b) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Intra-Group Liabilities;
- (c) exercise any right of set-off or take or receive any Payment in respect of any Intra-Group Liabilities of that member of the Group; or
- (d) claim and prove in the liquidation of that member of the Group for the Intra-Group Liabilities owing to it.

10.8 Representations: Intra-Group Lenders

Each Intra-Group Lender which is not a Debtor represents and warrants to the Primary Creditors, the Security Agent and the Agents that:

- (a) it is duly incorporated (or, as the case may be, organised) and validly established under the laws of its jurisdiction of incorporation (or, as the case may be, organised);
- (b) subject to the Legal Reservations and Perfection Requirements, the obligations expressed to be assumed by it in this Agreement are valid, legally binding and enforceable obligations; and
- (c) subject to the Legal Reservations and Perfection Requirements, the entry into and performance by it of, and the transactions contemplated by, this Agreement do not contravene:
 - (i) any law or regulation applicable to it in any material respect;
 - (ii) its constitutional documents in any material respect; or
 - (iii) any agreement or instrument binding upon it or any of its assets to an extent which has or is reasonably likely to give rise to a Material Adverse Effect.

11. EFFECT OF INSOLVENCY EVENT

11.1 SFA Cash Cover

This Clause 11 is subject to Clause 16.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral) and, in the case of each Notes Trustee, to paragraphs (a) and (c) of 28.1 (Liability).

11.2 Payment of Distributions

- (a) After the occurrence of an Insolvency Event in relation to any member of the Group, any Party entitled to receive a distribution out of the assets of that member of the Group in respect of Liabilities owed to that Party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that member of the Group to pay that distribution to the Security Agent until the Liabilities owing to the Secured Parties have been paid in full.
- (b) The Security Agent shall apply distributions paid to it under paragraph (a) above in accordance with Clause 16 (Application of Proceeds).

- (c) After the occurrence of an Insolvency Event in relation to any member of the Group incorporated in Spain (*concurso*), the terms set forth in this Clause 11 shall apply, regardless of the payment distribution provided for by the trustees in bankruptcy (*administradores concursales*), the general meeting of creditors (*junta de acreedores*) or any composition agreement (*convenio*). However, should the credit rights of any Party entitled to receive a distribution be declared subordinated within any insolvency proceedings of any Debtor incorporated in Spain pursuant to the provisions (including the legal subordination presumptions) of Articles 92 or 93 of the Spanish Insolvency Law, the Party hereto agree that, in respect of their internal relations, the Party subordinated within any such insolvency proceedings shall not receive from the other Parties any amounts required to re-establish the position it would have been entitled to under this Agreement had it not been subordinated and, therefore, the proportionality provisions contained in this Clause 11 shall not apply to the Party thus subordinated.

11.3 Set-Off

- (a) Subject to paragraph (b) below, to the extent that any member of the Group's Liabilities are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event in relation to that member of the Group, any Creditor which benefited from that set-off shall pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set-off to the Security Agent for application in accordance with Clause 16 (Application of Proceeds).
- (b) Paragraph (a) above shall not apply to:
- (i) any such discharge of the Multi-account Overdraft Liabilities to the extent that the relevant discharge represents a reduction from a Permitted Gross Amount of a Multi-account Overdraft Facility to or towards its Designated Net Amount;
 - (ii) any Close-Out Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
 - (iii) any Payment Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
 - (iv) any Inter-Hedging Agreement Netting by a Hedge Counterparty; and
 - (v) any Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender.

11.4 Non-Cash Distributions

If the Security Agent or any other Secured Party receives a distribution in a form other than in cash in respect of any of the Liabilities, the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities.

11.5 Filing of Claims

Without prejudice to any Ancillary Lender's right of netting or set-off relating to a Multi-account Overdraft Facility (to the extent that the netting or set-off represents a reduction from a Permitted Gross Amount of that Multi-account Overdraft Facility to or towards its Designated Net Amount), after the occurrence of an Insolvency Event in relation to any member of the Group, each Creditor irrevocably authorises the Security Agent (acting in accordance with Clause 11.7 (Security Agent Instructions)), on its behalf, to:

- (a) take any Enforcement Action (in accordance with the terms of this Agreement) against that member of the Group;

- (b) demand, sue, prove and give receipt for any or all of that member of the Group's Liabilities;
- (c) collect and receive all distributions on, or on account of, any or all of that member of the Group's Liabilities; and
- (d) file claims, take proceedings and do all other things the Security Agent considers reasonably necessary to recover that member of the Group's Liabilities including voting any Second Lien Lender Liabilities, Second Lien Notes Liabilities, Senior Subordinated Facility Liabilities and Senior Subordinated Notes Liabilities in favour of a plan of reorganisation approved by the Majority Senior Secured Creditors in a bankruptcy proceeding under U.S. Debtor Relief Law (as defined in the Senior Facilities Agreement).

11.6 Creditors' Actions

Each Creditor will:

- (a) do all things that the Security Agent (acting in accordance with Clause 11.7 (Security Agent Instructions)) reasonably requests in order to give effect to this Clause 11;
- (b) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 11 or if the Security Agent (acting in accordance with Clause 11.7 (Security Agent Instructions)) requests that a Creditor take that action, undertake that action itself in accordance with the instructions of the Security Agent (acting in accordance with Clause 11.7 (Security Agent Instructions)) or grant a power of attorney to the Security Agent (on such terms as the Security Agent (acting in accordance with Clause 11.7 (Security Agent Instructions)) may reasonably require, although no Notes Trustee shall be under any obligation to grant such powers of attorney) to enable the Security Agent to take such action; and
- (c) To the extent it is not a Senior Secured Creditor, (i) not vote against any plan of reorganisation in a bankruptcy proceeding under U.S. Debtor Relief Law if such plan pays off in cash in full the Senior Secured Creditors or is approved by the Majority Senior Secured Creditors and (ii) not take any action in any bankruptcy proceeding under U.S. Debtor Relief Law that would be adverse to the Senior Secured Creditors.

11.7 Security Agent Instructions

For the purposes of Clause 11.5 (Filing of Claims) and Clause 11.6 (Creditors' Actions) the Security Agent shall act:

- (a) on the instructions of the group of Primary Creditors entitled, at that time, to give instructions under Clause 14.2 (Enforcement Instructions) or Clause 14.3 (Manner of Enforcement); or
- (b) in the absence of any such instructions, as the Security Agent sees fit.

11.8 US Insolvency Proceeding

In a US Insolvency Proceeding the provision of any debtor-in-possession financing (each a **DIP Financing**) under section 364 of the US Bankruptcy Code that is secured by liens (the **DIP Financing Liens**) senior to or *pari passu* with the liens securing the Senior Secured Creditor Liabilities or any consent to the use of cash collateral under section 363 of the US Bankruptcy Code (**Cash Collateral** and together with DIP Financing, a **Bankruptcy Financing**) shall require only the

consent of the Majority Senior Creditors (or, after the Senior Secured Discharge Date, the consent of the Majority Second Lien Creditors). Each Senior Subordinated Creditor and Second Lien Creditor agrees that it will not object to, oppose or seek to challenge (or support or instruct the Security Agent or any other person in objecting to, opposing or seeking to challenge) such Bankruptcy Financing or any adequate protection granted to the Senior Secured Creditors hereunder on the basis of lack of adequate protection and shall not object to subordination of (i) any liens securing the Senior Subordinated Liabilities or the Second Lien Liabilities to such DIP Financing Liens and (ii) any replacement liens provided to such Senior Subordinated Creditors or Second Lien Creditors, as applicable, as adequate protection to any replacement liens provided as adequate protection to the Senior Secured Creditors, on the same terms as the liens securing the Senior Subordinated Liabilities and the Second Lien Liabilities, as applicable, are subordinated to the liens securing the Senior Secured Liabilities.

11.9 Limitation by Applicable Laws

Each of the provisions of this Clause 11 shall apply only to the extent permitted by applicable laws.

12. TURNOVER OF RECEIPTS

12.1 SFA Cash Cover

This Clause 12 is subject to Clause 16.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral) and, in the case of each Notes Trustee, to paragraphs (a) and (c) of Clause 28.1 (Liability).

12.2 Turnover by the Creditors

Subject to Clause 12.3 (Exclusions), Clause 12.4 (Permitted Assurance and Receipts), Clause 18.1 (Senior Secured Creditor Liabilities Refinancing), Clause 18.2 (Second Lien Creditor Liabilities Refinancing) and Clause 18.3 (Senior Subordinated Notes Refinancing) and, in the case of Notes Trustee Amounts, to paragraphs (a) and (c) of Clause 28.1 (Liability), if at any time prior to the Final Discharge Date, any Creditor receives or recovers from any member of the Group:

- (a) any Payment or distribution of, or on account of or in relation to, any of the Liabilities which is not either:
 - (i) a Permitted Payment; or
 - (ii) made in accordance with Clause 16 (Application of Proceeds);
- (b) other than where Clause 11.3 (Set-Off) applies, any amount by way of set-off in respect of any of the Liabilities owed to it which does not give effect to a Permitted Payment;
- (c) notwithstanding paragraphs (a) and (b) above, and other than where Clause 11.3 (Set-Off) applies, any amount:
 - (i) on account of, or in relation to, any of the Liabilities:
 - (A) after the occurrence of a Distress Event; or
 - (B) as a result of any other litigation or proceedings against a member of the Group (other than after the occurrence of an Insolvency Event in respect of that member of the Group); or

- (ii) by way of set-off in respect of any of the Liabilities owed to it after the occurrence of a Distress Event,

other than, in each case, any amount received or recovered in accordance with Clause 16 (Application of Proceeds);

- (d) the proceeds of any enforcement of any Transaction Security except in accordance with Clause 16 (Application of Proceeds); or
- (e) other than where Clause 11.3 (Set-Off) or Clause 18.1 (Senior Secured Creditor Liabilities Refinancing) applies, any distribution in cash or in kind or Payment of, or on account of or in relation to, any of the Liabilities owed by any member of the Group which is not in accordance with Clause 16 (Application of Proceeds) and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of that member of the Group,

that Creditor will:

- (i) in relation to receipts and recoveries not received or recovered by way of set-off:
 - (A) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for (or otherwise on behalf and for the account of) the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and
 - (B) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement; and
- (ii) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that recovery to the Security Agent for application in accordance with the terms of this Agreement.

12.3 Exclusions

- (a) Clause 12.2 (Turnover by the Creditors) shall not apply to any receipt or recovery:
 - (i) by way of:
 - (A) Close-Out Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
 - (B) Payment Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
 - (C) Inter-Hedging Agreement Netting by a Hedge Counterparty; or
 - (D) Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender; or
 - (ii) by an Ancillary Lender by way of that Ancillary Lender's right of netting or set-off relating to a Multi-account Overdraft Facility (to the extent that that netting or set-off represents a reduction from a Permitted Gross Amount of that Multi-account Overdraft Facility to or towards its Designated Net Amount);
 - (iii) any refinancing subject to Clause 18.1 (Senior Secured Creditor Liabilities Refinancing), Clause 18.2 (Second Lien Creditor Liabilities Refinancing) or Clause 18.3 (Senior Subordinated Notes Refinancing); or

- (iv) made in accordance with Clause 17 (Equalisation).
- (b) In addition, the Primary Creditors are not obliged to share with any other Primary Creditor (and the Security Agent will exclude such Primary Creditor from the relevant payment or distribution) any receipt or recovery from a Spanish Debtor which is declared insolvent, if that other Primary Creditor is regarded as a related party (*persona especialmente relacionada*) to such Spanish Debtor under the Spanish Insolvency Law.

12.4 Permitted Assurance and Receipts

Nothing in this Agreement shall restrict the ability of any Primary Creditor to:

- (a) arrange with any person which is not a member of the Group or a Holding Company of any member of the Group any assurance against loss in respect of, or reduction of its credit exposure to, a Debtor (including assurance by way of credit based derivative or sub-participation); or
- (b) make any assignment or transfer permitted by Clause 21 (Changes to the Parties),

which:

- (i) is permitted by the Secured Debt Documents under which the relevant Liabilities were incurred; and
- (ii) is not in breach of Clause 4.5 (No Acquisition of Hedging Liabilities) or any provision of (if prior to the Senior Discharge Date) the Senior Facilities Agreement, (if prior to the Senior Secured Note Discharge Date) the Senior Secured Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, (if prior to the Second Lien Notes Discharge Date) the Second Lien Notes Indenture(s) pursuant to which any Senior Secured Notes remain outstanding, (if prior to the Second Lien Lender Discharge Date) the Second Lien Facility Agreement, (if prior to the Senior Subordinated Facility Discharge Date in respect of the Senior Subordinated Facility) the Senior Subordinated Facility Agreement(s) pursuant to which any Senior Subordinated Commitments remain outstanding (as applicable) and (if prior to the Senior Subordinated Notes Discharge Date in respect of the Senior Subordinated Notes) the Senior Subordinated Notes Indenture(s) pursuant to which any Senior Subordinated Notes remain outstanding (as applicable),

and that Primary Creditor shall not be obliged to account to any other Party for any sum received by it as a result of that action.

12.5 Sums received by Debtors

If any of the Debtors receives or recovers any sum which, under the terms of any of the Debt Documents, should have been paid to the Security Agent, that Debtor will:

- (a) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for (or otherwise on behalf and for the account of) the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and
- (b) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement.

12.6 Saving Provision

If, for any reason, any of the trusts expressed to be created in this Clause 12 should fail or be unenforceable, the affected Creditor or Debtor will promptly pay an amount equal to that receipt or recovery to the Security Agent to be held on trust (to the extent possible under applicable law) by the Security Agent for application in accordance with the terms of this Agreement.

13. REDISTRIBUTION

13.1 Recovering Creditor's Rights

- (a) Any amount paid by a Creditor (a **Recovering Creditor**) to the Security Agent under Clause 11 (Effect of Insolvency Event) or Clause 12 (Turnover of Receipts) shall be treated as having been paid by the relevant Debtor and distributed to the Security Agent, Agents, Arrangers and Primary Creditors (each a **Sharing Creditor**) in accordance with the terms of this Agreement.
- (b) On a distribution by the Security Agent under paragraph (a) above of a Payment received by a Recovering Creditor from a Debtor, as between the relevant Debtor and the Recovering Creditor an amount equal to the amount received or recovered by the Recovering Creditor and paid to the Security Agent (as the case may be) (the **Shared Amount**) will be treated as not having been paid by that Debtor.

13.2 Reversal of Redistribution

- (a) If any part of the Shared Amount received or recovered by a Recovering Creditor becomes repayable to a Debtor and is repaid by that Recovering Creditor to that Debtor, then:
 - (i) each Sharing Creditor shall (subject in the case of Notes Trustee Amounts to paragraphs (a) and (c) of Clause 28.1 (Liability)), upon request of the Security Agent, pay to the Security Agent for the account of that Recovering Creditor an amount equal to the appropriate part of its share of the Shared Amount (together with an amount as is necessary to reimburse that Recovering Creditor for its proportion of any interest on the Shared Amount which that Recovering Creditor is required to pay) (the **Redistributed Amount**); and
 - (ii) as between the relevant Debtor and each relevant Sharing Creditor, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Debtor.
- (b) The Security Agent shall not be obliged to pay any Redistributed Amount to a Recovering Creditor under paragraph (a)(i) above until it has been able to establish to its satisfaction that it has actually received that Redistributed Amount from the relevant Sharing Creditor.

13.3 Deferral of Subrogation

No Creditor or Debtor will exercise any rights which it may have by reason of the performance by it of its obligations under the Debt Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Debt Documents of any Creditor which ranks ahead of it in accordance with the priorities set out in Clause 2 (Ranking and Priority) until such time as all of the Liabilities owing to each prior ranking Creditor (or, in the case of any Debtor, owing to each Creditor) have been irrevocably paid in full.

14. ENFORCEMENT OF TRANSACTION SECURITY

14.1 SFA Cash Cover

This Clause 14 is subject to Clause 16.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral).

14.2 Enforcement Instructions

(a) The Security Agent may refrain from enforcing the Transaction Security unless instructed otherwise by:

- (i) the Instructing Group;
- (ii) if required under paragraph (c) below, the Second Lien Agent or Second Lien Notes Trustee (acting on the instructions of the Majority Second Lien Creditors); or
- (iii) if required under paragraph (d) below, the Senior Subordinated Creditor Representative(s) (acting on the instructions of the Majority Senior Subordinated Creditors).

(b) Subject to the Transaction Security having become enforceable in accordance with its terms:

- (i) the Instructing Group; or
- (ii) to the extent permitted to enforce or to require the enforcement of the Transaction Security prior to the Senior Discharge Date under Clause 6.13 (Permitted Second Lien Enforcement), the Second Lien Agent or Second Lien Notes Trustee (acting on the instructions of the Majority Second Lien Creditors); or
- (iii) to the extent permitted to enforce or to require the enforcement of the Transaction Security prior to the Senior Discharge Date under Clause 7.11 (Permitted Senior Subordinated Enforcement), the Senior Subordinated Creditor Representative(s) (acting on the instructions of the Majority Senior Subordinated Creditors) as applicable,

may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security as they see fit.

(c) Prior to the Senior Secured Discharge Date:

- (i) if the Instructing Group has instructed the Security Agent not to enforce or to cease enforcing the Transaction Security; or
- (ii) in the absence of instructions from the Instructing Group,

and, in each case, the Instructing Group has not required any Debtor to make a Distressed Disposal, the Security Agent shall give effect to any instructions to enforce the Transaction Security which the Second Lien Agent or Second Lien Notes Trustee (acting on the instructions of the Majority Second Lien Creditors) are then entitled to give to the Security Agent under Clause 6.13 (Permitted Second Lien Enforcement).

(d) Prior to the Priority Discharge Date:

- (i) if the Instructing Group has instructed the Security Agent not to enforce or to cease enforcing the Transaction Security; or

(ii) in the absence of instructions from the Instructing Group,

and, in each case, the Instructing Group has not required any Debtor to make a Distressed Disposal, the Security Agent shall give effect to any instructions to enforce the Transaction Security which the Senior Subordinated Creditor Representative(s) (acting on the instructions of the Majority Senior Subordinated Creditors) are then entitled to give to the Security Agent under Clause 7.11 (Permitted Senior Subordinated Enforcement) respectively.

- (e) Notwithstanding the preceding paragraphs (c) and (d) above, if at any time the Second Lien Agent or Second Lien Notes Trustee or the Senior Subordinated Creditor Representative(s) are then entitled to give the Security Agent instructions to enforce the Transaction Security pursuant to the preceding paragraph (c) or (d) above and the Second Lien Agent or Second Lien Notes Trustee and/or the Senior Subordinated Creditor Representative(s) (as applicable) either gives such instruction or indicates any intention to give such instruction, then the Instructing Group may give instructions to the Security Agent to enforce the Transaction Security as the Instructing Group sees fit *in lieu* of any instructions to enforce given by the Second Lien Agent or Second Lien Notes Trustee under Clause 6.13 (Permitted Second Lien Enforcement) or the Senior Subordinated Creditor Representative(s) under Clause 7.11 (Permitted Senior Subordinated Enforcement) and the Security Agent shall act on such instructions received from the Instructing Group.
- (f) The Security Agent is entitled to rely on and comply with instructions given, or deemed to be given, in accordance with this Clause 14.2 (Enforcement Instructions).
- (g) No Secured Party shall have any independent power to enforce, or to have recourse to, any Transaction Security or to exercise any rights or powers arising under the Transaction Security Documents except through the Security Agent.

14.3 Manner of Enforcement

If the Transaction Security is being enforced pursuant to Clause 14.2 (Enforcement Instructions), the Security Agent (as the case may be) shall enforce the Transaction Security in such manner (including, without limitation, the selection of any administrator of any Debtor to be appointed by the Security Agent) as:

- (a) the relevant Instructing Group shall instruct; or
- (b) prior to the Senior Secured Discharge Date, if:
 - (i) the Security Agent has, pursuant to paragraph (c) of Clause 14.2 (Enforcement Instructions), received instructions given by the Second Lien Agent or the Second Lien Notes Trustee (acting on the instructions of the Majority Second Lien Creditors) to enforce the Transaction Security; and
 - (ii) the Instructing Group has not given instructions as to the manner of enforcement of the Transaction Security,

the Second Lien Agent or the Second Lien Notes Trustee (acting on the instructions of the Majority Second Lien Creditors) shall instruct, or:

- (c) prior to the Priority Discharge Date, if:
 - (i) the Security Agent has, pursuant to paragraph (d) of Clause 14.2 (Enforcement Instructions), received instructions given by the Senior Subordinated Creditor

Representative(s) (acting on the instructions of the Majority Senior Subordinated Creditors) to enforce the Transaction Security; and

- (ii) neither the Instructing Group nor the Second Lien Agent or the Second Lien Notes Trustee (acting on the instructions of the Majority Second Lien Creditors) have given instructions as to the manner of enforcement of the Transaction Security,

the Senior Subordinated Creditor Representative(s) (acting on the instructions of the Majority Senior Subordinated Creditors) shall instruct; or

- (d) in the absence of any such instructions, as the Security Agent sees fit.

14.4 Exercise of Voting Rights

- (a) Each Creditor agrees (to the fullest extent permitted by law at the relevant time) with the Security Agent that it will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any member of the Group as instructed by the Security Agent.
- (b) The Security Agent shall give instructions for the purposes of paragraph (a) above as directed by an Instructing Group.

14.5 Waiver of Rights

To the extent permitted under applicable law and subject to Clause 14.2 (Enforcement Instructions), Clause 14.3 (Manner of Enforcement), Clause 16 (Application of Proceeds) and paragraph (c) of Clause 15.2 (Distressed Disposals), each of the Secured Parties and the Debtors waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any sum received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

14.6 Duties Owed

- (a) Each of the Secured Parties and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce any Transaction Security prior to the Senior Secured Discharge Date, the duties of the Security Agent and of any Receiver or Delegate owed to the Second Lien Creditors in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject to Clause 15.3 (Second Lien Protection), be no different to or greater than the duty that is owed by the Security Agent (or as the case may be, that Receiver or that Delegate) to the Debtors under general law. The duty of care owed (whether hereby or under general law) by the Security Agent to the Second Lien Creditors shall be the same whether or not the Second Lien Creditors are a creditor at the relevant entity at which enforcement is being conducted or are beneficiaries of the Security that is being enforced. The Security Agent shall promptly upon becoming aware provide the Second Lien Creditors notification of the scheduling of any court or administrative hearings relating to any Enforcement Action with respect to the Transaction Security.
- (b) Each of the Secured Parties and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce the Transaction Security prior to the Priority Discharge Date, the duties of the Security Agent and of any Receiver or Delegate owed to any Senior Subordinated Creditors in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject to paragraph (c) of

Clause 15.2 (Distressed Disposals), be no different to or greater than the duty that is owed by the Security Agent, Receiver or Delegate to the Debtors under general law.

- (c) The Secured Parties unconditionally and irrevocably undertake to grant in favour of the Security Agent at its request, by means of a notarized power of attorney (and apostilled if necessary), as many powers as the Security Agent may reasonably request in order to take all necessary action in order to enforce any of the Transaction Security pursuant to this Agreement. Among other faculties, and if requested by the Security Agent, the Secured Parties shall grant the following faculties to the Security Agent:
- (i) appoint a Spanish Notary as the Security Agent deems convenient, for the formalization of whichever public documents that may be necessary in relation to the enforcement of the relevant Spanish Security and formalise them in the name of the relevant Secured Party;
 - (ii) request and obtain the copy issued for enforcement purposes (*copia ejecutiva*) of the notarial deed by virtue of which the Spanish Security and to such effect, follow the instructions received from the relevant Secured Party;
 - (iii) take any action or appear in any proceeding in Spain, as may be required by the Security Agent, as applicable, to enforce the Spanish Security; and
 - (iv) grant any documents or carry out actions necessary or convenient for the enforcement of the Spanish Security under the instructions received under this Agreement.

Alternatively, any Secured Parties shall be entitled to appear individually in the enforcement procedures, if they deem it appropriate, provided that such Secured Parties act in coordination with the Security Agent and always following the Security Agent's instructions.

14.7 Security held by other Creditors

If any Transaction Security is held by a Creditor other than the Security Agent, then creditors may only enforce that Transaction Security in accordance with instructions given by an Instructing Group in accordance with this Clause 14 (and for this purpose references to the Security Agent shall be construed as references to that Creditor.)

14.8 Consultation Period

- (a) Subject to paragraph (b) below, before giving any instructions to the Security Agent to enforce the Transaction Security or to take any other Enforcement Action, the Agent(s) of the Creditors represented in the Instructing Group concerned shall consult with each other Agent and the Security Agent in good faith about the instructions to be given by the Instructing Group for a period of up to 10 Business Days (or such shorter period as each Agent and the Security Agent shall agree) (the **Consultation Period**), and only following the expiry of a Consultation Period, the Instructing Group shall be entitled to give any instructions to the Security Agent to enforce the Transaction Security or take any other Enforcement Action.
- (b) No Agent shall be obliged to consult in accordance with paragraph (a) above and the Instructing Group shall be entitled to give any instructions to the Security Agent to enforce the Transaction Security or take any other Enforcement Action prior to the end of a Consultation Period if:
- (i) the Transaction Security has become enforceable as a result of an Insolvency Event in relation to a member of the Group; or

- (ii) the Instructing Group or any Agent of the Creditors represented in the Instructing Group determines in good faith (and notifies each Agent and the Security Agent) that to enter into such consultations and thereby delay the commencement of enforcement of the Transaction Security could reasonably be expected to have a material adverse effect on:

- (A) the Security Agent's ability to enforce any of the Transaction Security; or

- (B) the realisation proceeds of any enforcement of the Transaction Security.

15. PROCEEDS OF DISPOSALS, RECOVERIES FROM REPORT PROVIDERS AND ADJUSTMENT OF MANDATORY PREPAYMENTS

15.1 Non-Distressed Disposals

- (a) In this Clause 15.1:

Disposal Proceeds means the proceeds of a Non-Distressed Disposal (as defined in paragraph (b)(ii)(G) below).

- (b) Without limiting the generality of any other provision of this Agreement, if, in respect of a disposal of:

- (i) an asset by a Debtor; or

- (ii) an asset which is subject to the Transaction Security,

which is not prohibited by any provision of the Senior Finance Documents, Senior Secured Notes Finance Documents, the Second Lien Lender Finance Documents, the Second Lien Notes Finance Documents, the Senior Subordinated Facility Finance Documents or the Senior Subordinated Notes Finance Documents:

- (A) (prior to the Senior Lender Discharge Date) the Senior Agent notifies the Security Agent that that disposal is permitted under or is not prohibited by the Senior Finance Documents and the relevant asset is not required to remain subject to the Transaction Security under the Senior Finance Documents (which it shall do as soon as practicable on request by the Parent);

- (B) (prior to the Senior Secured Note Discharge Date) the Parent certifies for the benefit of the Security Agent that that disposal is permitted under or is not prohibited by the Senior Secured Notes Finance Documents or the relevant Senior Secured Notes Trustee(s) authorises the release in accordance with the terms of the Senior Secured Notes Finance Documents;

- (C) (prior to the Second Lien Lender Discharge Date) the Second Lien Agent notifies the Security Agent that that disposal is permitted under or is not prohibited by the Second Lien Lender Finance Documents and the relevant asset is not required to remain subject to the Transaction Security under the Second Lien Lender Finance Documents (which it shall do as soon as practicable on request by the Parent);

- (D) (prior to the Second Lien Notes Discharge Date) the Parent certifies for the benefit of the Security Agent that that disposal is permitted under or is not prohibited by the Second Lien Notes Finance Documents or the relevant Second Lien Notes Trustee(s) authorises the release in accordance with the terms of the Second Lien Notes Finance Documents;

- (E) the Senior Subordinated Agent notifies the Security Agent that that disposal is permitted under or is not prohibited by the Senior Subordinated Facility Finance Documents and the relevant asset is not required to remain subject to the Transaction Security under the Senior Subordinated Facility Finance Documents (which it shall do as soon as practicable on request by the Parent);
- (F) the Parent certifies for the benefit of the Security Agent that that disposal is permitted under or is not prohibited by the Senior Subordinated Notes Finance Documents or the relevant Senior Subordinated Notes Trustee(s) authorises the release in accordance with the terms of the Senior Subordinated Notes Finance Documents; and
- (G) that disposal is not a Distressed Disposal,

(a **Non-Distressed Disposal**),

the Security Agent is irrevocably authorised (at the reasonable cost of the relevant Debtor or the Parent and without any consent, sanction, authority or further confirmation from any Creditor or Debtor) but subject to paragraph (c) below:

- I. to release the Transaction Security and/or any other claim (relating to a Debt Document) over that asset;
- II. where that asset consists of shares in the capital of a Debtor, to release the Transaction Security and/or any other claim, including without limitation any Guarantee Liabilities or Other Liabilities (relating to a Debt Document) over that Debtor or its assets and (if any) the Subsidiaries of that Debtor and their respective assets; and
- III. to execute and deliver or enter into any release of the Transaction Security or any claim described in paragraphs I and II above and issue any certificates of non-crystallisation of any floating charge or any consent to dealing that may be reasonably requested by the Parent.

- (c) If that Non-Distressed Disposal is not made, each release of Transaction Security or any claim described in paragraph (b) above shall have no effect and the Transaction Security or claim subject to that release shall continue in such force and effect as if that release had not been effected.
- (d) If, and at such time when, any Disposal Proceeds are required to be applied in mandatory prepayment of the Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Second Lien Lender Liabilities, the Second Lien Notes Liabilities, the Senior Subordinated Facility Liabilities or the Senior Subordinated Notes Liabilities (as applicable) then, subject to Clause 15.8 (Adjustment of Mandatory Prepayments), the Disposal Proceeds shall be applied in or towards Payment or (to the extent provided for in the relevant Debt Document) the making of an offer of Payment of:
 - (i) **first**, the Senior Lender Liabilities in accordance with the terms of the Senior Facilities Agreement (without any obligation to apply those amounts towards the Senior Secured Notes Liabilities, the Second Lien Lender Liabilities, the Second Lien Notes Liabilities, the Senior Subordinated Facility Liabilities or the Senior Subordinated Notes Liabilities); and
 - (ii) **second**, the Senior Secured Notes Liabilities in accordance with the terms of the Senior Secured Notes Indenture (as applicable) (without any obligation to pay those amounts towards the Second Lien Lender Liabilities, the Second Lien Notes Liabilities, the Senior Subordinated Facility Liabilities or the Senior Subordinated Notes Liabilities); and

- (iii) **third**, the Second Lien Lender Liabilities in accordance with the terms of the Second Lien Facility Agreement (without any obligation to apply those amounts towards the Second Lien Notes Liabilities, the Senior Subordinated Facility Liabilities or the Senior Subordinated Notes Liabilities); and
- (iv) **fourth**, the Second Lien Notes Liabilities in accordance with the terms of the Second Lien Notes Indenture (as applicable) (without any obligation to pay those amounts towards the Senior Subordinated Facility Liabilities or the Senior Subordinated Notes Liabilities); and
- (v) **then**, after the discharge in full of the Senior Lender Liabilities, the Senior Secured Notes Liabilities, the Second Lien Lender Liabilities and the Second Lien Notes Liabilities, the Senior Subordinated Liabilities in accordance with the terms of the Senior Subordinated Finance Documents,

and the consent of any other Party shall not be required for that application.

15.2 Distressed Disposals

- (a) Subject to paragraphs (d), (e) and (f) below, if a Distressed Disposal of any asset is being effected, the Security Agent is irrevocably authorised (at the cost of the relevant Debtor or the Parent and without any consent, sanction, authority or further confirmation from any Creditor or Debtor):
 - (i) **release of Security/non-crystallisation certificates**: to release the Transaction Security or any other claim over that asset and execute and deliver or enter into any release of that Transaction Security or claim and issue any letters of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable;
 - (ii) **release of liabilities and Security on a share sale (Debtor)**: if the asset which is disposed of consists of shares in the capital of a Debtor to release:
 - (A) that Debtor and any Subsidiary of that Debtor from all or any part of:
 - I. its Borrowing Liabilities;
 - II. its Guarantee Liabilities; and
 - III. its Other Liabilities;
 - (B) any Transaction Security granted by that Debtor or any Subsidiary of that Debtor over any of its assets; and
 - (C) any other claim of an Intra-Group Lender, the Parent, an Investor, or another Debtor over that Debtor's assets or over the assets of any Subsidiary of that Debtor,

on behalf of the relevant Creditors, Senior Agent, Senior Arrangers, Second Lien Agent, Second Lien Arrangers, Debtors, Senior Secured Notes Trustee(s), Second Lien Notes Trustee(s), Senior Subordinated Agent, Senior Subordinated Arrangers and the Senior Subordinated Notes Trustee(s);
 - (iii) **release of liabilities and Security on a share sale (Holding Company)**: if the asset which is disposed of consists of shares in the capital of any Holding Company of a Debtor to release:

- (A) that Holding Company and any Subsidiary of that Holding Company from all or any part of:
 - I. its Borrowing Liabilities;
 - II. its Guarantee Liabilities; and
 - III. its Other Liabilities;
- (B) any Transaction Security granted by any Subsidiary of that Holding Company over any of its assets; and
- (C) any other claim of an Intra-Group Lender, the Parent and an Investor or another Debtor over the assets of that Holding Company and any Subsidiary of that Holding Company,

on behalf of the relevant Creditors, Senior Agent, Senior Arrangers, Second Lien Agent, Second Lien Arrangers, Debtors, Senior Secured Notes Trustee(s), Second Lien Notes Trustee(s), Senior Subordinated Agent, Senior Subordinated Arrangers and the Senior Subordinated Notes Trustee(s);

- (iv) **disposal of liabilities on a share sale:** if the asset which is disposed of consists of shares in the capital of a Debtor or the Holding Company of a Debtor and the Security Agent (acting in accordance with paragraph (d) below) decides to dispose of all or any part of:

- (A) the Liabilities; or
- (B) the Debtor Liabilities,

owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company:

- I. (if the Security Agent (acting in accordance with Clause 14.3 (Manner of Enforcement)) does not intend that any transferee of those Liabilities or Debtor Liabilities (the **Transferee**) will be treated as a Primary Creditor or a Secured Party for the purposes of this Agreement), to execute and deliver or enter into any agreement to dispose of all or part of those Liabilities or Debtor Liabilities provided that notwithstanding any other provision of any Debt Document the Transferee shall not be treated as a Primary Creditor or a Secured Party for the purposes of this Agreement; and
- II. (if the Security Agent (acting in accordance with paragraph (b) below) does intend that any Transferee will be treated as a Primary Creditor or a Secured Party for the purposes of this Agreement), to execute and deliver or enter into any agreement to dispose of:
 - (aa) all (and not part only) of the Liabilities owed to the Primary Creditors; and
 - (bb) all or part of any other Liabilities and the Debtor Liabilities,
 on behalf of, in each case, the relevant Creditors and Debtors;

- (v) **transfer of obligations in respect of liabilities on a share sale:** if the asset which is disposed of consists of shares in the capital of a Debtor or the Holding Company of a Debtor (the **Disposed Entity**) and the Security Agent (acting in accordance with paragraph (b) below) decides to transfer to another Debtor (the **Receiving Entity**) all or any part of the Disposed Entity's obligations or any obligations of any Subsidiary of that Disposed Entity in respect of:

(A) the Intra-Group Liabilities; or

(B) the Debtor Liabilities,

to execute and deliver or enter into any agreement to:

I. agree to the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtor Liabilities on behalf of the relevant Intra-Group Lenders and Debtors to which those obligations are owed and on behalf of the Debtors which owe those obligations; and

II. (provided the Receiving Entity is a Holding Company of the Disposed Entity which is also a guarantor of Priority Secured Liabilities) to accept the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtor Liabilities on behalf of the Receiving Entity or Receiving Entities to which the obligations in respect of those Intra-Group Liabilities or Debtor Liabilities are to be transferred.

- (b) The net proceeds of each Distressed Disposal (and the net proceeds of any disposal of Liabilities or Debtor Liabilities pursuant to paragraph (a)(iv) above) shall be paid to the Security Agent (as the case may be) for application in accordance with Clause 16 (Application of Proceeds) as if those proceeds were the proceeds of an enforcement of the Transaction Security and, to the extent that any disposal of Liabilities or Debtor Liabilities has occurred pursuant to paragraph (a)(iv)(B) above), as if that disposal of Liabilities or Debtor Liabilities had not occurred.
- (c) In the case of a Distressed Disposal (or a disposal of Liabilities pursuant to paragraph (a)(iv)(B) above) effected by or at the request of the Security Agent, the Security Agent shall take reasonable care to obtain a fair market price in the prevailing market conditions (though the Security Agent shall not have any obligation to postpone any such Distressed Disposal or disposal of Liabilities in order to achieve a higher price).
- (d) If a Distressed Disposal is being effected at a time when the Majority Second Lien Creditors are entitled to give, and have given, instructions under paragraph (c) of Clause 14.2 (Enforcement Instructions) or Clause 14.3 (Manner of Enforcement), the Security Agent is not authorised to release any Debtor, Subsidiary or Holding Company from any Borrowing Liabilities or Guarantor Liabilities owed to any Senior Secured Creditor unless those Borrowing Liabilities or Guarantor Liabilities and any other Senior Secured Liabilities will be paid (or repaid) in full (or, in the case of any contingent Liability relating to a Letter of Credit or an Ancillary Facility, made the subject of cash collateral arrangements acceptable to the relevant Senior Creditor), following that release.
- (e) If a Distressed Disposal is being effected at a time when the Majority Senior Subordinated Creditors are entitled to give, and have given, instructions under paragraph (d) of Clause 14.2 (Enforcement Instructions) or Clause 14.3 (Manner of Enforcement), the Security Agent is not authorised to release any Debtor, Subsidiary or Holding Company from any Borrowing Liabilities or Guarantor Liabilities owed to any Senior Secured Creditor or any Second Lien Creditor unless those Borrowing Liabilities or Guarantor Liabilities and any other Senior Secure Liabilities and Second Lien Liabilities will be paid (or repaid) in full (or, in the case of any contingent Liability relating to a

Letter of Credit or an Ancillary Facility, made the subject of cash collateral arrangements acceptable to the relevant Senior Creditor), following that release.

- (f) Where Borrowing Liabilities in respect of any Senior Secured Debt or any Second Lien Liabilities would otherwise be released pursuant to paragraph (a) above, the Creditor concerned may elect to have those Borrowing Liabilities transferred to the Parent, in which case the Security Agent is irrevocably authorised (at the cost of the relevant Debtor or the Parent and without any consent, sanction, authority or further confirmation from any Creditor or Debtor) to execute such documents as are required to so transfer those Borrowing Liabilities.

15.3 Second Lien Protection

If before the Second Lien Discharge Date, a Distressed Disposal is being effected or a disposal of Liabilities (pursuant to paragraph (a)(iv)(B) of Clause 15.2 (Distressed Disposals)) is being effected by or at the request of the Security Agent, the requirement in paragraph (c) of Clause 15.2 (Distressed Disposals) shall be satisfied (and as between the Creditors and the Debtors shall be conclusively presumed to be satisfied) and the Security Agent will be taken to have discharged all its obligations in this respect under this Agreement, the other Debt Documents and generally at law only if:

- (a) the Second Lien Agent and the Second Lien Notes Trustee have approved the release; or
- (b)
 - (i)
 - (A) the consideration in respect of such Distressed Disposal or disposal of Liabilities is paid or payable in cash; or
 - (B) the consideration in respect of such Distressed Disposal or disposal of Liabilities does not comprise cash in circumstances where the Security Agent (acting reasonably) determines that the cash consideration payable under the highest of the other bona fide and fully committed offers made in relation to that Distressed Disposal or disposal of Liabilities is less than the outstanding Senior Secured Liabilities, in which case the non-cash consideration can take the form of the Senior Secured Creditors (or any of them acting alone or together) bidding by any appropriate mechanic all or part of their Senior Secured Liabilities (such that the Senior Secured Liabilities would, on completion, be discharged to the extent of an amount equal to the amount of the offer made by the relevant Senior Secured Creditors),

and the proceeds of such Distressed Disposal or disposal of Liabilities are applied in accordance with the terms of this Agreement;

- (ii)
 - (A)
 - I. the sale, disposal or transfer is made pursuant to a public auction or a competitive bid process (which auction or process, without prejudice to the requirements of paragraph (b)(ii)(II) below, may be (but does not have to be) completed by a process or proceedings approved by or supervised by, or on behalf of, any court of law) or any other process agreed to by the Second Lien Agent and the Second Lien Notes Trustee(s), in each case:

- (aa) in which the Second Lien Creditors (on the basis of equal information and access rights as other bidders and financiers in the process); and
- (bb) if such auction or process could reasonably be expected to result in attracting no bidders or a bona fide and fully committed cash bid the cash consideration in relation to which is determined by the Security Agent (acting reasonably) to be less than the outstanding amount of the Senior Secured Liabilities, the Senior Secured Creditors (or any of them acting alone or together),

are entitled to participate as bidders or financiers to the potential purchaser(s) or, following the sale, disposal or transfer, the Group; and

- II. the Security Agent (or the relevant Debtor) shall have, in respect of such auction or process, consulted with an internationally recognised investment bank or accounting firm selected by the Security Agent (acting reasonably) with respect to the procedures which may reasonably be expected to be used to obtain a fair market price in the then prevailing market conditions (taking into account all relevant circumstances and with a view to facilitating a prompt and expeditious sale at a fair market price in the prevailing market conditions although there shall be no obligation to postpone any such sale in order to achieve a higher price); and shall have implemented (to the extent permitted by law) in all material respects the procedures recommended by such bank or firm in relation to such auction or process, unless the Security Agent (acting in good faith) confirms that it has reasonable grounds to believe that implementation of all or part of such recommended procedures is not in the best interests of the Primary Creditors; or

(B) in circumstances where:

- I. the Security Agent (acting in good faith) considers that a sale, disposal or transfer made by way of paragraph (b)(ii)(A) above is not reasonably practicable taking into account all relevant circumstances; or
- II. the Senior Secured Creditors make the highest final binding offer of all the offers received pursuant to paragraph (b)(ii)(A) above but such offer is less than the amount of the Senior Secured Liabilities,

the Security Agent has received an opinion (including an enterprise valuation of the Group and which can be relied upon by the Security Agent and disclosed to the Senior Agent, the Senior Secured Notes Trustee, the Second Lien Agent and the Second Lien Notes Trustee (but which may be given on the basis that the liability of the relevant bank or firm in giving the opinion is limited to an amount of at least the amount of its fees in respect of such engagement)) from:

- (aa) an internationally recognised investment bank or any one of the "Big 4" accounting firms, Grant Thornton or BDO; or
- (bb) if it is not practicable for the Security Agent to appoint any such bank or firm on commercially reasonable terms (including for reasons of conflicts of interest), another third party professional firm which is regularly engaged in providing valuations in respect of the relevant type of assets,

(in each case not being the firm appointed as the relevant Debtor's administrator or other relevant officer holder) selected by the Security Agent confirming that the sale, disposal or transfer price is fair from a financial point of view taking into account all relevant circumstances, although there shall be no obligation to postpone any such sale, disposal or transfer in order to achieve a higher price; and

- (iii) at the time of completion of the sale, disposal or transfer, (aa) the Liabilities owing to each of the Senior Secured Creditors and the Second Lien Creditors by the Debtors (each a **Relevant Claim**) are (to the same extent) released and discharged or sold or disposed of (and are not assumed by the purchaser and/or its Affiliates) and (bb) all the Transaction Security granted in favour of all the Priority Secured Parties over the assets sold or disposed of is released and discharged unless:
 - (A) the Senior Agent and the Senior Secured Notes Trustee, acting reasonably and in good faith, determine that a sale, disposal or transfer of a Relevant Claim will facilitate a recovery by the Senior Secured Creditors that is greater than the one they would achieve if such Relevant Claim was released or discharged (which shall be deemed to be the case if there are no bidders or if the Senior Agent and the Senior Secured Notes Trustee (acting reasonably) determine that there are no bona fide and fully committed cash bids in excess of the amount of the Senior Secured Liabilities); and
 - (B) the Senior Agent and the Senior Secured Notes Trustee give notice of their determination to the Security Agent,

in which case the Security Agent shall be entitled immediately to sell and transfer the Relevant Claim to such purchaser (or an Affiliate of such purchaser) (or, if paragraph (b) above applies and a Senior Secured Creditor is the successful bidder (or financier) or beneficiary of the relevant disposal as contemplated in paragraph (b) above, such Senior Secured Creditor shall be able to retain its Relevant Claim or any part thereof (which shall be valued at par)).

15.4 Senior Subordinated Protection

- (a) If before the Senior Subordinated Discharge Date, a Distressed Disposal is being effected such that the Senior Subordinated Guarantees and Transaction Security over shares in the Company or assets of a Senior Subordinated Guarantor will be released under paragraph (a) of Clause 15.2 (Distressed Disposals), it is a further condition to the release that either:
 - (i) the Senior Subordinated Agent or Senior Subordinated Notes Trustee has approved the release; or
 - (ii) where shares or assets of a Senior Subordinated Guarantor or assets of the Parent are sold:

- (A) the proceeds of such sale or disposal are in cash (or substantially in cash) and/or other marketable securities or, if the proceeds of such sale or disposal are not in cash (or substantially in cash) and/or other marketable securities, the requirements of paragraph (C)(III) below are satisfied;
- (B) all claims of the Senior Secured Creditors and the Second Lien Creditors against a member of the Group (if any) all of whose shares which are pledged in favour of the Priority Secured Creditors are sold or disposed of pursuant to such Enforcement Action, are unconditionally released and discharged or sold or disposed of concurrently with such sale (and are not assumed by the purchaser or one of its Affiliates), and all Security under the Security Documents in respect of the assets that are sold or disposed of is simultaneously and unconditionally released and discharged concurrently with such sale, provided that in the event of a sale or disposal of any such claim (instead of a release or discharge):
 - I. the Senior Agent and Senior Secured Notes Trustee(s) (or, after the Senior Secured Discharge Date, the Second Lien Agent and the Second Lien Notes Trustee(s)) determine acting reasonably and in good faith that the Senior Finance Parties, the Senior Secured Notes Finance Parties, the Second Lien Lenders and the Second Lien Notes Finance Parties (collectively) will recover more than if such claim was released or discharged; and
 - II. the Senior Agent and Senior Secured Notes Trustee(s) (or, after the Senior Secured Discharge Date, the Second Lien Agent and the Second Lien Notes Trustee(s)) serve a notice on the Security Agent notifying the Security Agent of the same,

in which case the Security Agent shall be entitled immediately to sell and transfer such claim to such purchaser (or an affiliate of such purchaser); and

- (C) such sale or disposal (including any sale or disposal of any claim) is made:
 - I. pursuant to a Competitive Process;
 - II. pursuant to any process or proceedings approved or supervised by or on behalf of any court of law where there is a determination of value by or on behalf of the court; or
 - III. where an independent investment bank or an internationally recognised firm of accountants or a reputable independent third party professional firm which is regularly engaged in providing valuations in respect of the relevant type and size of the assets concerned, in each case selected by the Security Agent, has delivered an opinion in respect of such sale or disposal that the amount received in connection therewith is fair from a financial point of view taking into account all relevant circumstances including the method of enforcement provided that the liability of such investment bank or internationally recognised firm of accountants in giving such opinion may be limited to the amount of its fees in respect of such engagement.

- (b) For the purposes of paragraphs (a)(ii), (a)(iii), (a)(iv) and (a)(v) of Clause 15.2 (Distressed Disposals), the Security Agent shall act:

- (i) if the relevant Distressed Disposal is being effected by way of enforcement of the Transaction Security, in accordance with Clause 14.3 (Manner of Enforcement); and
- (ii) in any other case:
 - (A) on the instructions of the Instructing Group; or
 - (B) in the absence of any such instructions, as the Security Agent sees fit.

15.5 Report Proceeds and Insurance Proceeds (before Distress Event)

- (a) In this Clause 15.5:

Insurance Proceeds has the meaning given to that term in the Senior Facilities Agreement.

Recovery Claim has the meaning given to that term in the Senior Facilities Agreement.

- (b) So long as the requirements of paragraph (c) below and, in the case of a claim against the provider of any Report, the requirements of Clause 15.6 (Recoveries from Report Providers) are met, if any Recovery Claim or insurance claim is to be made, or is made, by a Debtor prior to a Distress Event and that Recovery Claim or that insurance claim (or the Insurance Proceeds of that insurance claim) is or are expressed to be subject to the Transaction Security, the Security Agent is irrevocably authorised (at the cost of the relevant Debtor or the Parent and without need of any letter of authority or further confirmation from any Creditor or Debtor) to:
 - (i) give a consent under or release the Transaction Security, or any other claim, over the insurance policy solely to the extent necessary to allow that Debtor to make that Recovery Claim or that insurance claim and to comply with that Debtor's obligations in respect of that Recovery Claim and that insurance claim and those Insurance Proceeds under clause 12.2 (Disposal, insurance and recovery proceeds) of the Senior Facilities Agreement and clause 9.2 (Disposal, Insurance and Recovery Proceeds) of the Second Lien Facility Agreement; and
 - (ii) execute and deliver or enter into any such consent under or release of that Transaction Security, or claim, that may, in the discretion of the Security Agent, be considered necessary or desirable.
- (c) If any Insurance Proceeds are required to be applied in mandatory prepayment of the Senior Lender Liabilities or the Second Lien Lender Liabilities, then, subject to Clause 15.8 (Adjustment of Mandatory Prepayments), Clause 6.3 (Permitted Second Lien Payments) and Clause 7.3 (Permitted Senior Subordinated Payments), those Insurance Proceeds shall be applied in accordance with the provisions of paragraph (d) of Clause 15.1 (Non-Distressed Disposals) as if such Insurance Proceeds were treated as Disposal Proceeds solely for the provisions of such Clause and the consent of any other Party shall not be required for that application.

15.6 Recoveries from Report Providers

- (a) In this Clause 15.6:

Award Proceeds means, in relation to a Net Award, an amount equal to that Net Award;

Net Award means any amount received or recovered by any Party in relation to any Proceedings less reasonable legal costs and expenses incurred by that Party in pursuing such Proceedings and any tax payable by that Party directly as a result of that receipt or recovery;

Proceedings means any litigation, proceedings or other claim against a Report Provider with a view to obtaining a recovery from that Report Provider; and

Report Provider means any professional adviser or other person who has provided a Report.

- (b) If any Party decides to commence Proceedings in relation to, or resulting from, any of the transactions contemplated by the Debt Documents, it will:
 - (i) give the other Parties reasonable prior notice (through the Security Agent) of its intention to do so;
 - (ii) give each other Party and any insolvency representative appointed under, or pursuant to the terms of, any Finance Document, or Hedging Agreement a reasonable opportunity to be joined into such Proceedings or initiate similar proceedings; and
 - (iii) co-operate with any such persons who are joined in as regards the efficient and effective conduct of such Proceedings,

and, in any event, no Party shall at any time waive any right or claim against any Report Provider without the prior written consent of the Security Agent.

- (c) Notwithstanding any other provision in the Debt Documents, no Debtor may initiate Proceedings unless and until the Security Agent has given its prior written consent.
- (d) If no Distress Event has occurred at the time of receipt of a Net Award, the recipient of that Net Award (if not the Parent) shall, subject to Clause 15.8 (Adjustment of Mandatory Prepayments), Clause 6.3 (Permitted Second Lien Payments) and Clause 7.3 (Permitted Senior Subordinated Payments), pay the Award Proceeds to the Parent for application in accordance with the provisions of paragraph (d) of Clause 15.1 (Non-Distressed Disposals) as if such Award Proceeds were treated as Disposal Proceeds solely for the provisions of such Clause and the consent of any other Party shall not be required for that application.
- (e) If a Distress Event has occurred at the time of receipt of a Net Award, the recipient of that Net Award shall pay the Award Proceeds to the Security Agent and the Security Agent shall apply those Award Proceeds in accordance with the terms of Clause 16 (Application of Proceeds).
- (f) The provisions of this Clause 15.6 (Recoveries from Report Providers) shall apply until the Final Discharge Date.

15.7 Exit

- (a) In this Clause 15.7:

IPO Proceeds has the meaning given to it in clause 12.1 (Exit and Listing) of the Senior Facilities Agreement.

- (b) If any IPO Proceeds are required to be applied in mandatory prepayment of the Senior Lender Liabilities, the Second Lien Lender Liabilities or the Senior Subordinated Liabilities, then the IPO Proceeds shall, subject to Clause 15.8 (Adjustment of Mandatory Prepayments), Clause 6.3

(Permitted Second Lien Payments) and Clause 7.3 (Permitted Senior Subordinated Payments), be applied in accordance with the provisions of paragraph (d) of Clause 15.1 (Non-Distressed Disposals) as if such IPO Proceeds were treated as Disposal Proceeds solely for the provisions of such Clause and the consent of any other Party shall not be required for that application.

15.8 Adjustment of Mandatory Prepayments

If the making of any Mandatory Prepayment (an **Original Mandatory Prepayment**) would result in a payment (a **Hedge Reduction Payment**) becoming due to any Hedge Counterparty pursuant to paragraph (d) of Clause 4.13 (Total Interest Rate Hedged Amount and Total Exchange Rate Hedged Amount), the amount of that Mandatory Prepayment will be reduced so that the aggregate of:

- (a) the reduced Mandatory Prepayment; and
- (b) each Hedge Reduction Payment which would result from that reduced Mandatory Payment,

is equal to the amount of the Original Mandatory Prepayment.

15.9 Creditors' and Debtors' Actions

Each Creditor and Debtor will:

- (a) do all things that the Security Agent reasonably requests in order to give effect to this Clause 15 (which shall include, without limitation, the execution of any assignments, transfers, releases, delegation of faculties, powers of attorney or other documents that the Security Agent may reasonably consider to be necessary to give effect to the releases or disposals contemplated by this Clause 15); and
- (b) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 15 or if the Security Agent requests that any Creditor or Debtor take any such action, take that action itself in accordance with the reasonable instructions of the Security Agent,

provided that the proceeds of those disposals are applied in accordance with Clause 15.1 (Non-Distressed Disposals) or Clause 15.2 (Distressed Disposals) as the case may be.

16. APPLICATION OF PROCEEDS

16.1 Order of Application of Group Recoveries

Subject to Clause 16.2 (Prospective Liabilities) and Clause 16.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral), all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Debt Document (other than, for the avoidance of doubt, any Security over the Investor(s) assets directly owned by it (including, without limitation, the shares in the Parent and/or any rights under the Investor Liabilities due or owing to the Investor(s) by the Parent) or any guarantees provided by the Investor or any other Holding Company of the Parent in respect of any of the Senior Subordinated Liabilities or any other Security which is not over any assets of the Group) or in connection with the realisation or enforcement of all or any part of the Transaction Security (for the purposes of this Clause 16, the **Group Recoveries**) shall be held by the Security Agent on trust, to the extent legally permitted, to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 16), in the following order of priority:

- (a) in discharging any sums owing to the Senior Agent (in respect of the Senior Agent Liabilities), Security Agent (other than pursuant to Clause 19.3 (Parallel Debt)), any Receiver or any Delegate, any Senior Secured Notes Trustee Amounts, any sums owing to the Second Lien Agent (in respect of the Second Lien Agent Liabilities), any Second Lien Notes Trustee Amounts, the Senior Subordinated Agent (in respect of the Senior Subordinated Agent Liabilities) and any Senior Subordinated Notes Trustee Amounts on a *pari passu* basis;
- (b) in payment of all costs and expenses incurred by any Agent or Primary Creditor in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of this Agreement or any action taken at the request of the Security Agent under Clause 11.6 (Creditors' Actions);
- (c) in payment to:
 - (i) the Senior Agent on its own behalf and on behalf of the Senior Arrangers and the Senior Lenders; and
 - (ii) each Senior Secured Notes Trustee on its own behalf and on behalf of the Senior Secured Note Creditors; and
 - (iii) the Hedge Counterparties,
 for application towards the discharge of:
 - (A) the Senior Arranger Liabilities and the Senior Lender Liabilities (in accordance with the terms of the Senior Finance Documents);
 - (B) the Senior Secured Notes Liabilities (in accordance with the terms of the Senior Secured Notes Finance Documents); and
 - (C) the Hedging Liabilities (on a pro rata basis between the Hedging Liabilities of each Hedging Counterparty),
 on a pro rata basis and ranking *pari passu* between paragraph (A) above, paragraph (B) above and paragraph (C) above;
- (d) in payment to:
 - (i) the Second Lien Agent on its own behalf and on behalf of the Second Lien Arrangers and the Second Lien Lenders; and
 - (ii) each Second Lien Notes Trustee on its own behalf and on behalf of the Second Lien Notes Creditors; and
 for application towards the discharge of:
 - (A) the Second Lien Arranger Liabilities and the Second Lien Lender Liabilities (in accordance with the terms of the Second Lien Finance Documents); and
 - (B) the Second Lien Notes Liabilities (in accordance with the terms of the Second Lien Notes Finance Documents);

on a pro rata basis and ranking *pari passu* between paragraph (A) above and paragraph (B) above;

(e) in payment to:

- (i) the Senior Subordinated Agent on its own behalf and on behalf of the Senior Subordinated Arrangers and the Senior Subordinated Lenders; and
- (ii) each Senior Subordinated Notes Trustee on its own behalf and on behalf of the Senior Subordinated Notes Finance Parties,

for application towards the discharge of:

- (A) the Senior Subordinated Facility Liabilities (in accordance with the terms of the Senior Subordinated Facility Finance Documents); and
- (B) the Senior Subordinated Notes Liabilities (in accordance with the terms of the Senior Subordinated Notes Finance Documents),

on a pro rata basis and ranking *pari passu* between paragraph (A) above and paragraph (B) above; and

(f) the balance, if any, in payment to the relevant Debtor.

16.2 Prospective Liabilities

Following a Distress Event the Security Agent may, in its discretion, hold any amount of the Group Recoveries not in excess of the Expected Amount (as defined below) in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit until otherwise directed by an Instructing Group (the interest being credited to the relevant account) for later application under Clause 16.1 (Order of Application of Group Recoveries) in respect of:

- (a) any sum to any Security Agent, any Receiver or any Delegate; and
- (b) any part of the Liabilities, the Agent Liabilities or the Arranger Liabilities,

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future (the **Expected Amount**).

16.3 Treatment of SFA Cash Cover and Senior Lender Cash Collateral

- (a) Nothing in this Agreement shall prevent any Issuing Bank or Ancillary Lender taking any Enforcement Action in respect of any SFA Cash Cover which has been provided for it in accordance with the Senior Facilities Agreement.
- (b) To the extent that any SFA Cash Cover is not held with the Relevant Issuing Bank or Relevant Ancillary Lender, all amounts from time to time received or recovered in connection with the realisation or enforcement of that SFA Cash Cover shall be paid to the Security Agent and shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law, in the following order of priority:
 - (i) to the Relevant Issuing Bank or Relevant Ancillary Lender towards the discharge of the Senior Lender Liabilities for which that SFA Cash Cover was provided; and

- (ii) the balance, if any, in accordance with Clause 16.1 (Order of Application of Group Recoveries).
- (c) To the extent that any SFA Cash Cover is held with the Relevant Issuing Bank or Relevant Ancillary Lender, nothing in this Agreement shall prevent that Relevant Issuing Bank or Relevant Ancillary Lender receiving and retaining any amount in respect of that SFA Cash Cover.
- (d) Nothing in this Agreement shall prevent any Issuing Bank receiving and retaining any amount in respect of any Senior Lender Cash Collateral provided for it in accordance with the terms of the Senior Facilities Agreement.

16.4 Investment of Proceeds

Prior to the application of the proceeds of the Security Property in accordance with Clause 16.1 (Order of Application of Group Recoveries) the Security Agent may, in its discretion, hold all or part of those proceeds (but not in excess of the amounts due or to become due and while so held the excess of the interest charged on the Liabilities shall not exceed the interest earned on such suspect or impersonal account(s)) in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit until otherwise directed by an Instructing Group (the interest being credited to the relevant account) pending the application from time to time of those moneys in the Security Agent's discretion in accordance with the provisions of this Clause 16.

16.5 Currency Conversion

- (a) For the purpose of, or pending the discharge of, any of the Secured Obligations the Security Agent may convert any moneys received or recovered by it from one currency to another, at the Security Agent's Spot Rate of Exchange.
- (b) The obligations of any Debtor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

16.6 Permitted Deductions

The Security Agent shall be entitled, in its discretion, (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement, and to pay all Taxes which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Agent under any of the Debt Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

16.7 Good Discharge

- (a) Any payment to be made in respect of the Secured Obligations by the Security Agent:
 - (i) may be made to the relevant Agent on behalf of its Creditors;
 - (ii) may be made to the Relevant Issuing Bank or Relevant Ancillary Lender in accordance with paragraph (b)(i) of Clause 16.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral); or
 - (iii) shall be made directly to the Hedge Counterparties,

and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent.

- (b) The Security Agent is not under any obligation to make the payments to the Agents or the Hedge Counterparties under paragraph (a) above in the same currency as that in which the Liabilities owing to the relevant Creditor are denominated.

16.8 Calculation of Amounts

For the purpose of calculating any person's share of any sum payable to or by it, the Security Agent shall be entitled to:

- (a) notionally convert the Liabilities owed to any person into a common base currency (decided in its discretion by the Security Agent), that notional conversion to be made at the spot rate at which the Security Agent is able to purchase the notional base currency with the actual currency of the Liabilities owed to that person at the time at which that calculation is to be made; and
- (b) assume that all moneys received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Liabilities in accordance with the terms of the Debt Documents under which those Liabilities have arisen.

17. EQUALISATION

17.1 Equalisation Definitions

For the purposes of this Clause 17:

Enforcement Date means the first date (if any) on which a Senior Secured Creditor takes enforcement action of the type described in paragraph (a)(i), (a)(iii), (a)(iv) or (c) of the definition of "Enforcement Action", to the extent not prohibited by this Agreement.

Exposure means:

- (a) in relation to a Senior Lender, the aggregate amount of its participation (if any, and without double counting) in all Utilisations outstanding under the Senior Facilities Agreement at the Enforcement Date (assuming all contingent liabilities which have become actual liabilities since the Enforcement Date to have been actual liabilities at the Enforcement Date (but not including, for these purposes only, any interest that would have accrued from the Enforcement Date to the date of actual maturity in respect of those liabilities) and assuming any transfer of claims in respect of amounts outstanding under the Revolving Facility and each Ancillary Facility in accordance with clause 9.12 (Adjustment for Ancillary Facilities upon acceleration) of the Senior Facilities Agreement which has taken place since the Enforcement Date to have taken place at the Enforcement Date) together with the aggregate amount of all accrued interest, fees and commission owed to it under the Senior Facilities Agreement and amounts owed to it by a Debtor in respect of any Ancillary Facility but excluding:
 - (i) any amount owed to it by a Debtor in respect of any Ancillary Facility to the extent that that amount would not be outstanding but for a breach by that Senior Lender of any provision of clause 9 (Ancillary Facilities) of the Senior Facilities Agreement;

- (ii) any amount owed to it by a Debtor in respect of any Ancillary Facility to the extent (and in the amount) that SFA Cash Cover has been provided by a Debtor in respect of that amount and is available to that Senior Lender pursuant to the relevant SFA Cash Cover Document; and
 - (iii) any amount outstanding in respect of a Letter of Credit to the extent (and in the amount) that SFA Cash Cover has been provided by a Debtor in respect of that amount and is available to the relevant Finance Party pursuant to the relevant SFA Cash Cover Document; and
- (b) in relation to a Senior Secured Note Creditor, the Senior Secured Notes Liabilities owed by the Debtors to that Senior Secured Note Creditor; and
- (c) in relation to a Hedge Counterparty:
 - (i) if that Hedge Counterparty has terminated or closed out any hedging transaction under any Hedging Agreement in accordance with the terms of this Agreement on or prior to the Enforcement Date, the amount, if any, payable to it under that Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (taking into account any interest accrued on that amount) to the extent that amount is unpaid at the Enforcement Date (that amount to be certified by the relevant Hedging Counterparty and as calculated in accordance with the relevant Hedging Agreement); and
 - (ii) if that Hedge Counterparty has not terminated or closed out any hedging transaction under any Hedging Agreement on or prior to the Enforcement Date the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction if the Enforcement Date was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement), that amount, in each case, to be certified by the relevant Hedging Counterparty and as calculated in accordance with the relevant Hedging Agreement.

Utilisation has the meaning given to the term **Utilisation** in the Senior Facilities Agreement.

17.2 Implementation of Equalisation

The provisions of this Clause 17 shall be applied at such time or times after the Enforcement Date as the Security Agent shall consider appropriate. Without prejudice to the generality of the preceding sentence, if the provisions of this Clause 17 have been applied before all the Liabilities have matured and/or been finally quantified, the Security Agent may elect to re-apply those provisions on the basis of revised Exposures and the Senior Secured Creditors shall make appropriate adjustment payments amongst themselves.

17.3 Equalisation

If, for any reason, any Senior Secured Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Senior Secured Creditors in the proportions which their respective Exposures at the Enforcement Date bore to the aggregate Exposures of all the Senior Secured Creditors at the Enforcement Date, the Senior Secured Creditors (subject in the case of Notes Trustee Amounts, to paragraphs (a) and (c) of Clause 28.1 (Liability)) will make such payments amongst themselves as the Security Agent shall require to put the Senior Secured

Creditors in such a position that (after taking into account such payments) those losses are borne in those proportions.

17.4 Turnover of Enforcement Proceeds

If:

- (a) the Security Agent, the Senior Agent or the Senior Secured Notes Trustee is not entitled, for reasons of applicable law, to pay amounts received pursuant to the making of a demand under any guarantee, indemnity or other assurance against loss or the enforcement of the Transaction Security to the Senior Secured Creditors but is entitled to distribute those amounts to Primary Creditors (such Primary Creditors, the **Receiving Creditors**) who, in accordance with the terms of this Agreement, are subordinated in right and priority of payment to the Senior Secured Creditors; and
- (b) the Senior Secured Discharge Date has not yet occurred (nor would occur after taking into account such payments),

then the Receiving Creditors shall make such payments to the Senior Secured Creditors as the Security Agent shall require to place the Senior Secured Creditors in the position they would have been in had such amounts been available for application against the Senior Secured Liabilities.

17.5 Notification of Exposure

Before each occasion on which it intends to implement the provisions of this Clause 17, the Security Agent shall send notice to each Hedge Counterparty, the Senior Agent (on behalf of the Senior Lenders) and the Senior Secured Notes Trustee (on behalf of the Senior Secured Note Creditors) requesting that it notify the Security Agent of, respectively, its Exposure, the Exposure of each Senior Secured Note Creditor and the Exposure of each Senior Lender (if any).

17.6 Default in Payment

If a Creditor fails to make a payment due from it under this Clause 17, the Security Agent shall be entitled (but not obliged) to take action on behalf of the Senior Secured Creditor(s) to whom such payment was to be redistributed (subject to being indemnified to its satisfaction by such Senior Secured Creditor(s) in respect of costs) but shall have no liability or obligation towards such Senior Secured Creditor(s), any other Senior Secured Creditor or Creditor as regards such default in payment and any loss suffered as a result of such default shall lie where it falls.

18. REFINANCING OF PRIMARY CREDITOR LIABILITIES

18.1 Senior Secured Creditor Liabilities Refinancing

It is hereby agreed that the Senior Secured Creditor Liabilities may be, borrowed, incurred, refinanced, replaced, increased, exchanged or discharged in whole or in part on terms and in a manner that do not breach the terms of this Agreement, (if prior to the Senior Lender Discharge Date) the Senior Facilities Agreement, (if prior to the Senior Secured Note Discharge Date) any Senior Secured Notes Indenture, (if prior to the Second Lien Lender Discharge Date) the Second Lien Facility Agreement, (if prior to the Second Lien Notes Discharge Date) any Second Lien Notes Indenture, (if prior to the Senior Subordinated Facility Discharge Date) any Senior Subordinated Facility Agreement or (if prior to the Senior Subordinated Notes Discharge Date) any Senior Subordinated Notes Indenture without the consent of any other Creditors and that (in each case subject to the provisions of Clause 2.5 (Additional and/or Refinancing Debt) which shall, for the

avoidance of doubt, allow the insertion of Borrowing Liabilities and/or Guarantee Liabilities and/or Security ranking *pari passu* with, prior to or behind any existing Liabilities if and to the extent permitted by the Debt Documents):

- (a) any obligations borrowed or incurred by any Debtor or other member of the Group pursuant to such, borrowing, incurrence, refinancing, replacement, increase, exchange or discharge of the Senior Lender Liabilities (**Senior Refinancing Lender Liabilities**) or the Senior Secured Notes Liabilities (**Senior Secured Notes Refinancing Liabilities**) and, together with any Senior Lender Refinancing Liabilities, the **Senior Secured Refinancing Liabilities**) will, to the extent so designated by the Parent:
 - (i) in the case of Senior Secured Refinancing Liabilities that are Senior Lender Liabilities, rank as Senior Lender Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (ii) in the case of Senior Secured Refinancing Liabilities that are Senior Secured Notes Liabilities, rank as Senior Secured Notes Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (iii) in the case of Senior Secured Refinancing Liabilities that are Second Lien Lender Liabilities, rank as Second Lien Lender Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (iv) in the case of Senior Secured Refinancing Liabilities that are Second Lien Notes Liabilities, rank as Second Lien Notes Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (v) in the case of Senior Secured Refinancing Liabilities that are Senior Subordinated Facility Liabilities, rank as Senior Subordinated Facility Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities); and
 - (vi) in the case of Senior Secured Refinancing Liabilities that are Senior Subordinated Notes Liabilities, rank as Senior Subordinated Notes Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
- (b) subject to Clause 18.6 (New Transaction Security), the Transaction Security Documents shall secure, to the extent permitted by applicable law, such Senior Secured Refinancing Liabilities and in respect of such Transaction Security Documents and any new security granted by any member of the Group to secure such Senior Secured Refinancing Liabilities, such Senior Secured Refinancing Liabilities will:
 - (i) in the case of Senior Secured Refinancing Liabilities that are Senior Lender Liabilities, rank as Senior Lender Liabilities in the manner described in Clause 2.2 (Transaction Security).
 - (ii) in the case of Senior Secured Refinancing Liabilities that are Senior Secured Notes, rank as Senior Secured Notes Liabilities in the manner described in Clause 2.2 (Transaction Security);
 - (iii) in the case of Senior Secured Refinancing Liabilities that are Second Lien Lender Liabilities, rank as Second Lien Lender Liabilities in the manner described in Clause 2.2 (Transaction Security);

- (iv) in the case of Senior Secured Refinancing Liabilities that are Second Lien Notes Liabilities, rank as Second Lien Notes Liabilities in the manner described in Clause 2.2 (Transaction Security);
 - (v) in the case of Senior Secured Refinancing Liabilities that are Senior Subordinated Facility Liabilities, rank as Senior Subordinated Facility Liabilities in the manner described in Clause 2.2 (Transaction Security); and
 - (vi) in the case of Senior Secured Refinancing Liabilities that are Senior Subordinated Notes Liabilities, rank as Senior Subordinated Notes Liabilities in the manner described in Clause 2.2 (Transaction Security);
- (c) this Agreement shall be construed to permit the assumption of any Senior Secured Refinancing Liabilities and to give effect to the ranking set out in paragraphs (a) and (b) above,

provided that:

- (i) the terms relating to any Senior Secured Refinancing Liabilities that are Senior Secured Notes Liabilities are no less favourable to the relevant issuer than the Senior Secured Notes Major Terms;
- (ii) the terms relating to any Senior Secured Refinancing Liabilities that are Second Lien Notes Liabilities are no less favourable to the relevant issuer than the Second Lien Notes Major Terms;
- (iii) the terms relating to any Senior Secured Refinancing Liabilities that are Senior Subordinated Facility Liabilities are no less favourable to the relevant borrower than the Senior Subordinated Liabilities Major Terms;
- (iv) the terms relating to any Senior Secured Refinancing Liabilities that are Senior Subordinated Notes Liabilities are no less favourable to the relevant issuer than the Senior Subordinated Liabilities Major Terms;
- (v) the Agent or Notes Trustee (as applicable) of such Senior Secured Refinancing Liabilities, accedes to this Agreement in accordance with Clause 21.9 (Creditor/Agent Accession Undertaking) on the same terms as the relevant class of Agent or Notes Trustee; and
- (vi) each Creditor (that is not the Agent or Notes Trustee (as applicable)) in relation to such Senior Secured Refinancing Liabilities accedes to this Agreement in accordance with Clause 21.9 (Creditor/Agent Accession Undertaking) or is deemed to accede to this Agreement pursuant to the terms of its relevant finance documents, in each case on the same terms as the relevant class of Creditor as a result of its Agent or Notes Trustee (as applicable) acceding to this Agreement in accordance with the provisions of paragraph (v) above.

18.2 Second Lien Creditor Liabilities Refinancing

It is hereby agreed that the Second Lien Liabilities may be borrowed, incurred, refinanced, replaced, increased, exchanged or discharged in whole or in part on terms and in a manner that do not breach the terms of this Agreement, (if prior to the Senior Lender Discharge Date) the Senior Facilities Agreement, (if prior to the Senior Secured Note Discharge Date) any Senior Secured Notes Indenture, (if prior to the Second Lien Lender Discharge Date) the Second Lien Facility Agreement,

(if prior to the Second Lien Notes Discharge Date) any Second Lien Notes Indenture (if prior to the Senior Subordinated Facility Discharge Date) any Senior Subordinated Facility Agreement or (if prior to the Senior Subordinated Notes Discharge Date) any Senior Subordinated Notes Indenture without the consent of any other Creditors and that (in each case subject to the provisions of Clause 2.5 (Additional and/or Refinancing Debt) which shall, for the avoidance of doubt, allow the insertion of Borrowing Liabilities and/or Guarantee Liabilities and/or Security ranking *pari passu* with, prior to or behind any existing Liabilities if and to the extent permitted by the Debt Documents):

- (a) any obligations borrowed or incurred by any Debtor or other member of the Group pursuant to such borrowing, incurrence, refinancing, replacement, increase, exchange or discharge of the Second Lien Lender Liabilities (**Second Lien Refinancing Lender Liabilities**) or the Second Lien Notes Liabilities (**Second Lien Notes Refinancing Liabilities** and, together with any Second Lien Refinancing Lender Liabilities, the **Second Lien Refinancing Liabilities**) will, to the extent so designated by the Parent:
 - (i) in the case of Second Lien Refinancing Liabilities that are Senior Lender Liabilities, rank as Senior Lender Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (ii) in the case of Second Lien Refinancing Liabilities that are Senior Secured Notes Liabilities, rank as Senior Secured Notes Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities); and
 - (iii) in the case of Second Lien Refinancing Liabilities that are Second Lien Lender Liabilities, rank as Second Lien Lender Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (iv) in the case of Second Lien Refinancing Liabilities that are Second Lien Notes Liabilities, rank as Second Lien Notes Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (v) in the case of Second Lien Refinancing Liabilities that are Senior Subordinated Facility Liabilities, rank as Senior Subordinated Facility Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (vi) in the case of Second Lien Refinancing Liabilities that are Senior Subordinated Notes Liabilities, rank as Senior Subordinated Notes Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
- (b) subject to Clause 18.6 (New Transaction Security), the Transaction Security Documents shall secure, to the extent permitted by applicable law, such Second Lien Refinancing Liabilities and in respect of such Transaction Security Documents and any new security granted by any member of the Group to secure such Second Lien Refinancing Liabilities, such Second Lien Refinancing Liabilities will:
 - (i) in the case of Senior Refinancing Liabilities that are Senior Lender Liabilities, rank as Senior Lender Liabilities in the manner described in Clause 2.2 (Transaction Security);
 - (ii) in the case of Second Lien Refinancing Liabilities that are Senior Secured Notes, rank as Senior Secured Notes Liabilities in the manner described in Clause 2.2 (Transaction Security);

- (iii) in the case of Second Lien Refinancing Liabilities that are Second Lien Lender Liabilities, rank as Second Lien Lender Liabilities in the manner described in Clause 2.2 (Transaction Security).
 - (iv) in the case of Second Lien Refinancing Liabilities that are Second Lien Notes, rank as Second Lien Notes Liabilities in the manner described in Clause 2.2 (Transaction Security);
 - (v) in the case of Second Lien Refinancing Liabilities that are Senior Subordinated Facility Liabilities, rank as Senior Subordinated Facility Liabilities in the manner described in Clause 2.2 (Transaction Security); and
 - (vi) in the case of Second Lien Refinancing Liabilities that are Senior Subordinated Notes, rank as Senior Subordinated Notes Liabilities in the manner described in Clause 2.2 (Transaction Security);
- (c) this Agreement shall be construed to permit the assumption of any Second Lien Refinancing Liabilities and to give effect to the ranking set out in paragraphs (a) and (b) above,

provided that:

- (i) the terms relating to any Second Lien Refinancing Liabilities that are Senior Secured Notes Liabilities are no less favourable to the relevant issuer than the Senior Secured Notes Major Terms;
- (ii) the terms relating to any Second Lien Refinancing Liabilities that are Second Lien Notes Liabilities are no less favourable to the relevant issuer than the Second Lien Notes Major Terms;
- (iii) the terms relating to any Second Lien Refinancing Liabilities that are Senior Subordinated Facility Liabilities are no less favourable to the relevant borrower than the Senior Subordinated Liabilities Major Terms;
- (iv) the terms relating to any Second Lien Refinancing Liabilities that are Senior Subordinated Notes Liabilities are no less favourable to the relevant issuer than the Senior Subordinated Liabilities Major Terms;
- (v) the Agent or Notes Trustee (as applicable) of such Second Lien Refinancing Liabilities, accedes to this Agreement in accordance with Clause 21.9 (Creditor/Agent Accession Undertaking) on the same terms as a Second Lien Agent; and
- (vi) each Creditor (that is not the Agent or Notes Trustee (as applicable)) in relation to such Second Lien Refinancing Liabilities accedes to this Agreement in accordance with Clause 21.9 (Creditor/Agent Accession Undertaking) or is deemed to accede to this Agreement pursuant to the terms of its relevant finance documents, in each case on the same terms as a Second Lien Creditor as a result of its Agent or Notes Trustee (as applicable) acceding to this Agreement in accordance with the provisions of paragraph (v) above.

18.3 Senior Subordinated Notes Refinancing

It is hereby agreed that the Senior Subordinated Liabilities may be borrowed, incurred, refinanced, replaced, increased, exchanged or discharged in whole or in part:

- (a) from the proceeds of any Repayment Source; and
- (b) on terms and in a manner that do not breach the terms of this Agreement, (if prior to the Senior Lender Discharge Date) the Senior Facilities Agreement, (if prior to the Senior Secured Note Discharge Date) any Senior Secured Notes Indenture, (if prior to the Second Lien Lender Discharge Date) the Second Lien Facility Agreement, (if prior to the Second Lien Notes Discharge Date) any Second Lien Notes Indenture (if prior to the Senior Subordinated Facility Discharge Date) any Senior Subordinated Facility Agreement or (if prior to the Senior Subordinated Notes Discharge Date) any Senior Subordinated Notes Indenture without the consent of any other Creditors and that (in each case subject to the provisions of Clause 2.5 (Additional and/or Refinancing Debt) which shall, for the avoidance of doubt, allow the insertion of Borrowing Liabilities and/or Guarantee Liabilities and/or Security ranking *pari passu* with, prior to or behind any existing Liabilities if and to the extent permitted by the Debt Documents):
 - (i) any obligations borrowed or incurred by any Debtor or other member of the Group pursuant to such borrowing, incurrence, refinancing, replacement, increase, exchange or discharge of the Senior Subordinated Facility Liabilities (**Senior Subordinated Refinancing Lender Liabilities**) or the Senior Subordinated Notes Liabilities (**Senior Subordinated Notes Refinancing Liabilities**) and, together with any Senior Subordinated Lender Refinancing Liabilities, the **Senior Subordinated Refinancing Liabilities** will, to the extent so designated by the Parent:
 - (A) in the case of Senior Subordinated Refinancing Liabilities that are Senior Lender Liabilities, rank as Senior Lender Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (B) in the case of Senior Subordinated Refinancing Liabilities that are Senior Secured Notes Liabilities, rank as Senior Secured Notes Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (C) in the case of Senior Subordinated Refinancing Liabilities that are Second Lien Lender Liabilities, rank as Second Lien Lender Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (D) in the case of Senior Subordinated Refinancing Liabilities that are Second Lien Notes Liabilities, rank as Second Lien Notes Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (E) in the case of Senior Subordinated Refinancing Liabilities that are Senior Subordinated Facility Liabilities, rank as Senior Subordinated Facility Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities); and
 - (F) in the case of Senior Subordinated Refinancing Liabilities that are Senior Subordinated Notes Liabilities, rank as Senior Subordinated Notes Liabilities in the manner described in Clause 2.1 (Primary Creditor Liabilities);
 - (ii) subject to Clause 18.6 (New Transaction Security) the Transaction Security Documents shall secure, to the extent permitted by applicable law, such Senior Subordinated Refinancing Liabilities and in respect of such Transaction Security Documents and any new security granted by any member of the Group to secure

such Senior Subordinated Refinancing Liabilities, such Senior Subordinated Refinancing Liabilities will:

- (A) in the case of Senior Subordinated Refinancing Liabilities that are Senior Lender Liabilities, rank as Senior Lender Liabilities in the manner described in Clause 2.2 (Transaction Security);
 - (B) in the case of Senior Subordinated Refinancing Liabilities that are Senior Secured Notes, rank as Senior Secured Notes Liabilities in the manner described in Clause 2.2 (Transaction Security);
 - (C) in the case of Senior Subordinated Refinancing Liabilities that are Second Lien Lender Liabilities, rank as Second Lien Lender Liabilities in the manner described in Clause 2.2 (Transaction Security).
 - (D) in the case of Senior Subordinated Refinancing Liabilities that are Second Lien Notes, rank as Second Lien Notes Liabilities in the manner described in Clause 2.2 (Transaction Security);
 - (E) in the case of Senior Subordinated Refinancing Liabilities that are Senior Subordinated Facility Liabilities, rank as Senior Subordinated Facility Liabilities in the manner described in Clause 2.2 (Transaction Security); and
 - (F) in the case of Senior Subordinated Refinancing Liabilities that are Senior Subordinated Notes Liabilities, rank as Senior Subordinated Notes Liabilities in the manner described in Clause 2.2 (Transaction Security);
- (c) this Agreement shall be construed to permit the assumption of any Senior Subordinated Refinancing Liabilities and to give effect to the ranking set out in paragraphs (a) and (b) above,

provided that:

- (i) the terms relating to any Senior Subordinated Refinancing Liabilities that are Senior Secured Notes Liabilities are no less favourable to the relevant issuer than the Senior Secured Notes Major Terms; and
- (ii) the terms relating to any Senior Subordinated Refinancing Liabilities that are Second Lien Notes Liabilities are no less favourable to the relevant issuer than the Second Lien Notes Major Terms; and
- (iii) the terms relating to any Senior Subordinated Refinancing Liabilities that are Senior Subordinated Facility Liabilities are no less favourable to the relevant borrower than the Senior Subordinated Liabilities Major Terms;
- (iv) the terms relating to any Senior Subordinated Refinancing Liabilities that are Senior Subordinated Notes Liabilities are no less favourable to the relevant issuer than the Senior Subordinated Liabilities Major Terms;
- (v) the Agent or Notes Trustee (as applicable) of such Senior Subordinated Refinancing Liabilities, accedes to this Agreement in accordance with Clause 21.9 (Creditor/Agent Accession Undertaking) on the same terms as the relevant class of Agent or Notes Trustee; and

- (vi) each Creditor (that is not the Agent or Notes Trustee (as applicable)) in relation to such Senior Subordinated Refinancing Liabilities accedes to this Agreement in accordance with Clause 21.9 (Creditor/Agent Accession Undertaking) or is deemed to accede to this Agreement pursuant to the terms of its relevant finance documents, in each case on the same terms as the relevant class of Creditor as a result of its Agent or Notes Trustee (as applicable) acceding to this Agreement in accordance with the provisions of paragraph (v) above.

18.4 Further Assurance

- (a) Each Agent and/or the Security Agent, as the case may be, shall, on behalf of the Secured Parties (unless a Secured Party is required under applicable law to do so in its own name, in which case the relevant Secured Party shall) and is hereby authorised to enter into such agreement or agreements with the Debtors and/or the holders of the Liabilities pursuant to any Permitted Refinancing and/or their agents and trustees to enter into any confirmation, amendment, replacement of or supplement to the Debt Documents (including without limitation, any amendment, waiver or release in respect of any Security Document or any grant of Transaction Security pursuant to a new Security Document) and/or take any other action (subject to the Agreed Security Principles) as is necessary or appropriate in order to:
 - (i) give effect to the terms of any Permitted Refinancing; or
 - (ii) facilitate the establishment of any Permitted Debt or Permitted Structural Adjustment entered into in compliance with this Agreement,
- (b) Each Agent and the Security Agent are irrevocably obligated, authorised and instructed by each other Secured Party (without the requirement for any further authorisation or consent from any other Secured Party) to enter into such documentation and take any such action and shall do so promptly on request and at the expense of the Parent. Except where otherwise required by applicable law, any such amendment shall not require the consent of any Creditor and shall be effective and binding on all Parties upon the execution thereof by the Debtors, the Obligors, each Agent and the Security Agent.
- (c) Each Debtor confirms:
 - (i) the authority of the Parent to:
 - (A) give effect to the terms of any Permitted Refinancing; and
 - (B) agree, implement and establish any Permitted Debt or Permitted Structural Adjustment in accordance with this Agreement; and
 - (ii) that its guarantee and indemnity set out in clause 23 (Guarantee and Indemnity) (or any applicable Creditor/Agent Accession Undertaking or other Senior Finance Document) of the Senior Facilities Agreement, clause 19 (Guarantee and Indemnity) (or any applicable Creditor/Agent Accession Undertaking or other Second Lien Finance Document) of the Second Lien Facility Agreement, any equivalent provision of any other Permitted Debt, and all Security granted by it will (to the extent provided pursuant to the terms of the relevant Permitted Debt or Permitted Structural Adjustment) entitle the persons providing the Permitted Debt or Structural Adjustment to benefit from such guarantee and indemnity and such Security (subject only to any applicable limitations on such guarantee and indemnity set out in clause 23 (Guarantees and Indemnity) of the Senior Facilities Agreement or any Creditor/Agent Accession Undertaking or other document pursuant to which it became an

Obligor) and extend to include all obligations arising under or in respect of any Permitted Debt or Permitted Structural Adjustment as applicable.

- (d) Notwithstanding the foregoing, nothing in this Clause 18.4 shall oblige the Security Agent, an Agent or any other Secured Party to execute any document if it would impose personal liabilities or obligations on, or adversely affect the rights, duties or immunities of the Security Agent, an Agent or such Secured Party (provided that the incurrence of such Permitted Debt or Permitted Structural Adjustment shall not be deemed to adversely affect the rights of any Secured Party) and nothing in this Clause 18.4 shall be construed as a commitment to advance or arrange any Permitted Debt or Permitted Structural Adjustment. Each Agent and the Security Agent are authorised and instructed by the Secured Parties to execute any document or take any other action set out in this Clause 18 behalf of the Secured Parties.

18.5 Release of Securities

Where the terms of any Permitted Refinancing requires the release of any Security by the Security Agent and such release is permitted or otherwise not prohibited under the relevant Secured Debt Documents; or, otherwise, any consent required under the Senior Finance Documents or the Senior Secured Notes Finance Documents or the Second Lien Facility Finance Documents or the Second Lien Notes Finance Documents or the Senior Subordinated Facility Finance Documents or the Senior Subordinated Notes Finance Documents, as applicable, in respect of such release of Security has been obtained, the Security Agent shall release (and the relevant Secured Parties expressly authorise the Security Agent to release on their behalf, to the extent necessary) such Security which has been granted to it provided that such release occurs on the date of such refinancing, restructuring, replacement, increase or exchange and is within the terms of such Consent (if any).

18.6 New Transaction Security

- (a) Provided that such arrangement:
- (i) is legally possible; and
 - (ii) the operation of the following provisions are not reasonably likely to have an adverse effect on: the borrowing, incurring, underwriting, placing, distribution or any other similar action; obtaining any Consent in connection with; or obtaining the best market terms (in the good faith judgment of the board of directors of the Parent (for which it can conclusively rely on advice and market feedback of the arrangers of the Permitted Debt) (paragraph (i) above and this paragraph (ii) together the **Security Condition**), for any Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment to rank in accordance with the intercreditor position, Intercreditor Class or other position set out in the Additional Facility Notice,

then, to the extent any Permitted Refinancing, any Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment cannot be secured by the then existing Security Documents (the **Initial Security Documents**) without the Security under such Initial Security Documents first being released (and such release is not permitted by Clause 18.5 (Release of Securities)), the Parties agree that any such Liabilities arising from any Permitted Refinancing, any Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment may (to the extent permitted by applicable law, the Security Condition and the Agreed Security Principles) be secured pursuant to the execution of additional security documents (the **Additional Security Documents**) on a second or lesser ranking basis but will nonetheless be deemed and treated for the purpose of this Agreement and Clause 16 (Application of Proceeds) as secured by the Initial Security Documents and the Additional Security

Documents *pari passu* with other Liabilities which would otherwise have the same ranking as contemplated by such Permitted Refinancing, Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment.

- (b) In addition, notwithstanding any other term, condition or restriction in any other Debt Document, the Parties agree that in order to:
- (i) give effect to the terms of any Permitted Refinancing; or
 - (ii) facilitate the establishment of any Permitted Debt or Permitted Structural Adjustment entered into in compliance with this Agreement and implementation of any intercreditor position,

each Obligor is and the Security Agent is authorised to enter into any new Security Document and/or amend or waive any terms of an existing Security Document and/or release any asset from Transaction Security subject to the following conditions:

- (A) any new Transaction Security which:
- I. gives effect to the terms of any Permitted Refinancing; or
 - II. facilitates the establishment of any Permitted Debt or Permitted Structural Adjustment entered into in compliance with this Agreement and implementation of any intercreditor position,

shall be (I) subject to the Agreed Security Principles and applicable law, granted in favour of the Security Agent for and on behalf of the relevant Creditors (as applicable) and other creditors (as the case may be) and the then existing Secured Parties; (II) (if applicable) on terms substantially the same (except that it shall also secure the relevant Liabilities arising from any such Permitted Refinancing, Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment) as the terms of the existing Transaction Security over equivalent asset(s); and (III) for the purposes of this Agreement, treated as securing amounts not in priority to the then existing Transaction Security; and

- (B) (if the Security Condition is not satisfied) any amendment or waiver of a Security Document or release or release and re-grant of Transaction Security shall only be undertaken (I) if required as a result of the Permitted Refinancing or under the terms of the Permitted Debt and any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment or to the extent necessary under applicable law to ensure that any Permitted Refinancing, Permitted Debt and any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment ranks in accordance with the intercreditor position, Intercreditor Class or other position set out in the Additional Facility Notice; and (II) if any asset is to be released from Transaction Security, promptly upon giving effect to that release, subject to the Agreed Security Principles and applicable law, replacement Transaction Security is granted in favour of the Security Agent for and on behalf of the relevant Creditors and other creditors (as the case may be) and the existing Secured Parties on substantially the same terms of the Transaction Security released (except that it shall also secure the relevant Liabilities arising from any such Permitted Refinancing, Permitted Debt or any other Secured Obligations arising as a result of or in connection with a Permitted Structural Adjustment).

- (c) The Security Documents may be amended, varied, waived or modified with the agreement of the relevant Obligor and the Security Agent acting in accordance with the terms of this Agreement.
- (d) Nothing shall restrict the Secured Parties benefiting from any existing Security Document from enforcing and/or releasing the existing Security Documents in accordance with, and to the extent permitted by, this Agreement and subject to the terms of such existing Security Document.
- (e) Each of the Secured Parties agrees not to take any action to challenge the validity or enforceability of any Additional Security Documents by reason of it being expressed to be second ranking (or any other lower ranking).
- (f) Any decision to enforce any Security Document shall be taken in accordance with the provisions of this Agreement regardless of the ranking of the relevant Transaction Security.
- (g) No Secured Party benefiting from any existing Security Document shall incur any liability to the beneficiaries of the Additional Security Documents for the manner of exercise or any non-exercise of their rights, remedies, powers, authority or discretions under such already existing Transaction Security or for any waivers, consents or releases.

19. THE SECURITY AGENT

19.1 Appointment by Secured Parties¹

- (a) Each Secured Party irrevocably appoints the Security Agent in accordance with the following provisions of this Clause 19 to act as its agent, trustee, joint and several creditor or beneficiary of a parallel debt (as the case may be) under this Agreement and with respect to the Security Documents, and irrevocably authorises the Security Agent on its behalf to:
 - (i) execute each Security Document expressed to be executed by the Security Agent on its behalf; and
 - (ii) perform such duties and exercise such rights and powers under this Agreement and the Security Documents as are specifically delegated to the Security Agent by the terms thereof, together with such rights, powers and discretions as are reasonably incidental thereto (even if it involves self-contracting (*autocontratación*), multi-representation or conflict of interest) including, without limitation, to enter and raise into Spanish public status before a Spanish public notary any document related to this mandate and, specifically, those deemed necessary or appropriate according to the mandate received (including, but not limited to, documents of formalisation, extension, acknowledgement, confirmation, modification or release, acceptance of any security interest (or related irrevocable power of attorney) and acceptance of acknowledgement of debts by the Debtors).
- (b) Each Secured Party (other than the Security Agent) hereby releases the Security Agent from the restrictions (to the extent such restrictions would otherwise apply) on self-dealing and multi-representation pursuant to section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) and similar restrictions (if any) applicable to it pursuant to any other applicable laws, in each case to the extent legally possible to such Secured Party. Each Secured Party which is barred by its constitutional documents or by-laws from granting such release shall inform the Security Agent accordingly and, upon request of the Security Agent, either act in accordance with the terms of this Agreement and/or any Debt Document as required pursuant to this Agreement and/or such Debt Document or grant a special power of attorney to a party acting on its behalf, in a manner that is not

¹ Weil to confirm whether the Target Group holds assets in Quebec. If so, a Quebec agency clause will be required.

prohibited pursuant to section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) and/or any other applicable laws. Each Secured Party (other than the Security Agent) hereby authorizes the Security Agent to (sub-delegate any powers granted to it under this Clause 19.1 to any representative it may elect in its discretion and to grant powers of attorney to any such representative including the exemption from self-dealing and representing several persons (in particular from the restrictions of section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) (in each case to the extent legally possible)).

- (c) For the purposes of Charged Property which is subject to Transaction Security governed by Belgian law, each Secured Party (other than the Security Agent) appoints the Security Agent, as relevant, in accordance with Article 5 of the Belgian law of 15 December 2004 on financial collateral (*Wet betreffende financiële zekerheden en houdende diverse fiscale bepalingen inzake zakelijke-zekerheidsovereenkomsten en leningen met betrekking tot financiële instrumenten/Loi relative aux sûretés financières et portant des dispositions fiscales diverses en matière de conventions constitutives de sûreté réelle et de prêts portant sur des instruments financiers*) (to the extent these fall within the scope thereof) as the representative (*vertegenwoordiger/représentant*) of the Secured Parties (other than the Security Agent) as the beneficiaries (*begunstigden/bénéficiaires*) of such Transaction Security, and, as relevant, the Security Agent acts under such Transaction Security Documents as a creditor under the Parallel Debt.
- (d) As regards any Transaction Security governed by Danish law, the Security Agent shall be appointed, act and hold the Transaction Security on behalf of the Secured Parties as agent and representative (*fuldmægtig og repræsentant*) in accordance with Sections 4f and 4g of the Danish Securities Trading Act and the Security Agent agrees to act and hold such Transaction Security accordingly.
- (e) In relation to the Security Documents governed by Italian law each of the Secured Parties irrevocably:
 - (i) appoints the Security Agent to be its agent (*mandatario con rappresentanza*) for the purpose of executing in its name and on its behalf any Security Document which is expressed to be governed by Italian law;
 - (ii) grants the Security Agent the powers to negotiate and approve the terms and conditions of such Security Documents, execute any other agreement or instruments, give or receive any notice and take any other action in relation to the creation, perfection, maintenance, confirmation, extension, enforcement and release, in whole or in part, of the security created thereunder, in each case in the name and on behalf of it and the other Secured Parties; and
 - (iii) consents that the Security Agent may act as its agent (*mandatario con rappresentanza*) in all cases of conflict of interest and self-dealing, in accordance with Article 1394 and execute each Security Document expressed to be executed by the Security Agent on its behalf, including to execute any document with itself (*contratto con se stesso*) in accordance with Article 1395 of the Italian Civil Code.
- (f) With respect to the Security Documents governed by Swiss law, (i) each present and future Secured Party appoints and authorises the Security Agent to execute, hold, administer and, as the case may be, release and (subject to it having become enforceable) realize each Security Document which provides for a non-accessory security interest (*nicht-akzessorische Sicherheit*) on a fiduciary basis (*treuhänderisch*) for itself and for the benefit of all other Secured Parties; and (ii) each present and future Secured Party appoints and authorizes the Security Agent to execute, hold, administer and, as the case may be, release and (subject to it having become enforceable) realize each Security Document which provides for an accessory security interest (*akzessorische Sicherheit*) for itself and

as direct representative (*direkter Stellvertreter*) in the name and on behalf of each other Secured Party.

- (g) Each Secured Party confirms that:
 - (i) the Security Agent has authority to accept on its behalf the terms of any reliance letter or engagement letter relating to the Reports or any other reports or letters provided in connection with the Secured Debt Documents or the transactions contemplated by the Secured Debt Documents, to bind it in respect of those Reports, reports or letters and to sign that reliance letter or engagement letter on its behalf and to the extent that reliance letter or engagement letter has already been entered into ratifies those actions; and
 - (ii) it accepts the terms and qualifications set out in that reliance letter or engagement letter.
- (h) The Security Agent shall have only those duties, obligations and responsibilities which are expressly specified in this Agreement and/or the Security Documents to which the Security Agent is a Party (and no others shall be implied). The Security Agent's duties under this Agreement and/or the Security Documents to which the Security Agent is a Party are solely of a mechanical and administrative nature.
- (i) The Security Agent shall be entitled to grant sub-power of attorney including the release of any sub-attorney from the restrictions referred to in paragraph (d) above.
- (j) Notwithstanding any other provision of this Agreement, with respect to any Security Document governed by French law, Danish law or New York law, the Security Agent is acting as agent of the Secured Parties.
- (k) Notwithstanding any other provision of this Agreement, each Secured Party hereby grants full power to the Security Agent so that the Security Agent, acting through a duly appointed representative, (including, without limitation, any attorney appointed by the Security Agent to act on its behalf pursuant to its power of attorney) may exercise, in the name and instead of each Secured Party the following powers (even if it involves self-contracting (*autocontratación*), multi-representation or conflict of interest):
 - (i) to execute and to appear before a Notary Public to grant, accept, sign and raise to public status any of the Primary Debt Documents (in any condition or contractual position) and agree, issue and execute, in the name and on behalf of the Secured Parties, any public or private document of accession, supplement, novation, amendment, increase, extension, update, assignment, ratification and/or restatement of any of the Primary Debt Documents;
 - (ii) to appear before a notary public and accept, execute and deliver the constitution, novation, extension, amendment, assignment, ratification, total or partial cancellation or release or rectification of any type of security, whether personal or in rem, (*garantía personal o real*) including without limitation promissory security, pledges (with or without transfer of possession), assignments by way of guarantee, chattel mortgages, real estate mortgages, granted or to be granted in favour of and/or for the benefit of the Secured Parties over any and all shares, participations (*participaciones*), real estate, property, receivables, goods, bank accounts, contractual rights, credit rights, industrial or intellectual property rights, inventory and chattels, including fixing their price for the purposes of auction, in each case under the terms and conditions that the Security Agent may freely agree, and signing any Spanish public (*escrituras públicas o pólizas*) or private documents that the Security Agent considers necessary for the purpose of this paragraph;

- (iii) to accept the creation and/or ratification of any irrevocable powers of attorney granted in favour of the Security Agent (whether in its own capacity, as representative and/or as agent of other parties) in relation to the Primary Debt Documents or any of the documents referred to in or authorised to be executed by this power of attorney, all of the foregoing under the terms and conditions which the Security Agent may freely agree;
 - (iv) to ask for registration of and file any of the guarantees, securities or other documents granted by virtue of the previous faculties (including any mortgage or amendment thereto), or any other document contained herein and to appear within any Spanish or EU registry (including for indicative purposes only and not limited to, the Land Registry, the Chattel Registry, the Trade Mark Registry and the Office of Harmonization for the Internal Market), and execute and ask for registration of any further public or private documents of amendment, rectification, novation or ratification required for the purposes of this section;
 - (v) to negotiate, agree, execute, sign, novate, amend, ratify, deliver and raise to the status of a public document in Spain (in any condition or contractual position) any Primary Debt Document, any assignment, amendment, accession, restatement, complementary or novation agreements in relation to the Primary Debt Documents; as well as any other document or action foreseen under or in connection with the Primary Debt Documents;
 - (vi) for the purpose of or in relation with subparagraphs above, to execute any further public or private documents of amendment, modification and ratification that may be required, and execute all public or private documents, and/or do any acts and/or things, including signing of approvals and forms required, particularly from the Spanish Tax Authorities;
 - (vii) to request as many copies as may be required of any public documents granted in exercise of any of the faculties contained in this Clause;
 - (viii) to execute and deliver and/or do any and all deeds, agreements, documents, acts and things which the Security Agent considers necessary to give effect to the faculties set out in the above subparagraphs;
 - (ix) ratify, if necessary or convenient any such *escrituras públicas* or *pólizas intervenidas* executed by an orally appointed representative in the name or on behalf of the Secured Parties;
 - (x) to appear before a notary public and grant a power of attorney in the name and on behalf of each Secured Party in the terms of this Clause 19.1; and
 - (xi) upon enforcement in Spain of any Spanish Security, carry out any action which may be necessary for the enforcement of the Spanish Security subject to Spanish law (including the appointment of *procuradores* and the appearance before the relevant courts).
- (l) Each Secured Party (other than the Security Agent) hereby:
- (i) releases the Security Agent from the restrictions (to the extent such restrictions would otherwise apply) on self-dealing and multi-representation pursuant to section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) and similar restrictions (if any) applicable to it pursuant to any other applicable laws, in each case to the extent legally possible to such Secured Party. Each Secured Party which is barred by its constitutional documents or by-laws from granting such release shall inform the Security Agent accordingly and, upon request of the Security Agent, either act in accordance with the terms of this Agreement and/or any Debt Document as required pursuant to this Agreement and/or such Debt

Document or grant a special power of attorney to a party acting on its behalf, in a manner that is not prohibited pursuant to section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) and/or any other applicable laws; and

- (ii) authorises the Security Agent to (sub-) delegate any powers granted to it under this Clause 19.1 to any representative it may elect in its discretion and to grant powers of attorney to any such representative including the exemption from self-dealing and representing several persons (in particular from the restrictions of section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) (in each case to the extent legally possible)).

19.2 Trust

- (a) The Security Agent declares that it shall (to the extent possible under applicable law) hold the Security Property on trust for the Secured Parties on the terms contained in this Agreement.
- (b) Each of the parties to this Agreement agrees that the Security Agent shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Security Documents to which the Security Agent is expressed to be a party (and no others shall be implied).

19.3 Parallel Debt

- (a) Each Debtor irrevocably and unconditionally undertakes to pay to the Security Agent amounts equal to any amounts owing from time to time by that Debtor to any Secured Party under any Secured Debt Document as and when those amounts are due.
- (b) Each Debtor and the Security Agent acknowledge that the obligations of each Debtor under paragraph (a) above are several and are separate and independent from, and shall not in any way limit or affect, the corresponding obligations of that Debtor to any Secured Party under any Primary Debt Document (its **Corresponding Debt**) nor shall the amounts for which each Debtor is liable under paragraph (a) above (its **Parallel Debt**) be limited or affected in any way by its Corresponding Debt provided that:
 - (i) the Parallel Debt of each Debtor shall be decreased to the extent that its Corresponding Debt has been irrevocably paid or (in the case of guarantee obligations) discharged;
 - (ii) the Corresponding Debt of each Debtor shall be decreased to the extent that its Parallel Debt has been irrevocably paid or (in the case of guarantee obligations) discharged; and
 - (iii) the amount of the Parallel Debt of a Debtor shall at all times be equal to the amount of its Corresponding Debt; and
 - (iv) the Guarantee Limitations shall be applicable to the Parallel Debt in the same manner as to the Corresponding Debt.
- (c) For the purpose of this Clause 19.3 the Security Agent acts in its own name and not as a trustee, and its claims in respect of the Parallel Debt shall not be held on trust. The Security granted under the Primary Debt Documents to the Security Agent to secure the Parallel Debt is granted to the Security Agent in its capacity as creditor of the Parallel Debt and shall not be held on trust.
- (d) All monies received or recovered by the Security Agent pursuant to this Clause 19.3, and all amounts received or recovered by the Security Agent from or by the enforcement of any Security granted to secure the Parallel Debt, shall be applied in accordance with the provisions of this Agreement.

- (e) Without limiting or affecting the Security Agent's rights against the Debtors (whether under this Clause 19.3 or under any other provision of the Primary Debt Documents), each Debtor acknowledges that:
 - (i) nothing in this Clause 19.3 shall impose any obligation on the Security Agent to advance any sum to any Debtor or otherwise under any Primary Debt Document, except in its capacity as Primary Creditor; and
 - (ii) for the purpose of any vote taken under any Primary Debt Document, the Security Agent shall not be regarded as having any participation or commitment other than those which it has in its capacity as a Primary Creditor.
- (f) The Parallel Debt obligations of each Debtor to the Security Agent under this Clause 19.3 shall be expressed in the Common Currency and for this purpose the Corresponding Debt obligations expressed in currencies other than the Common Currency shall be notionally converted to the Common Currency at the Security Agent's Spot Rate of Exchange as at the date hereof.

19.4 Security Agent Claim (Covenant to Pay the Security Agent)

- (a) In this Clause 19:

Secured Creditor Claim means any amount which a Debtor owes to a Secured Party under or in connection with the Secured Debt Documents or, with respect to any Security Document, the meaning ascribed to such term in that Security Document.

Security Agent Claim has the meaning given to it in paragraph (b) below.

- (b) Each Debtor must pay the Security Agent as an independent and separate creditor, an amount equal to each Secured Creditor Claim on its due date, provided that such obligation to pay shall be limited by the Guarantee Limitations in the same manner as the Secured Creditor Claim (the **Security Agent Claim**).
- (c) Each Security Agent Claim is created on the understanding that the Security Agent must:
 - (i) share the proceeds of each Security Agent Claim with the other Secured Parties; and
 - (ii) pay those proceeds to the Secured Parties,in accordance with this Agreement.
- (d) The Security Agent may enforce performance of any Security Agent Claim in its own name as an independent and separate right. This includes any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding.
- (e) Each Secured Party must, at the request of the Security Agent, perform any act required in connection with the enforcement of any Security Agent Claim. This includes joining in any proceedings as co-claimant with the Security Agent.
- (f)
 - (i) Discharge by a Debtor of a Secured Creditor Claim will discharge the corresponding Security Agent Claim in the same amount.
 - (ii) Discharge by a Debtor of a Security Agent Claim will discharge the corresponding Secured Creditor Claim in the same amount.

- (g) The aggregate amount of the Security Agent Claims will never exceed the aggregate amount of Secured Creditor Claims.
- (h)
 - (i) A defect affecting a Security Agent Claim against a Debtor will not affect any Secured Creditor Claim.
 - (ii) A defect affecting a Secured Creditor Claim against a Debtor will not affect any Security Agent Claim.
- (i) If the Security Agent returns to any Debtor, whether in any kind of insolvency proceedings or otherwise, any recovery in respect of which it has made a payment to a Secured Party, that Secured Party must repay an amount equal to that recovery to the Security Agent (as the case may be).

19.5 No Independent Power

Subject to Clause 16.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral), the Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any rights or powers arising under the Security Documents (other than the Senior Facilities Agreement and the Second Lien Facility Agreement) except through the Security Agent.

19.6 Instructions to Security Agent and Exercise of Discretion

- (a) Subject to paragraphs (d) and (e) below and except as contemplated under Clause 11.5 (Filing of Claims) in connection with a bankruptcy proceeding under U.S. Debtor Relief Laws, the Security Agent shall act in accordance with any instructions given to it by an Instructing Group or, if so instructed by an Instructing Group, refrain from exercising any right, power, authority or discretion vested in it as Security Agent and shall be entitled to assume that (i) any instructions received by it from an Agent, the Creditors or a group of Creditors are duly given in accordance with the terms of the Debt Documents and (ii) unless it has received actual notice of revocation, that those instructions or directions have not been revoked.
- (b) The Security Agent shall be entitled to request instructions, or clarification of any direction, from an Instructing Group (or from the Majority Second Lien Creditors or from the Majority Senior Subordinated Creditors (in each case to the extent they are entitled to give instructions to the Security Agent pursuant to Clause 14 (Enforcement of Transaction Security))) as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Agent may refrain from acting unless and until those instructions or clarification are received by it.
- (c) Save as provided in Clause 14 (Enforcement of Transaction Security), any instructions given to the Security Agent by an Instructing Group shall override any conflicting instructions given by any other Parties.
- (d) Paragraph (a) above shall not apply:
 - (i) where a contrary indication appears in this Agreement;
 - (ii) where this Agreement or applicable law or regulation requires the Security Agent to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role of Security Agent for the Secured Parties including, without

limitation, the provisions set out in Clauses 19.8 (Security Agent's Discretions) to Clause 19.23 (Disapplication);

(iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:

(A) Clause 15.1 (Non-Distressed Disposals);

(B) Clause 16.1 (Order of Application of Group Recoveries);

(C) Clause 16.2 (Prospective Liabilities);

(D) Clause 16.3 (Treatment of SFA Cash Cover and Senior Lender Cash Collateral); and

(E) Clause 16.6 (Permitted Deductions).

(e) If giving effect to instructions given by an Instructing Group would (in the Security Agent's good faith opinion) have an effect equivalent to an Intercreditor Amendment, the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Security Agent whose consent would have been required in respect of that Intercreditor Amendment.

(f) In exercising any discretion to exercise a right, power or authority under this Agreement where either:

(i) it has not received any instructions from an Instructing Group as to the exercise of that discretion; or

(ii) the exercise of that discretion is subject to paragraph (d)(iv) above,

the Security Agent shall:

(A) other than where paragraph (B) below applies, do so having regard to the interests of all the Secured Parties; or

(B) if (in its opinion) there is a Creditor Conflict in relation to the matter in respect of which the discretion is to be exercised, do so having regard only to the interests of all the Senior Secured Creditors or, after the Senior Secured Discharge Date, the Second Lien Creditors.

19.7 Security Agent's Actions

Without prejudice to the provisions of Clause 14 (Enforcement of Transaction Security) and Clause 19.6 (Instructions to Security Agent and Exercise of Discretion), the Security Agent may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action in the exercise of any of its powers and duties under the Debt Documents as it considers in its "good faith" discretion to be appropriate.

19.8 Security Agent's Discretions

The Security Agent may:

(a) assume (unless it has received actual notice to the contrary from a Hedge Counterparty or from one of the Agents) that (i) no Default has occurred and no Debtor is in breach of or

default under its obligations under any of the Debt Documents and (ii) any right, power, authority or discretion vested by any Debt Document in any person has not been exercised;

- (b) if it receives any instructions or directions under Clause 14 (Enforcement of Transaction Security) to take any action in relation to the Transaction Security, assume that all applicable conditions under the Debt Documents for taking that action have been satisfied;
- (c) engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Agent or by any other Secured Party) whose advice or services may at any time seem necessary, expedient or desirable;
- (d) act under the Debt Documents through its personnel and agents;
- (e) rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party, any Creditor or a Debtor, upon a certificate signed by or on behalf of that person; and
- (f) refrain from acting in accordance with the instructions of any Party (including bringing any legal action or proceeding arising out of or in connection with the Debt Documents) until it has received any indemnification and/or security that it may in its discretion require (whether by way of payment in advance or otherwise) for all costs, losses and liabilities which it may incur in so acting.

19.9 Security Agent's Obligations

The Security Agent shall promptly:

- (a) copy to (i) each Agent and (ii) each Hedge Counterparty the contents of any notice or document received by it from any Debtor under any Debt Document;
- (b) forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party provided that, except where a Debt Document expressly provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party;
- (c) inform (i) each Agent and (ii) each Hedge Counterparty of the occurrence of any Default or any default by a Debtor in the due performance of or compliance with its obligations under any Debt Document of which the Security Agent has received notice from any other party to this Agreement; and
- (d) to the extent that a Party (other than the Security Agent) is required to calculate a Common Currency Amount, and upon a request by that Party, notify that Party of the relevant Security Agent's Spot Rate of Exchange.

19.10 Excluded Obligations

Notwithstanding anything to the contrary expressed or implied in the Debt Documents, the Security Agent shall not:

- (a) be bound to enquire as to (i) whether or not any Default has occurred or (ii) the performance, default or any breach by a Debtor of its obligations under any of the Debt Documents;

- (b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;
- (c) be bound to disclose to any other person (including but not limited to any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;
- (d) have or be deemed to have any relationship of trust or agency with, any Debtor.

19.11 Exclusion of Liability

None of the Security Agent, any Receiver nor any Delegate shall accept responsibility or be liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent or any other person in or in connection with any Debt Document or the transactions contemplated in the Debt Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;
- (c) any losses to any person or any liability arising as a result of taking or refraining from taking any action in relation to any of the Debt Documents, the Security Property or otherwise, whether in accordance with an instruction from an Agent or otherwise unless directly caused by its gross negligence or wilful misconduct;
- (d) the exercise of, or the failure to exercise, any judgment, discretion or power given to it by or in connection with any of the Debt Documents, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Debt Documents or the Security Property; or
- (e) any shortfall which arises on the enforcement or realisation of the Security Property.

19.12 No Proceedings

No Party (other than the Security Agent, that Receiver or that Delegate) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Debt Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause subject to Clause 1.3 (Third Party Rights) and the provisions of the Third Parties Rights Act.

19.13 Own Responsibility

Without affecting the responsibility of any Debtor for information supplied by it or on its behalf in connection with any Debt Document, each Secured Party confirms to the Security Agent 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 Debt 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 and enforceability of any Debt Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;
- (c) whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Debt Document, the Security Property, the transactions contemplated by the Debt Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Security Agent or by any other person under or in connection with any Debt Document, the transactions contemplated by any Debt Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt 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,

and each Secured Party warrants to the Security Agent that it has not relied on and will not at any time rely on the Security Agent in respect of any of these matters.

19.14 No Responsibility to Perfect Transaction Security

The Security Agent shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Debtor to any of the Charged Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Debt Documents or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Debt Documents or of the Transaction Security;
- (d) take, or to require any of the Debtors to take, any steps to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under the laws of any jurisdiction; or
- (e) require any further assurances in relation to any of the Security Documents.

19.15 Insurance by Security Agent

- (a) The Security Agent shall be under no obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Debt Documents. The Security Agent shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.
- (b) Where the Security Agent is named on any insurance policy as an insured party and/or loss payee, the Security Agent shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless an Agent shall have requested it to do so in writing and the Security Agent shall have failed to do so within 14 days after receipt of that request.

19.16 Custodians and Nominees

The Security Agent may (to the extent legally permitted) appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

19.17 Acceptance of Title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any of the Debtors may have to any of the Charged Property and shall not be liable for or bound to require any Debtor to remedy any defect in its right or title.

19.18 Refrain from Illegality

Notwithstanding anything to the contrary expressed or implied in the Debt Documents, the Security Agent may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and the Security Agent may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

19.19 Business with the Debtors

The Security Agent may accept deposits from, lend money to, and generally engage in any kind of banking or other business with any of the Debtors.

19.20 Winding Up of Trust

If the Security Agent, with the approval of each of the Agents and each Hedge Counterparty, determines that (a) all of the Secured Obligations and all other obligations secured by the Security Documents have been fully and finally discharged and (b) none of the Secured Parties is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Debtor pursuant to the Debt Documents:

- (a) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and

- (b) any Retiring Security Agent shall release, without recourse or warranty, all of its rights under each of the Security Documents.

19.21 Powers Supplemental

The rights, powers and discretions conferred upon the Security Agent by this Agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by general law or otherwise.

19.22 Trustee Division Separate

- (a) In acting as trustee for the Secured Parties, the Security Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
- (b) If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

19.23 Disapplication

Section 1 of the Trustee Act 2000 shall not apply to the duties of either of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

19.24 Intra-Group Lenders, the Parent, Investors and Debtors: Power of Attorney

- (a) Each Intra-Group Lender, the Parent, each Investor and each other Debtor by way of security for its obligations under this Agreement irrevocably appoints the Security Agent to be its attorney to do anything which that Intra-Group Lender, Investor, the Parent or other Debtor has authorised the Security Agent or any other Party to do under this Agreement or is itself required to do under this Agreement but has failed to do (following a request by the Security Agent for such action to be taken and any applicable grace period for the performance of any such action having expired) or an Acceleration Event has occurred (and the Security Agent may delegate that power on such terms as it sees fit).
- (b) For the purpose of this Clause 19.24, each Intra-Group Lender and Debtor incorporated in the Federal Republic of Germany hereby releases the Security Agent from the restriction of section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*), in each case to the extent legally possible.

19.25 Appointment of the Security Agent as agent in relation to the German Security

- (a) Unless expressly provided to the contrary, the Security Agent shall with respect to any Security governed by the laws of Germany (the **German Security**, and any security interest created or expressed to be created thereunder, the **German Security Interest**):
 - (i) hold and administer any German Security Interest which is security assigned or otherwise transferred (*Sicherungseigentum/Sicherungsabtretung*) under a non-accessory security right (*nicht-akzessorische Sicherheit*) to it as trustee for the benefit of the Secured Parties;

- (ii) administer any German Security Interest which is pledged (*Verpfändung*) or otherwise transferred to the Security Agent and/or any other Secured Party under an accessory security right (*akzessorische Sicherheit*) as agent; and
- (iii) act in relation to any German Security Interest referred to in (i) and (ii) above in accordance with the terms of this Agreement and the relevant German Security,

and will apply all payments and other benefits received by it under any German Security in accordance with this Agreement.

- (b) Each Secured Party (other than the Security Agent) hereby ratifies and approves all acts and declarations previously done by the Security Agent on such Secured Party's behalf (including, for the avoidance of doubt, the declaration made by the Security Agent as representative without power of attorney (*Vertreter ohne Vertretungsmacht*) in relation to the creation of any pledge (*Pfandrecht*) on behalf and for the benefit of any Secured Party as future pledgee or otherwise).
- (c) Each Secured Party hereby authorises the Security Agent (whether or not by or through employees or agents) and grants power of attorney to the Security Agent:
 - (i) to exercise such rights, remedies, powers and discretions as are specifically delegated to or conferred upon the Security Agent under any German Security together with such powers and discretions as are reasonably incidental thereto;
 - (ii) to take such action on its behalf as may from time to time be authorised under or in accordance with any German Security, including the release of any collateral under any German Security;
 - (iii) to accept as its representative any pledge or other creation of any accessory security right granted in favour of such Secured Party under or in connection with the German Security and to agree to and execute on its behalf as its representative any amendments and/or alterations to any German Security which creates a pledge or any other accessory security right (*akzessorische Sicherheit*) including the release or confirmation of release of such Security; and
 - (iv) to take all other actions and measures which the Security Agent deems necessary or desirable in connection with this Agreement, any German Security or any German Security Interest, including to realise and enforce any German Security Interest in accordance with the relevant provisions of this Agreement and the relevant German Security.

19.26 Joint and several creditor

- (a) The Parties hereby agree that, in the case of any jurisdiction in which the Security can be granted in favour of the Security Agent as agent or trustee for the Secured Parties but the parallel debt structure provided in Clause 19.3 above cannot be, or is otherwise doubtful whether it can be, enforceable, the provision in this Clause 19.26 shall apply.
- (b) The Parties agree that the Security Agent shall be deemed to be the joint and several creditor (for Spanish law purposes, *acreedor solidario*) in accordance with the provisions of articles 1,137 et seq. of the Spanish Civil Code (together with the relevant Secured Party) of each and every obligation of the Obligors towards each of the Secured Parties, and that accordingly the Security Agent will have its own independent right to demand performance by the Obligors of those obligations. However, any discharge of such obligation to one of the Security Agent or a Secured Party shall, to the same extent, discharge the corresponding obligation owing to the other.

- (c) Without limiting or affecting the Security Agent's rights against the Debtors (whether under this paragraph or elsewhere), the Security Agent agrees with each other Secured Party (on a several and divided basis) that, subject as set out in the next sentence, it will not exercise its rights as a joint and several creditor with a Secured Party except with the consent of the relevant Secured Party. However, for the avoidance of doubt, nothing in the previous sentence shall in any way limit the Security Agent's right to act in the protection or preservation of rights under or to enforce any Transaction Security Document as contemplated by this Agreement and/or the relevant Transaction Security Document (or to do any act reasonably incidental to any of the foregoing).

19.27 Appointment of the Security Agent as agent and administrator in relation to the Spanish Security (Power of attorney)

- (a) In relation to the Spanish Security Documents (the Security created thereunder the **Spanish Security**), the Security Agent shall:
- (i) accept, hold, administer and (subject to the same having become enforceable and to the terms of this Agreement) enforce any such Spanish Security interest granted transferred or assigned or otherwise granted under a non-accessory security right to the Secured Parties or to the Security Agent in its own name as trustee or security agent for the benefit of the Secured Parties or on behalf of the Secured Parties; and
 - (ii) accept, hold, administer, enforce and (subject to the same having become enforceable and to the terms of this Agreement) enforce in the name of and on behalf of the Secured Parties any Spanish Security which is pledged or otherwise transferred to any Secured Parties under an accessory right in the name and on behalf of the Secured Parties.
 - (iii) Additionally, upon enforcement in Spain of any Security Documents, the Secured Parties undertake to:
 - (A) grant a power of attorney in favour of the Security Agent, as applicable, for any action to be carried out in Spain under the instructions received in accordance with this Agreement or in case any Secured Party is unable to authorise the Security Agent to carry out, execute, effect or perform any exercise of their rights, powers, authorities under the Finance Documents, to join the Security Agent if applicable in any action instructed by the Majority Senior Creditors, in accordance with this Agreement;
 - (B) abide by any act, or refrain from acting, in accordance with, any decision of the Majority Senior Creditors made in accordance with this Agreement; and
 - (C) take any action or appear in any proceeding in Spain, as may be required by the Security Agent, as applicable, to enforce the Security Documents subject to Spanish law and, to such effect, follow the instructions received from the Security Agent.

19.28 Agency – French Law Transaction Security Documents

- (a) Each Secured Party (other than the Security Agent) (as *mandant*):
- (i) irrevocably and unconditionally appoints the Security Agent to act as agent (*mandataire*) (with full power to appoint and to substitute and to delegate) on its behalf to do anything upon the terms and conditions set out in this Agreement under or in connection with the French Law Transaction Security Documents, including, if need be, the appointment of a custodian which shall hold assets on its behalf (including, as may be the case, share

certificates or share registries relating to shares in the capital of any Debtor or security provider) in custody under any Transaction Security Document, and the Security Agent accepts such appointment;

- (ii) confirms its approval of the French Law Transaction Security Documents creating or expressed to create a Transaction Security benefiting it and any Transaction Security created or to be created pursuant thereto and irrevocably authorises (with power of delegation), empowers and directs the Security Agent (by itself or by such person(s) as it may nominate) to execute and deliver for and on its behalf each French Law Transaction Security Document, to perform the duties and to exercise the rights, powers and discretions that are specifically delegated to the Security Agent or any Secured Party under or in connection with the French Law Transaction Security Documents, together with any other rights, powers and discretions which are incidental thereto and to give a good discharge for any moneys payable under the Security Documents; and
 - (iii) acknowledges that the Security Agent has been appointed by it to constitute, register, manage and enforce all Transaction Security created in its favour by any French Law Transaction Security Documents, and agrees that the Security Agent may exercise the rights and perform the obligations assumed by it pursuant to its nomination in accordance with applicable law from time to time.
- (b) The Security Agent will act solely for itself (as Secured Party) and as agent for the other Secured Parties in carrying out its functions as security agent under the relevant French Law Transaction Security Documents and this Agreement.
 - (c) In relation to French Law Transaction Security Documents, the relationship between the Secured Parties (other than the Security Agent) and the Security Agent is that of principal and agent only. The Security Agent shall not have, or be deemed to have, assumed any obligations to or fiduciary relationship with, any party to this Agreement other than those for which specific provision is made by the French Law Transaction Security Documents and this Agreement.
 - (d) The Security Agent shall not be liable to any person for any breach by any Secured Party of this Agreement or be liable to any Secured Party for any breach by any other person of this Agreement or any Finance Document.
 - (e) In furtherance of this Clause 19.28, each of the Secured Creditors hereby undertakes to the Security Agent that, promptly upon request, such Secured Party will ratify and confirm all transactions entered into and other actions by the Security Agent (or any of its substitutes or delegates) in the proper exercise of the power granted to it hereunder.

20. CHANGE OF SECURITY AGENT

20.1 Resignation of the Security Agent

- (a) The Security Agent may resign and appoint one of its affiliates as successor by giving notice to the Parent, the Senior Agent, the Senior Secured Notes Trustee, the Second Lien Agent, the Second Lien Notes Trustee, the Senior Subordinated Agents and the Senior Subordinated Notes Trustees.
- (b) Alternatively the Security Agent may resign by giving notice to the other Parties in which case the Majority Senior Creditors and the Senior Secured Notes Trustee(s) (or, after the Senior Secured Discharge Date, the Majority Second Lien Lenders and the Second Lien Notes Trustee(s) or, after the Priority Discharge Date, the Majority Senior Subordinated Facility Creditors and the Senior Subordinated Notes Trustees(s)) may appoint a successor Security Agent.

- (c) If the Majority Senior Creditors and the Senior Secured Notes Trustee(s) (or, after the Senior Secured Discharge Date, the Majority Second Lien Lenders and the Second Lien Notes Trustee(s) or, after the Priority Discharge Date the Majority Senior Subordinated Facility Creditors and the Senior Subordinated Notes Trustee(s)) have not appointed a successor Security Agent in accordance with paragraph (b) above within 30 days after the notice of resignation was given, the Security Agent (after consultation with the Agents) may appoint a successor Security Agent.
- (d) The retiring Security Agent (the **Retiring Security Agent**) shall, at its own cost:
 - (i) make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Debt Documents; and
 - (ii) enter into and deliver to the successor Security Agent those documents and effect any registrations as may be required for the transfer or assignment of all of its rights and benefits under the Debt Documents to the successor Security Agent,
- (e) A Debtor must, at its own reasonable cost, take any action and enter into and deliver any document which is reasonably required by the retiring Security Agent to ensure that a Security Document provides for effective and perfected Security in favour of any successor Security Agent.
- (f) The Security Agent's resignation notice shall only take effect upon (i) the appointment of a successor and (ii) the transfer of all of the Security Property to that successor.
- (g) Upon the appointment of a successor, the Retiring Security Agent shall be discharged from any further obligation in respect of the Debt Documents (other than its obligations under paragraph (b) of Clause 19.20 (Winding Up of Trust) and under paragraph (f) above) but shall, in respect of any act or omission by it whilst it was the Security Agent, remain entitled to the benefit of 19 (The Security Agent), 23.1 (Debtors' Indemnity) and 23.3 (Primary Creditors' Indemnity). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (h) The Majority Senior Creditors and the Senior Secured Notes Trustee(s) (or, after the Senior Secured Discharge Date, the Majority Second Lien Lenders and the Second Lien Notes Trustee(s) or, after the Priority Discharge Date, the Majority Senior Subordinated Facility Creditors and the Senior Subordinated Notes Trustee(s)) may, in consultation with the Parent, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Parent or any other Debtor.

20.2 Delegation

- (a) The Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Debt Documents including the right to release the (sub) delegate from the restrictions of section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) or any similar restriction of the applicable laws of the jurisdiction.
- (b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties and it shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate.

20.3 Additional Security Agents

- (a) The Security Agent may at any time appoint (and subsequently remove), to the extent legally permitted, any person to act as a separate trustee or as a co-trustee jointly with it (i) if it in good faith considers that appointment to be in the interests of the Secured Parties or (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Agent deems to be relevant (acting reasonably) or (iii) for obtaining or enforcing any judgment in any jurisdiction, and the Security Agent shall give prior notice to the Parent and each of the Agents of that appointment.
- (b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Agent by this Agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.
- (c) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses reasonably incurred by the Security Agent.

21. CHANGES TO THE PARTIES

21.1 Assignments and Transfers

No Party may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities except as permitted by this Clause 21.

21.2 No change of Parent

The Parent may not assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of the Parent Liabilities until after the Final Discharge Date.

21.3 Change of Primary Creditors

- (a) A Senior Lender may assign any of its rights and benefits or transfer by novation any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities if:
 - (i) that assignment or transfer is in accordance with the terms of the Senior Facilities Agreement to which it is a party; and
 - (ii) subject to paragraph (b) below, any assignee or transferee has (if not already party to this Agreement as a Senior Lender) acceded to this Agreement, as a Senior Lender, pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).
- (b) Paragraph (a)(ii) above shall not apply in respect of any Senior Debt Purchase Transaction permitted by clause 30.1 (Permitted Debt Purchase Transactions) of the Senior Facilities Agreement entered into by a Senior Borrower and effected in accordance with the terms of the Debt Documents.
- (c) A Second Lien Lender may assign any of its rights and benefits or transfer by novation any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities if:
 - (i) that assignment or transfer is in accordance with the terms of the Second Lien Facility Agreement to which it is a party; and

- (ii) subject to paragraph (d) below, any assignee or transferee has (if not already party to this Agreement as a Second Lien Lender) acceded to this Agreement, as a Second Lien Lender, pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).
- (d) Paragraph (c)(ii) above shall not apply in respect of any Second Lien Debt Purchase Transaction permitted by clause 28.1 (Permitted Debt Purchase Transactions) of the Second Lien Facility Agreement entered into by a Second Lien Borrower and effected in accordance with the terms of the Debt Documents.
- (e) Any Senior Secured Noteholder, Second Lien Noteholder or Senior Subordinated Noteholder may assign, transfer or novate any of its rights and obligations to any person without the need for such person to execute and deliver to a Security Agent a duly completed Creditor/Agent Accession Undertaking, provided that such person is subject to the terms and conditions of this Agreement as provided under the terms of the relevant Notes Indenture.
- (f) A Senior Subordinated Lender may assign any of its rights and benefits or transfer by novation any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities if:
 - (i) that assignment or transfer is in accordance with the terms of the Senior Subordinated Facility Agreement to which it is a party; and
 - (ii) subject to paragraph (g) below, any assignee or transferee has (if not already party to this Agreement as a Senior Subordinated Lender) acceded to this Agreement, as a Senior Subordinated Lender, pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).
- (g) Paragraph (f)(ii) above shall not apply in respect of any Liabilities Acquisition transaction of Senior Subordinated Liabilities permitted by a Senior Subordinated Facility Agreement and entered into by a Senior Subordinated Borrower and effected in accordance with the terms of the Debt Documents.

21.4 Change of Hedge Counterparty

A Hedge Counterparty may (in accordance with the terms of the relevant Hedging Agreement and subject to any consent required under that Hedging Agreement) transfer any of its rights and benefits or obligations in respect of the Hedging Agreements to which it is a party if any transferee has (if not already party to this Agreement as a Hedge Counterparty and the Senior Facilities Agreement as a Hedge Counterparty) acceded to:

- (a) this Agreement; and
- (b) the Senior Facilities Agreement,

as a Hedge Counterparty pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).

21.5 Change of Agent

No person shall become a Senior Agent, Second Lien Agent or Senior Subordinated Agent unless at the same time, it accedes to this Agreement in such capacity pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).

21.6 Change of Intra-Group Lender

Subject to Clause 10.4 (Acquisition of Intra-Group Liabilities) and to the terms of the other Debt Documents, any Intra-Group Lender may assign any of its rights and benefits or transfer any of its

rights, benefits and obligations in respect of the Intra-Group Liabilities to another member of the Group if that member of the Group has (if not already party to this Agreement as an Intra-Group Lender) acceded to this Agreement as an Intra-Group Lender, pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking) (provided that such member of the Group will not be required to accede to this Agreement as an Intra-Group Lender under this Clause if it would otherwise not have been required to do so under the terms of Clause 21.7 (New Intra-Group Lender) if it had been the original creditor of such Intra-Group Liability).

21.7 New Intra-Group Lender

If any Intra-Group Lender or any member of the Group makes any loan to or grants any credit to or makes any other financial arrangement having similar effect (but excluding any trade credit in the ordinary course of trading) with any Debtor, and the aggregate amount of all such loans, credits and financial arrangements from such Intra-Group Lender or member of the Group to that Debtor and/or any other Debtor at any time equals or exceeds EUR1,500,000, the Parent will procure that the person giving that loan, granting that credit or making that other financial arrangement (if not already party to this Agreement as an Intra-Group Lender) accedes to this Agreement, as an Intra-Group Lender pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).

21.8 New Ancillary Lender

If any Affiliate of a Senior Lender becomes an Ancillary Lender in accordance with clause 9.8 (Affiliates of Lenders as Ancillary Lenders) of the Senior Facilities Agreement, it shall not be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity in respect of any of the liabilities arising in relation to its Ancillary Facilities unless it has (if not already party to this Agreement as a Senior Lender) acceded to this Agreement as a Senior Lender and to the Senior Facilities Agreement as an Ancillary Lender pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).

21.9 Creditor/Agent Accession Undertaking

With effect from the date of acceptance by the Security Agent and, in the case of a Hedge Counterparty or an Affiliate of a Senior Lender, the Senior Agent of a Creditor/Agent Accession Undertaking duly executed and delivered to the Security Agent by the relevant acceding party or, if later, the date specified in that Creditor/Agent Accession Undertaking:

- (a) any Party ceasing entirely to be a Creditor or Agent shall be discharged from further obligations towards the Security Agent and other Parties under this Agreement and their respective rights against one another shall be cancelled (except in each case for those rights which arose prior to that date); and
- (b) as from that date, the replacement or new Creditor or Agent shall assume the same obligations and become entitled to the same rights, as if it had been an original Party to this Agreement in that capacity; and
- (c) any new Ancillary Lender (which is an Affiliate of a Senior Lender) or any party acceding to this Agreement as a Hedge Counterparty shall also become party to the Senior Facilities Agreement as an Ancillary Lender or Hedge Counterparty (as the case may be) and shall assume the same obligations and become entitled to the same rights as if it had been an original party to the Senior Facilities Agreement as an Ancillary Lender or Hedge Counterparty (as the case may be).

21.10 Accession of Senior Lenders under New Senior Facilities

- (a) In order for any credit facility to be a **Senior Facility** for the purposes of this Agreement:
- (i) the Parent shall designate that credit facility as a Senior Facility and confirm in writing to the Primary Creditors that the establishment of that credit facility as a Senior Facility under this Agreement will not breach the terms of any of its existing Senior Secured Finance Documents, Second Lien Finance Documents or Senior Subordinated Finance Documents;
 - (ii) each creditor in respect of that credit facility shall accede to this Agreement as a Senior Lender;
 - (iii) each arranger in respect of that credit facility shall accede to this Agreement as a Senior Arranger; and
 - (iv) the facility agent in respect of that credit facility shall accede to this Agreement as the Agent in relation to that credit facility,
- pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).
- (b) Each Party irrevocably authorises the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which has been duly completed and signed on behalf of that person

21.11 Accession of Second Lien Lenders under New Second Lien Facility

- (a) In order for any credit facility to be a **Second Lien Facility** for the purposes of this Agreement:
- (i) the Parent shall designate that credit facility as a Second Lien Facility and confirm in writing to the Primary Creditors that the establishment of that credit facility as a Second Lien Facility under this Agreement will not breach the terms of any of its existing Senior Secured Finance Documents, Second Lien Finance Documents or Senior Subordinated Finance Documents;
 - (ii) each creditor in respect of that credit facility shall accede to this Agreement as a Second Lien Lender;
 - (iii) each arranger in respect of that credit facility shall accede to this Agreement as a Second Lien Arranger; and
 - (iv) the facility agent in respect of that credit facility shall accede to this Agreement as the Agent in relation to that credit facility,
- pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).
- (b) Each Party irrevocably authorises the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which has been duly completed and signed on behalf of that person.

21.12 Accession of Senior Subordinated Facility Creditors under New Senior Subordinated Facility

- (a) In order for any credit facility to be a **Senior Subordinated Facility** for the purposes of this Agreement:
- (i) the Parent shall designate that credit facility as a Senior Subordinated Facility and confirm in writing to the Primary Creditors that the establishment of that credit facility as a Senior

Subordinated Facility under this Agreement will not breach the terms of any of its existing Senior Secured Finance Documents, Second Lien Finance Documents or Senior Subordinated Finance Documents;

- (ii) each creditor in respect of that credit facility shall accede to this Agreement as a Senior Subordinated Lender;
- (iii) each arranger in respect of that credit facility shall accede to this Agreement as a Senior Subordinated Arranger; and
- (iv) the facility agent in respect of that credit facility shall accede to this Agreement as the Senior Subordinated Creditor Representative in relation to that credit facility,

pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).

- (b) Each Party irrevocably authorises the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which has been duly completed and signed on behalf of that person.

21.13 Accession of Senior Subordinated Notes Trustee

- (a) The Parent shall procure that, prior to any Senior Subordinated Notes Issue Date, the relevant Senior Subordinated Notes Trustee (and, if such entity ceases to act as trustee in relation to the Senior Subordinated Notes for any reason, any successor or other person which is appointed or acts as trustee under the relevant Senior Subordinated Notes Indenture) shall promptly complete, sign and deliver to the Security Agent a Creditor/Agent Accession Undertaking under which such Senior Subordinated Notes Trustee agrees to be bound by this Agreement as a Senior Subordinated Notes Trustee as if it had originally been a Party to this Agreement in such capacity. In connection with the foregoing, the Security Agent shall make such changes to the terms hereof relating to the rights and duties of such Senior Subordinated Notes Trustee and any other Party as are required by such Senior Subordinated Notes Trustee without the consent of any other Party provided that such changes would not have a material adverse effect on the other Parties.
- (b) Each Party (other than the relevant proposed trustee under paragraph (a) above) irrevocably authorises the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which has been duly completed and signed on behalf of that person.

21.14 Accession of Senior Secured Notes Trustee

- (a) The Parent shall procure that, prior to any Senior Secured Notes Issue Date, the relevant Senior Secured Notes Trustee (and, if such entity ceases to act as trustee in relation to the Senior Secured Notes for any reason, any successor or other person which is appointed or acts as trustee under the relevant Senior Secured Notes Indenture) shall promptly complete, sign and deliver to the Security Agent a Creditor/Agent Accession Undertaking under which such Senior Secured Notes Trustee agrees to be bound by this Agreement as a Senior Secured Notes Trustee as if it had originally been a Party to this Agreement in such capacity. In connection with the foregoing, the Security Agent shall make such changes to the terms hereof relating to the rights and duties of such Senior Secured Notes Trustee and any other Party as are required by such Senior Secured Notes Trustee without the consent of any other Party provided that such changes would not have a material adverse effect on the other Parties.
- (b) Each Party (other than the relevant proposed trustee under paragraph (a) above) irrevocably authorises the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which has been duly completed and signed on behalf of that person.

21.15 Accession of Second Lien Notes Trustee

- (a) The Parent shall procure that, prior to any Second Lien Notes Issue Date, the relevant Second Lien Notes Trustee (and, if such entity ceases to act as trustee in relation to the Second Lien Notes for any reason, any successor or other person which is appointed or acts as trustee under the relevant Second Lien Notes Indenture) shall promptly complete, sign and deliver to the Security Agent a Creditor/Agent Accession Undertaking under which such Second Lien Notes Trustee agrees to be bound by this Agreement as a Second Lien Notes Trustee as if it had originally been a Party to this Agreement in such capacity. In connection with the foregoing, the Security Agent shall make such changes to the terms hereof relating to the rights and duties of such Second Lien Notes Trustee and any other Party as are required by such Second Lien Notes Trustee without the consent of any other Party provided that such changes would not have a material adverse effect on the other Parties.
- (b) Each Party (other than the relevant proposed trustee under paragraph (a) above) irrevocably authorises the Security Agent to execute on its behalf any Creditor/Agent Accession Undertaking which has been duly completed and signed on behalf of that person.

21.16 Investors/Accession of New Investors

An Investor may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of the Investor Liabilities owed to it by a person who is not a member of the Group if any assignee or transferee (if not already party to this Agreement as an Investor) has acceded to this Agreement, as an Investor, pursuant to Clause 21.9 (Creditor/Agent Accession Undertaking).

21.17 New Debtor

- (a) If any member of the Group:
 - (i) incurs any Liabilities; or
 - (ii) gives any security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities,

the Debtors will procure that the person incurring those Liabilities or giving that assurance accedes to this Agreement as a Debtor, in accordance with paragraph (c) below, no later than contemporaneously with the incurrance of those Liabilities or the giving of that assurance.
- (b) If any Affiliate of a Borrower (as is defined in the Senior Facilities Agreement) becomes a borrower of an Ancillary Facility in accordance with clause 9.9 (Affiliates of Borrowers) of the Senior Facilities Agreement, the relevant Borrower shall procure that its Affiliate accedes to this Agreement as a Debtor no later than contemporaneously with the date on which it becomes a borrower.
- (c) With effect from the date of acceptance by the Security Agent of a Debtor Accession Deed duly executed and delivered to the Security Agent by the new Debtor or, if later, the date specified in the Debtor Accession Deed, the new Debtor shall assume the same obligations and become entitled to the same rights as if it had been an original Party to this Agreement as a Debtor.

21.18 Additional Parties

- (a) Each of the Parties appoints the Security Agent to receive on its behalf each Debtor Accession Deed and Creditor/Agent Accession Undertaking delivered to the Security Agent and the Security Agent shall, as soon as reasonably practicable after receipt by it, sign and accept the same if it appears on

its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Agreement or, where applicable, by the Senior Facilities Agreement, the Second Lien Facility Agreement or Senior Subordinated Facility Agreement. For the purpose of this Clause 21.18 and in respect of all Parties incorporated in the Federal Republic of Germany the Security Agent shall be released from the restrictions of section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*), in each case to the extent legally possible.

- (b) In the case of a Creditor/Agent Accession Undertaking delivered to the Security Agent by any new Ancillary Lender (which is an Affiliate of a Senior Lender) or any party acceding to this Agreement as a Hedge Counterparty:
 - (i) the Security Agent shall, as soon as practicable after signing and accepting that Creditor/Agent Accession Undertaking in accordance with paragraph (a) above, deliver that Creditor/Agent Accession Undertaking to the Senior Agent; and
 - (ii) the Senior Agent shall, as soon as practicable after receipt by it, sign and accept that Creditor/Agent Accession Undertaking if it appears on its face to have been completed, executed and delivered in the form contemplated by this Agreement.
- (c) The Debtors agree that, on the date on which a Debtor Accession Deed and/or a Creditor/Agent Accession Undertaking in which the Debtor or the Creditor is a Spanish Obligor, is delivered to the Security Agent in accordance with and pursuant to the provisions of this Agreement, this Agreement, the Debtor Accession Deed and/or the Creditor/Agent Accession Undertaking and any relevant Debt Documents shall be notarized in a Spanish Public Document before a Spanish Notary Public selected by the Spanish Obligor (in consultation with the relevant Agent), and the parties to the notarial deed shall acknowledge that it qualifies as a “*título ejecutivo*” in case of enforcement in Spain.

21.19 Resignation of a Debtor

- (a) The Senior Agent shall not accept a resignation letter from a Senior Guarantor under clause 31.4 (Resignation of an Obligor) of the Senior Facilities Agreement unless each Hedge Counterparty has notified the Security Agent that no payment is due from that Guarantor to that Hedge Counterparty under clause 23.1 (Guarantee and indemnity) of the Senior Facilities Agreement. The Security Agent shall, upon receiving that notification, notify the Senior Agent.
- (b) The Parent may request that a Debtor ceases to be a Debtor by delivering to the Security Agent a Debtor Resignation Request.
- (c) The Security Agent shall accept a Debtor Resignation Request and notify the Parent and each other Party of its acceptance if:
 - (i) the Parent has confirmed that no Event of Default is continuing or would result from the acceptance of the Debtor Resignation Request;
 - (ii) to the extent that the Senior Lender Discharge Date has not occurred, the Senior Agent notifies the Security Agent that that Debtor is not, or has ceased to be, a Senior Borrower or a Senior Guarantor (which it shall do as soon as practicable on request by the Parent);
 - (iii) to the extent the Senior Secured Note Discharge Date has not occurred, the Parent certifies for the benefit of Security Agent that that Debtor is not, or has ceased to be a borrower or an issuer of Senior Secured Notes or a Senior Secured Notes Guarantor (which it shall do as soon as practicable on request by the Parent);

- (iv) to the extent that the Second Lien Lender Discharge Date has not occurred, the Second Lien Agent notifies the Security Agent that that Debtor is not, or has ceased to be, a Second Lien Borrower or a Second Lien Guarantor (which it shall do as soon as practicable on request by the Parent);
 - (v) to the extent that the Second Lien Notes Discharge Date has not occurred the Parent certifies for the benefit of Security Agent that the Debtor is not, or has ceased to be, a borrower or an issuer of Second Lien Notes or a Second Lien Notes Guarantor (which it shall do as soon as practicable on request by the Parent);
 - (vi) to the extent the Senior Subordinated Facility Discharge Date has not occurred, the Senior Subordinated Agent(s) notifies the Security Agent that the Debtor is not, or has ceased to be, a Senior Subordinated Borrower or a Senior Subordinated Facility Guarantor (which it shall do as soon as practicable on request by the Parent);
 - (vii) to the extent the Senior Subordinated Notes Discharge Date has not occurred, the Parent certifies for the benefit of Security Agent that the Debtor is not, or has ceased to be, a borrower or an issuer of Senior Subordinated Notes or a Senior Subordinated Notes Guarantor (which it shall do as soon as practicable on request by the Parent); and
 - (viii) the Parent confirms that that Debtor is under no actual or contingent obligations in respect of the Intra-Group Liabilities and/or the Parent Liabilities.
- (d) Upon notification by the Security Agent to the Parent of its acceptance of the resignation of a Debtor, that member of the Group shall cease to be a Debtor and shall have no further rights or obligations under this Agreement as a Debtor.

21.20 Financial Assistance Restrictions

- (a) **General.** Any guarantee or indemnity or hold harmless obligation provided by a Debtor or Intra-Group Lender under this Agreement shall be provided on the same terms and subject to the same limitations as are set out in clause 23 (Guarantees and Indemnity) of the Senior Facilities Agreement (in its original form) and, if more comprehensive, in the relevant accession letter pursuant to which the relevant Debtor has acceded to the Senior Facilities Agreement (or, after the Senior Facilities Discharge Date, the Second Lien Facility Agreement).
- (b) **Spain.** Notwithstanding the other provisions of this Agreement and/or the other Debt Documents, any obligations, liabilities, guarantees or indemnities of a Spanish Obligor (as defined in the Senior Facilities Agreement) shall be deemed to have been given only to the extent such indemnity does not violate the financial assistance rules and limitations provided in articles 143 or 150 of the Spanish Capital Companies Law..

As a consequence to the above:

- (i) the obligations of any Spanish Obligor as a limited liability company (*sociedad de responsabilidad limitada*) shall not extend to any obligations or liabilities incurred by any Debtor as a result of such Debtor borrowing (or guaranteeing the borrowing of) funds (but only in respect of those funds) under any Debt Documents for the purpose of (a) acquiring quotas (*participaciones sociales*) representing the share capital of such Spanish Obligor or quotas (*participaciones sociales*) or shares (*acciones*) representing the share capital of a company within its group, or (b) refinancing a previous debt incurred by any Debtor for the acquisition of quotas (*participaciones sociales*) representing the share capital of such

Spanish Obligor or quotas (*participaciones sociales*) or shares (*acciones*) representing the share capital of a company within its group.

For the purposes of this subparagraph (i), a reference to the “group” of a Spanish Obligor shall have the meaning set out in article 42 of the Spanish Commercial Code.

- (ii) In case an new Debtor incorporated under the laws of Spain in the form of a Spanish public limited company (*sociedad anónima*) accedes to this Agreement (or in case the Spanish Obligor is transformed into a Spanish *sociedad anónima*), the obligations of such Spanish Obligor shall not extend to any obligations or liabilities incurred by any Obligor as a result of such Obligor borrowing (or guaranteeing the borrowing of) funds (but only in respect of those funds) under any Debt Documents for the purpose of (a) acquiring shares (*acciones*) representing the share capital of such Spanish Obligor or shares (*acciones*) or quotas (*participaciones sociales*) representing the share capital of its holding company, or (b) refinancing a previous debt incurred by any Obligor for the acquisition of shares (*acciones*) representing the share capital of such Spanish Obligor or shares (*acciones*) or quotas (*participaciones sociales*) representing the share capital of its holding company.

For the purposes of this paragraph (ii), a reference to a “holding company” of a Spanish Obligor shall mean the company which, directly or indirectly, owns the majority of the voting rights of such Spanish Obligor or that may have a dominant influence on such Spanish Obligor. It shall be presumed that one company has a dominant influence on another company when: (i) any of the scenarios set out in section 1 of article 42 of the Spanish Commercial Code are met; or (ii) at least half plus one of the members of the managing body of the Spanish Obligor are also members of the managing body or top managers (*altos directivos*) of the dominant company or of another company controlled by such dominant company.

The limitation set out in this paragraph (b) shall apply *mutatis mutandis* to any Transaction Security created by any Spanish Obligors under the Security Documents and to any guarantee, undertaking, obligation, indemnity and payment, including (but not limited to) distributions, cash sweeps, credits, loans and set-offs, pursuant to or permitted by this Agreement and made by a Spanish Obligor.

The limitations set forth in this Clause 21.20(b) shall apply *mutatis mutandis* to any Security created by a Spanish Obligor and to any guarantee, indemnity, any similar obligation resulting in a payment obligation and payment, including but not limited to set-off, pursuant to this Agreement and made by any Spanish Obligor.

21.21 Assignment or transfer fee

Neither the Parent nor any member of the Group shall be obliged to pay any costs or expenses in connection with any assignment or transfer pursuant to this Clause 21 (Changes to the Parties).

22. COSTS AND EXPENSES

22.1 Security Agent's Ongoing Costs

In the event of:

- (a) an Event of Default (other than in relation to a Debt Document evidencing Intra-Group Liabilities or Investor Liabilities); or

- (b) the Security Agent being requested by a Debtor or an Instructing Group, the Majority Second Lien Creditors or the Majority Senior Subordinated Creditors (as applicable) to undertake duties which the Security Agent and the Parent agree to be of an exceptional nature and/or outside the scope of the normal duties of the Security Agent under the Debt Documents,

the Parent shall (or another Debtor so elected shall) pay to the Security Agent any additional remuneration (together with any applicable VAT) that may be agreed between them.

22.2 Transaction Expenses

The Parent shall (or another Debtor so elected shall), promptly within five Business Days of demand, pay the Security Agent the amount of all reasonable costs and expenses (including legal fees (subject to agreed caps, if any)) (together with any applicable VAT) properly incurred by the Security Agent and any Receiver or Delegate (evidence of which shall be provided to the Parent) in connection with the negotiation, preparation, printing, execution, syndication and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and
- (b) any other Debt Documents executed after the date of this Agreement,

in each case, up to a maximum amount agreed (if any).

22.3 Stamp Taxes

The Parent shall (or another Debtor so elected shall) pay and, within five Business Days of demand, indemnify the Security Agent against any cost, loss or liability the Security Agent incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Debt Document except for (a) any such Tax payable in respect of an assignment, or transfer or sub-participation of any Liabilities (or part thereof) by that Secured Party or (b)) pursuant or to the extent that any such stamp duty, registration and other similar Tax or notarial fees becomes payable upon a voluntary registration made by a Secured Party if such registration is not necessary to evidence, prove, maintain, enforce, compel or otherwise assert the rights of such party or obligations of any party under the Debt Document.

22.4 Interest on Demand

Without duplication of any default interest payable under any Debt Document, if any Creditor or Debtor fails to pay any amount payable by it under this Agreement on its due date, interest shall (to the extent such accrual does not result in any double counting under the provisions of this Agreement and the provisions of the other Secured Debt Documents) accrue on the overdue amount (and be compounded with it) from the due date up to the date of actual payment (both before and after judgment and to the extent interest at a default rate is not otherwise being paid on that sum) at the rate which is 1% per annum over the rate at which the Security Agent was being offered, by leading banks in the London interbank market, deposits in an amount comparable to the unpaid amounts in the currencies of those amounts for any period(s) that the Security Agent may from time to time select.

22.5 Enforcement and Preservation Costs

The Parent shall (or another Debtor so elected shall), within five Business Days of demand, pay to the Security Agent the amount of all costs and expenses (including legal fees and together with any

applicable VAT) incurred by it in connection with the enforcement of or the preservation of any rights under any Debt Document, 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 (but excluding any costs and expenses arising as a result of the Security Agent's gross negligence or wilful default).

23. INDEMNITIES

23.1 Debtors' Indemnity

The Parent shall (or another Debtor so elected shall) within three Business Days of demand (which demand shall be accompanied by reasonable calculations or details of the amount demanded) indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability (together with any applicable VAT) incurred (but excluding any costs and expenses arising as a result of the Security Agent's or gross negligence or wilful default) by any of them:

- (a) in relation to or as a result of:
 - (i) any failure by the Parent to comply with obligations under Clause 22 (Costs and Expenses);
 - (ii) the taking, holding, protection or enforcement of the Transaction Security;
 - (iii) the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent, each Receiver and each Delegate by the Debt Documents or by law; or
 - (iv) any default by any Debtor in the performance of any of the obligations expressed to be assumed by it in the Debt Documents; or
- (b) which otherwise relates to any of the Security Property or the performance of the terms of this Agreement (otherwise than as a result of its gross negligence or wilful misconduct).

Each Debtor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 23.1 (Debtors' Indemnity) will not be prejudiced by any release or disposal under Clause 15.2 (Distressed Disposals) taking into account the operation of that Clause 15.2.

23.2 Priority of Indemnity

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 Clause 23.1 (Debtors' Indemnity) 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, in each case in accordance with Clause 16.1 (Order of Application of Group Recoveries).

23.3 Primary Creditors' Indemnity

- (a) Each Primary Creditor (other than the Note Trustees) shall (in the proportion that the Liabilities due to it bears to the aggregate of the Liabilities due to all the Primary Creditors for the time being (or, if the Liabilities due to each of those Primary Creditors is zero, immediately prior to their being reduced to zero)) indemnify the Security Agent and every Receiver and every Delegate, within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than

by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct) in acting as Security Agent, Receiver or Delegate under the Debt Documents (unless the relevant Security Agent, Receiver or Delegate has been reimbursed by a Debtor pursuant to a Debt Document) and the Debtors shall jointly and severally indemnify each Primary Creditor against any payment made by it under this Clause 23.

- (b) For the purposes only of paragraph (a) above, to the extent that any hedging transaction under a Hedging Agreement has not been terminated or closed-out, the Hedging Liabilities due to any Hedge Counterparty in respect of that hedging transaction will be deemed to be the amount, if any, which would be payable to it under that Hedging Agreement in respect of those hedging transactions, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the relevant Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement), that amount, in each case, to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

23.4 Parent's Indemnity to Primary Creditors

The Parent shall promptly and as principal obligor indemnify each Primary Creditor against any cost, loss or liability (together with any applicable VAT), whether or not reasonably foreseeable, reasonably incurred by any of them in relation to or arising out of the operation of Clause 15.2 (Distressed Disposals).

24. INFORMATION

24.1 Information and Dealing

- (a) The Creditors shall provide to the Security Agent from time to time (through their respective Agents in the case of a Senior Lender, Second Lien Lender, Senior Subordinated Lender, Senior Secured Note Creditor, Second Lien Notes Creditor or Senior Subordinated Notes Creditor) any information that the Security Agent may reasonably specify as being necessary or desirable to enable the Security Agent to perform its functions as trustee.
- (b) Subject to clause 37.5 (Communication when Agent is Impaired Agent) of the Senior Facilities Agreement, clause 35.5 (Communication when Agent is Impaired Agent) of the Second Lien Facility Agreement and any equivalent provision of the Senior Subordinated Facility Agreement, each Senior Lender, Second Lien Lender and Subordinated Lender shall deal with the Security Agent exclusively through its Agent and the Hedge Counterparties shall deal directly with the Security Agent and shall not deal through any Agent.
- (c) No Agent shall be under any obligation to act as agent or otherwise on behalf of any Hedge Counterparty except as expressly provided for in, and for the purposes of, this Agreement.

24.2 Disclosure

Notwithstanding any agreement to the contrary, each of the Debtors consents, until the Final Discharge Date, to the disclosure by any of the Primary Creditors, the Agents, the Arrangers and the Security Agent to each other (whether or not through an Agent and/or the Security Agent) of such information concerning the Debtors as any Primary Creditor, any Agent, any Arranger or the Security Agent shall see fit and (a) which does not breach any applicable law, and (b) prior to the taking of any Enforcement Action, would result in any Senior Subordinated Noteholder, Second Lien Noteholder or Senior Secured Noteholder receiving any material non-public information.

24.3 Notification of Prescribed Events

- (a) If a Senior Default or a Senior Secured Notes Default either occurs or ceases to be continuing the Senior Agent or the Senior Secured Notes Trustee (as applicable) shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify the Senior Agent or the Senior Secured Notes Trustee (as applicable) and the Second Lien Agent, Second Lien Notes Trustee, Senior Subordinated Agent, Senior Subordinated Notes Trustee and each Hedge Counterparty.
- (b) If a Senior Acceleration Event occurs the Senior Agent shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (c) If a Senior Secured Notes Acceleration Event occurs the Senior Secured Notes Trustee shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (d) If a Second Lien Default, a Second Lien Lender Default or a Second Lien Notes Default either occurs or ceases to be continuing the Second Lien Agent or the Second Lien Notes Trustee (as applicable) shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify the Second Lien Agent or the Second Lien Notes Trustee (as applicable), the Senior Agent, Senior Secured Notes Trustee, Senior Subordinated Agent, Senior Subordinated Notes Trustee and each Hedge Counterparty.
- (e) If a Second Lien Lender Acceleration Event occurs the Second Lien Agent shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (f) If a Second Lien Notes Acceleration Event occurs the Second Lien Notes Trustee shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (g) If a Senior Subordinated Acceleration Event occurs the Senior Subordinated Agent shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (h) If a Senior Subordinated Notes Acceleration Event occurs the Senior Subordinated Notes Trustee shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.
- (i) If the Security Agent receives a Second Lien Enforcement Notice under paragraph (b) of Clause 6.13 (Permitted Second Lien Enforcement) it shall, upon receiving that notice, notify, and send a copy of that notice to, the Senior Agent, the Senior Secured Notes Trustee, the Second Lien Agent, the Second Lien Notes Trustee and each Hedge Counterparty.
- (j) If the Security Agent receives a Senior Subordinated Enforcement Notice under paragraph (b) of Clause 7.11 (Permitted Senior Subordinated Enforcement) it shall, upon receiving that notice, notify, and send a copy of that notice to the Senior Agent, the Senior Secured Notes Trustee, the Second Lien Agent, the Second Lien Notes Trustee and each Hedge Counterparty.
- (k) If the Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security, it shall notify each Party of that action.

- (l) If any Primary Creditor exercises any right it may have to enforce, or to take formal steps to enforce, any of the Transaction Security, it shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party of that action.
- (m) If a Debtor defaults on any Payment due under a Hedging Agreement, the Hedge Counterparty which is party to that Hedging Agreement shall, upon becoming aware of that default, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify the Senior Agent, the relevant Senior Secured Notes Trustee(s), each other Hedge Counterparty, the Second Lien Agent, the Second Lien Notes Trustee, the Senior Subordinated Agent and the Senior Subordinated Notes Trustee.
- (n) If a Hedge Counterparty terminates or closes out, in whole or in part, any hedging transaction under any Hedging Agreement under Clause 4.9 (Permitted Enforcement: Hedge Counterparties), it shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each Agent and each other Hedge Counterparty.
- (o) If any of the Term Outstandings are to be reduced (whether by way of repayment, prepayment, cancellation or otherwise), the Parent shall notify each Hedge Counterparty of:
 - (i) the date and amount of that proposed reduction;
 - (ii) any Interest Rate Hedge Excess that would result from that proposed reduction and that Hedge Counterparty's Interest Rate Hedge Proportion (if any) of that Interest Rate Hedge Excess; and
 - (iii) any Exchange Rate Hedge Excess that would result from that proposed reduction and that Hedge Counterparty's Exchange Rate Hedge Proportion (if any) of that Exchange Rate Hedge Excess.
- (p) If the Security Agent receives a notice under paragraph (a) of Clause 3.10 (Option to Purchase: Senior Secured Note Creditors), it shall upon receiving that notice, notify, and send a copy of that notice to, the Senior Agent.
- (q) If the Security Agent receives a notice under paragraph (a) of Clause 3.11 (Hedge Transfer: Senior Secured Note Creditors), it shall upon receiving that notice, notify, and send a copy of that notice to, each Hedge Counterparty.
- (r) If the Security Agent receives a notice under paragraph (a) of Clause 6.16 (Option to Purchase: Second Lien Creditors), it shall upon receiving that notice, notify, and send a copy of that notice to, the Senior Agent and the Senior Secured Notes Trustee.
- (s) If the Security Agent receives a notice under paragraph (a) of Clause 6.17 (Hedge Transfer: Second Lien Creditors) it shall upon receiving that notice, notify, and send a copy of that notice to, each Hedge Counterparty.
- (t) If the Security Agent receives a notice under paragraph (a) of Clause 7.15 (Option to Purchase: Senior Subordinated Creditors), it shall upon receiving that notice, notify, and send a copy of that notice to, the Senior Agent, the Senior Secured Notes Trustee, the Second Lien Agent and the Second Lien Notes Trustee.
- (u) If the Security Agent receives a notice under paragraph (a) of Clause 7.16 (Hedge Transfer: Senior Subordinated Creditors), it shall upon receiving that notice, notify, and send a copy of that notice to, each Hedge Counterparty.

25. NOTICES

25.1 Communications in Writing

Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by fax or letter.

25.2 Security Agent's Communications with Primary Creditors

The Security Agent shall be entitled to carry out all dealings:

- (a) with the Senior Lenders, the Senior Arrangers, the Senior Secured Note Creditors, the Second Lien Lenders, the Second Lien Arrangers, the Second Lien Notes Creditors and the Senior Subordinated Creditors through their respective Agents and may give to the Agents, as applicable, any notice or other communication required to be given by the Security Agent to a Senior Lender, Senior Arranger, the Senior Secured Note Creditor, Second Lien Lender, Second Lien Arranger, Second Lien Notes Creditor or Senior Subordinated Creditors; and
- (b) with each Hedge Counterparty directly with that Hedge Counterparty.

25.3 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Agreement is:

- (a) in the case of the Parent or the Company:
 - Address: Herengracht 450, 1017 CA Amsterdam, the Netherlands
 - Fax: +31 (0)20 240 30 60
 - Attention: Maud Kool
- (b) in the case of the Security Agent:
 - Address: Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. Croeselaan 18
3521CB Utrecht
 - Attention: Guus de Haan
- (c) in the case of each other Party, that notified in writing to the Security Agent on or prior to the date on which it becomes a Party,

or any substitute address, fax number or department or officer which that Party may notify to the Security Agent (or the Security Agent may notify to the other Parties, if a change is made by the Security Agent) by not less than five Business Days' notice.

25.4 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
 - (i) if by way of fax, when received in legible form; or

- (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 25.3 (Addresses), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer identified in paragraph (b) of Clause 25.3 (Addresses) (or any substitute department or officer as the Security Agent shall specify for this purpose).
- (c) Any communication or document made or delivered to the Parent in accordance with this Clause 25.4 will be deemed to have been made or delivered to each of the Debtors and each of the Creditors (other than a Primary Creditor).

25.5 Notification of Address and Fax Number

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 25.3 (Addresses) or changing its own address or fax number, the Security Agent shall notify the other Parties.

25.6 Electronic Communication

- (a) Any communication to be made under or in connection with this Agreement may be made by electronic mail or other electronic means, if the Parties:
 - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication (with such agreement to be deemed to be given by each person which is a Party unless otherwise notified to the contrary by the Security Agent and the Parent;
 - (ii) 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
 - (iii) notify each other of any change to their address or any other such information supplied by them.
- (b) Any electronic communication made between the Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.

25.7 English Language

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents provided under or in connection with this Agreement must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Security 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.

25.8 Notices to all Creditors

- (a) Where any request for a consent, amendment or waiver which requires the consent of all the Parties to this Agreement or any class of creditors (or percentage thereof) (as the case may be) is received by an Agent from a Debtor, the relevant Agent shall provide notice of such request to such Parties or the relevant class of Creditors at the same time.

Where an instruction is required by an Agent from a class of Creditors (or a percentage thereof), notice of such instruction shall be provided to each Creditor in the relevant class at the same time.

26. PRESERVATION

26.1 Partial Invalidity

If, at any time, any provision of this Agreement 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 that provision under the law of any other jurisdiction will in any way be affected or impaired.

26.2 No Impairment

If, at any time after its date, any provision of a Debt Document (including this Agreement) is not binding on or enforceable in accordance with its terms against a person expressed to be a party to that Debt Document, neither the binding nature nor the enforceability of that provision or any other provision of that Debt Document will be impaired as against the other party(ies) to that Debt Document.

26.3 Remedies and Waivers

No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

26.4 Waiver of Defences

The provisions of this Agreement will not be affected by an act, omission, matter or thing which, but for this Clause 26.4, would reduce, release or prejudice the subordination and priorities expressed to be created by this Agreement including (without limitation and whether or not known to any Party):

- (a) any time, waiver or consent granted to, or composition with, any Debtor or other person;
- (b) the release of any Debtor 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 Debtor 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 any Debtor or other person;

- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Debt Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security;
- (g) any intermediate Payment of any of the Liabilities owing to the Primary Creditors in whole or in part; or
- (h) any insolvency or similar proceedings.

26.5 Priorities Not Affected

Except as otherwise provided in this Agreement, the priorities referred to in Clause 2 (Ranking and Priority) will:

- (a) not be affected by any reduction or increase in the principal amount secured by the Transaction Security in respect of the Liabilities owing to the Primary Creditors or by any intermediate reduction or increase in, amendment or variation to any of the Debt Documents, or by any variation or satisfaction of, any of the Liabilities or any other circumstances;
- (b) apply regardless of the order in which or dates upon which this Agreement and the other Debt Documents are executed or registered or notice of them is given to any person; and
- (c) secure the Liabilities owing to the Primary Creditors in the order specified, regardless of the date upon which any of the Liabilities arise or of any fluctuations in the amount of any of the Liabilities outstanding.

27. CONSENTS, AMENDMENTS AND OVERRIDE

27.1 Required Consents

- (a) Subject to the other provisions of this Clause 27, this Agreement may be amended or waived only with the consent of the relevant Agents, the Majority Senior Lenders, the Majority Second Lien Lenders, the Majority Senior Subordinated Lenders and the Security Agent.
- (b) Subject to paragraph (c) below, an amendment or waiver of this Agreement that has the effect of changing or which relates to:
 - (i) Clause 13 (Redistribution), Clause 16 (Application of Proceeds) or this Clause 27;
 - (ii) Paragraphs (d)(iii), (e) and (f) of Clause 19.6 (Instructions to Security Agent and Exercise of Discretion); and
 - (iii) the order of priority or subordination under this Agreement to the extent such amendment or waiver (or any consent or release be agreed thereunder or in relation thereto) would adversely affect the interests of the relevant Creditors under this Agreement (in their capacity as such),

in each case (other than, in each case, any amendment, waiver, consent or release required to implement or reflect any Structural Adjustment or Permitted Debt and related intercreditor position and related intercreditor rights and position which is permitted to be made under this Agreement

(including, under Clause 2.5 (Additional and/or Refinancing Debt) or Clause 18 (Refinancing of Primary Creditor Liabilities)), shall not be made without the consent of:

- (A) the Agents;
 - (B) the Senior Lenders;
 - (C) the Senior Secured Note Creditors (to the extent that the amendment or waiver would materially and adversely affect such Creditors);
 - (D) the Second Lien Lenders;
 - (E) the Second Lien Notes Creditors (to the extent that the amendment or waiver would materially and adversely affect such Creditors);
 - (F) the Senior Subordinated Creditors (to the extent that the amendment or waiver would materially and adversely affect such Creditors);
 - (G) each Hedge Counterparty (to the extent that the amendment or waiver would adversely affect the Hedge Counterparty); and
 - (H) the Security Agent.
- (c) Without prejudice to Clause 3 (Senior Secured Creditors and Senior Secured Liabilities), paragraphs (a) and (b) above shall not apply to any amendment or waiver of this Agreement required to implement any Permitted Structural Adjustment or the introduction of any Permitted Debt and related intercreditor position and related intercreditor rights and position as contemplated or set out in this Agreement and shall not be deemed to adversely affect the interests of the Senior Secured Creditors.
- (d) Without prejudice to Clause 6 (Second Lien Creditors and Second Lien Liabilities), paragraphs (a) and (b) above shall not apply to any amendment or waiver of this Agreement required to implement any Permitted Structural Adjustment or the introduction of any Permitted Debt and related intercreditor position and related intercreditor rights and position as contemplated or set out in this Agreement and shall not be deemed to adversely affect the interests of the Second Lien Creditors.
- (e) Any term of this Agreement may be amended or waived by the Parent and each Agent (or, if applicable, the Security Agent) without the consent of any other Party if that amendment or waiver is to cure defects or omissions; to resolve ambiguities or inconsistencies; to reflect changes of a minor, technical or administrative nature or manifest error; is otherwise only for the benefit of all or any of the Creditors; or (provided that such waiver or amendment does not adversely affect the interests of the other Creditors whose consent is not required for the applicable amendment) is consequential on, incidental to, or required to implement an amendment, waiver, consent or release set about above.
- (f) Each Notes Trustee shall, to the extent consented to by the requisite percentage of Noteholders in accordance with the relevant Notes Indenture, act on such instructions in accordance therewith unless to the extent any amendments so consented to relate to any provision affecting the rights and obligations of a Notes Trustee in its capacity as such.

27.2 Amendments and Waivers: Transaction Security Documents

- (a) Subject to paragraph (b) below and to Clause 27.4 (Exceptions) and unless the provisions of any Debt Document expressly provide otherwise, the Security Agent may, if authorised by an Instructing

Group, and if the Parent consents, amend the terms of, waive any of the requirements of or grant consents under, any of the Transaction Security Documents which shall be binding on each Party.

- (b) Subject to paragraphs (b) and (c) of Clause 27.4 (Exceptions), the prior consent of the Primary Creditors is required to authorise any amendment or waiver of, or consent under, any Transaction Security Document which would adversely affect the nature or scope of the Charged Property or the manner in which the proceeds of enforcement of the Transaction Security are distributed.

27.3 Effectiveness

Any amendment, waiver or consent given in accordance with this Clause 27 will be binding on all Parties and the Security Agent may effect, on behalf of any Agent, Arranger or Creditor, any amendment, waiver or consent permitted by this Clause 27. For the purpose of this Clause 27.3 and in respect of all Parties incorporated in the Federal Republic of Germany the Security Agent shall be released from the restrictions of section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*), in each case to the extent legally possible.

27.4 Exceptions

- (a) Subject to paragraphs (c) and (d) below, if the amendment, waiver or consent may impose new or additional obligations on or withdraw or reduce the rights of any Party other than:

- (i) in the case of a Primary Creditor, in a way which affects or would affect Primary Creditors of that Party's class generally; or
- (ii) in the case of a Debtor, to the extent consented to by the Parent under paragraph (a) of Clause 27.2 (Amendments and Waivers: Transaction Security Documents),

the consent of that Party is required.

- (b) Subject to paragraphs (c) and (d) below, an amendment, waiver or consent which relates adversely to the specific rights or obligations of an Agent, an Arranger, the Security Agent (including, without limitation, any ability of the Security Agent to act in its discretion under this Agreement) or a Hedge Counterparty may not be effected without the consent of that Agent, that Arranger, the Security Agent or that Hedge Counterparty (as the case may be). For the avoidance of doubt, this Clause 27.4 shall not entitle any Party to refuse its consent to any release of a guarantee or Transaction Security which would otherwise be permitted under this Agreement (including under Clause 2.5 (Additional and/or Refinancing Debt) or Clause 18 (Refinancing of Primary Creditor Liabilities)) or another provision of the Debt Documents.

- (c) Neither paragraph (a) nor (b) above, nor any other provision under this Clause 27 shall apply:

- (i) to any release of Transaction Security, claim or Liabilities; or
- (ii) to any Consent in relation to any release of Transaction Security, claim or Liabilities,

which, in each case:

- (A) the Security Agent gives in accordance with Clause 15 (Proceeds of Disposals, Recoveries from Report Providers and Adjustment of Mandatory Prepayments);
- (B) that release or Consent is to become effective on or following repayment in full of the relevant Liabilities;

- (C) that release or Consent is otherwise contemplated under this Agreement (including under Clause 2.5 (Additional and/or Refinancing Debt) or under Clause 18 (Refinancing of Primary Creditor Liabilities));
- (D) that release or Consent is otherwise: (I) contemplated under the Senior Facilities Agreement (including clause 2.2 (Additional Facility), clause 2.3 (Increase), clause 31.4 (Resignation of an Obligor), clause 31.6 (Release of Security), clause 41.2 (Exceptions), clause 41.3 (Transaction Security and Guarantees), clause 41.4 (Replacement of Lender) and clause 41.7 (Additional Facilities and Permitted Alternative Finance Documentation) of the Senior Facilities Agreement); (II) contemplated under the Second Lien Facility Agreement (including clause 2.2 (Additional Facility), clause 2.3 (Increase), clause 29.4 (Resignation of an Obligor), clause 29.6 (Release of Security), clause 39.3 (Exceptions), clause 39.4 (Transaction Security and Guarantees), clause 39.5 (Replacement of Lender) and clause 39.8 (Additional Facilities and Permitted Alternative Finance Documentation) of the Second Lien Facility Agreement); and/or (III) made or permitted in accordance with another provision of the other Debt Documents; or
- (E) that release is required to implement or facilitate any Permitted Debt and related Structural Adjustment or intercreditor position which is permitted to be made pursuant to Clause 18 (Refinancing of Primary Creditor Liabilities),

in which case approval for any item referred to in paragraph (A) to (D) above will be automatic.

- (d) Paragraphs (a) and (b) above shall apply to an Arranger only to the extent that Arranger Liabilities are then owed to that Arranger.

27.5 Snooze/Lose

- (a) Subject to paragraph (b) below, if in relation to:
 - (i) a request for a Consent in relation to any of the terms of this Agreement;
 - (ii) a request to participate in any other vote of Senior Creditors or Senior Secured Note Creditors, Second Lien Lenders, Second Lien Notes Creditors or Senior Subordinated Creditors under the terms of this Agreement;
 - (iii) a request to approve any other action under this Agreement; or
 - (iv) a request to provide any confirmation or notification under this Agreement,

then, in each case, any Primary Creditor (an **Excluded Primary Creditor**):

- (A) fails to respond to that request within ten Business Days (or any other period of time notified by the Parent, with the prior agreement of the Agent if the period for this provision to operate is less than ten Business Days) of that request being made (the last day of such period, being the **Exclusion Date**); or
- (B) (in the case of a Senior Secured Creditor, a Second Lien Creditor or a Senior Subordinated Creditor and paragraphs (a)(i) to (a)(iii) above) fails to provide details of its Senior Secured Credit Participation, Second Lien Credit Participation or Senior Subordinated Credit Participation to the Security Agent within the timescale specified by the Security Agent:

in the case of paragraphs (a)(i) to (a)(iii) above, that Primary Creditor's Senior Secured Credit Participation, Second Lien Credit Participation or Senior Subordinated Credit Participation (as the case may be) shall be deemed to be zero for the purpose of calculating the Senior Secured Credit Participation, Second Lien Credit Participation or Senior Subordinated Credit Participation when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Senior Credit Participations, Second Lien Credit Participation or Senior Subordinated Credit Participation has been obtained to give that Consent, carry that vote or approve that action;

in the case of paragraphs (a)(i) to (a)(iii) above, that Primary Creditor's status as a Senior Secured Creditor, Second Lien Creditor or Senior Subordinated Creditor shall be disregarded for the purposes of ascertaining whether the agreement of any specified group of Primary Creditors has been obtained to give that Consent, carry that vote or approve that action; and

in the case of paragraph (a)(iv) above, that confirmation or notification shall be deemed to have been given.

- (b) If the Parent or the Agent or the Security Agent (at the request of the Parent) has requested the Primary Creditors (or any of them) to give a consent in relation to, or to agree a release, waiver or amendment of, any provision of this Agreement or the other Debt Documents or other vote of Primary Creditors under the terms of this Agreement, then in the case of: (i) any Primary Creditor who has delivered a consent or agreement to such request, on and from the date of notification thereof to the Agent or the Security Agent; (ii) any Excluded Primary Creditor, on and from the Exclusion Date; and (iii) any other Primary Creditor and its applicable participation, (without prejudice to paragraph (ii) above), on and from the date such Excluded Primary Creditor is replaced in accordance with the provisions of the relevant Debt Document, a consent or agreement to such request shall be treated and deemed as having been made by such Primary Creditor and received by the Agent or the Security Agent (as applicable), and (unless otherwise agreed by the Parent) such consent or agreement shall from such time be irrevocable and binding on such Primary Creditor and Excluded Lender (as applicable) and any permitted assignee, transferee or counterparty to a sub-participation.
- (c) Paragraph (a)(A) above shall not apply to:
 - (i) an amendment or waiver referred to in paragraph (b) of Clause 27.1 (Required Consents); and
 - (ii) a vote of the Second Lien Creditors under Clause 6.16 (Option to Purchase: Second Lien Creditors) or Clause 6.17 (Hedge Transfer: Second Lien Creditors) or a vote of the Senior Subordinated Creditors under Clause 7.15 (Option to Purchase: Senior Subordinated Creditors) or Clause 7.16 (Hedge Transfer: Senior Subordinated Creditors).

27.6 Disenfranchisement of Sponsor Affiliates

- (a) For so long as a Sponsor Affiliate (i) beneficially owns a Senior Commitment, a Second Lien Commitment or a Senior Subordinated Commitment, a participation in the Senior Secured Notes Outstandings, a participation in the Second Lien Notes Outstandings or a participation in the Senior Subordinated Notes Outstandings or (ii) has entered into a sub-participation agreement relating to a Senior Commitment, a Second Lien Commitment, a Senior Subordinated Commitment, a participation in the Senior Secured Notes Outstandings, a participation in the Second Lien Notes Outstandings or a participation in the Senior Subordinated Notes Outstandings or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated in ascertaining whether:

- (i) any relevant percentage (including, for the avoidance of doubt, unanimity) of Senior Credit Participations; or
- (ii) any relevant percentage (including, for the avoidance of doubt, unanimity) of Second Lien Credit Participations; or
- (iii) any relevant percentage (including, for the avoidance of doubt, unanimity) of Senior Subordinated Credit Participations; or
- (iv) the agreement of any specified group of Primary Creditors,

has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement,

that Senior Commitment, Second Lien Commitment, Senior Subordinated Commitment, participation in the Senior Secured Notes Outstandings, participation in the Second Lien Notes Outstandings or participation in the Senior Subordinated Notes Outstandings shall be deemed to be zero and that Sponsor Affiliate (or the person with whom it has entered into that sub-participation, other agreement or arrangement (a **Counterparty**)) shall be deemed not to be:

- (A) a Senior Lender (in the case of a Senior Commitment);
 - (B) a Senior Secured Noteholder (in the case of Senior Secured Notes Outstandings);
 - (C) a Second Lien Lender (in the case of a Second Lien Commitment);
 - (D) a Second Lien Noteholder (in the case of Second Lien Notes Outstandings);
 - (E) a Senior Subordinated Lender (in the case of a Senior Subordinated Commitment); or
 - (F) a Senior Subordinated Noteholder (in the case of Senior Subordinated Notes Outstandings).
- (b) Each Sponsor Affiliate that is a Senior Lender, Senior Secured Noteholder, Second Lien Lender, Second Lien Noteholder, Senior Subordinated Lender or Senior Subordinated Noteholder agrees that:
- (i) in relation to any meeting or conference call to which all the Senior Creditors, all the Primary Creditors, all the Senior Lenders, all the Senior Secured Noteholders, all the Second Lien Lenders, all the Second Lien Noteholders, all the Senior Subordinated Lenders or all the Senior Subordinated Noteholders or any combination of those groups of Primary Creditors are invited to attend or participate, it shall not attend or participate in the same if so requested by the Security Agent or, unless the Security Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and
 - (ii) it shall not, unless the Security Agent otherwise agrees, be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Security Agent or one or more of the Primary Creditors.

27.7 Disenfranchisement of Defaulting Lenders

- (a) For so long as a Defaulting Lender has any Available Commitment:
 - (i) in ascertaining whether:

- (A) any relevant percentage (including, for the avoidance of doubt, unanimity) of Credit Participations; or
- (B) the agreement of any specified group of Primary Creditors,

has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement, that Defaulting Lender's Secured Commitments will be reduced by the amount of its Available Commitments and, to the extent that that reduction results in that Defaulting Lender's Secured Commitments being zero, that Defaulting Lender shall be deemed not to be a Secured Lender.

- (b) For the purposes of this Clause 27.7, the Security Agent may assume that the following Creditors are Defaulting Lenders:
 - (i) any Secured Lender which has notified the Security Agent that it has become a Defaulting Lender;
 - (ii) any Secured Lender if the relevant Agent has notified the Security Agent that that Secured Lender is a Defaulting Lender; and
 - (iii) any Secured Lender in relation to which it is aware that any of the events or circumstances referred to in the definition of "Defaulting Lender" in the Senior Facilities Agreement, the Second Lien Facility Agreement or a Senior Subordinated Facility Agreement (as appropriate) has occurred,

unless it has received notice to the contrary from the Secured Lender concerned (together with any supporting evidence reasonably requested by the Security Agent) or the Security Agent is otherwise aware that the Secured Lender has ceased to be a Defaulting Lender.

27.8 Calculation of Credit Participations

- (a) For the purpose of ascertaining whether any relevant percentage of Senior Secured Credit Participations has been obtained under this Agreement, the Security Agent may notionally convert the Senior Secured Credit Participations into their Common Currency Amounts.
- (b) For the purpose of ascertaining whether any relevant percentage of Second Lien Credit Participations has been obtained under this Agreement, the Security Agent may notionally convert the Second Lien Credit Participations into their Common Currency Amounts.
- (c) For the purpose of ascertaining whether any relevant percentage of Senior Subordinated Credit Participations has been obtained under this Agreement, the Security Agent may notionally convert the Senior Subordinated Credit Participations into their Common Currency Amounts.
- (d) Each Senior Secured Notes Trustee will, upon the request of the Security Agent, promptly provide the Security Agent with details of the Senior Secured Credit Participations of the Senior Secured Creditors whom it represents and (if applicable) details of the extent to which such Senior Secured Credit Participations have been voted for or against any request.
- (e) Each Second Lien Notes Trustee will, upon the request of the Security Agent, promptly provide the Security Agent with details of the Second Lien Credit Participations of the Second Lien Creditors whom it represents and (if applicable) details of the extent to which such Second Lien Credit Participations have been voted for or against any request.

- (f) Each Senior Subordinated Notes Trustee will, upon the request of the Security Agent, promptly provide the Security Agent with details of the Senior Subordinated Credit Participations of the Senior Subordinated Creditors and (if applicable) details of the extent to which such the Senior Subordinated Credit Participations of the Senior Subordinated Creditors have been voted for or against any request.

27.9 Senior Subordinated Noteholder Administrative Consents

- (a) If, prior to the Senior Secured Discharge Date, the Senior Agent (or Majority Senior Lenders) or Senior Secured Notes Trustee at any time in respect of the Senior Finance Documents gives or give any Consent of a minor technical or administrative nature which does not adversely affect the interests of the Senior Subordinated Creditors or change the commercial terms contained in the Senior Subordinated Finance Documents then, if that action was permitted by the terms of this Agreement, the Senior Subordinated Creditors will (or will be deemed to):
 - (i) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and
 - (ii) do anything (including executing any document) that the Senior Lenders may reasonably require to give effect to this paragraph (a).
- (b) If, at any time after the Senior Secured Discharge Date but prior to the Priority Discharge Date, the Second Lien Agent (or Majority Second Lien Lenders) or Second Lien Notes Trustee at any time in respect of the Second Lien Finance Documents gives or give any Consent of a minor technical or administrative nature which does not adversely affect the interests of the Senior Subordinated Creditors or change the commercial terms contained in the Senior Subordinated Finance Documents then, if that action was permitted by the terms of this Agreement, the Senior Subordinated Creditors will (or will be deemed to):
 - (i) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and
 - (ii) do anything (including executing any document) that the Senior Lenders may reasonably require to give effect to paragraph (b) of this Clause 27.9.

27.10 No Liability

None of the Senior Lenders, the Senior Agent, the Senior Secured Note Creditors, the Senior Secured Notes Trustee, the Hedge Counterparties, the Second Lien Lenders, the Second Lien Agent, the Second Lien Note Creditors or the Second Lien Notes Trustee will be liable to any other Creditor, Agent or Debtor for any Consent given or deemed to be given under this Clause 27.

27.11 Agreement to Override

- (a) Unless expressly stated otherwise in this Agreement, this Agreement overrides anything in the Debt Documents to the contrary (other than anything in the Security Documents which are governed by German law and which need to be notarised (*beurkundet*)).
- (b) Notwithstanding anything to the contrary in this Agreement, paragraph (a) above as between any Creditor and any Debtor or any member of the Group will not cure, postpone, waive or negate in any breach, Default or Event of Default under any Debt Document (or any event that would but for paragraph (a) above constitute a breach, Default or Event of Default) as provided in the relevant Debt Document.

28. NOTES TRUSTEES

28.1 Liability

- (a) It is expressly understood and agreed by the Parties that this Agreement is executed and delivered by each Notes Trustee not individually or personally but solely in its capacity as trustee in the exercise of the powers and authority conferred and vested in it under the relevant Notes Finance Documents for and on behalf of the Noteholders only for which the Notes Trustee acts as trustee and it shall have no liability for acting for itself or in any capacity other than as trustee and nothing in this Agreement shall impose on it any obligation to pay any amount out of its personal assets. Notwithstanding any other provision of this Agreement, its obligations hereunder (if any) to make any payment of any amount or to hold any amount (to the extent possible under applicable law) on trust shall be only to make payment of such amount to or hold any such amount (to the extent possible under applicable law) on trust to the extent that (i) it has actual knowledge that such obligation has arisen and (ii) it has received and, on the date on which it acquires such actual knowledge, has not distributed to the Noteholders for which it acts as trustee in accordance with the relevant Notes Indenture (in relation to which it is trustee) any such amount.
- (b) It is further understood and agreed by the Parties that in no case shall any Notes Trustee be (i) personally responsible or accountable in damages or otherwise to any other party for any loss, damage or claim incurred by reason of any act or omission performed or omitted by that Notes Trustee in good faith in accordance with this Agreement or any of the Notes Finance Documents in a manner that such Notes Trustee believed to be within the scope of the authority conferred on it by this Agreement or any of the Notes Finance Documents or by law, or (ii) personally liable for or on account of any of the statements, representations, warranties, covenants or obligations stated to be those of any other Party, all such liability, if any, being expressly waived by the Parties and any person claiming by, through or under such Party; provided however, that each Notes Trustee shall be personally liable under this Agreement for its own gross negligence or wilful misconduct. It is also acknowledged and agreed that no Notes Trustee shall have any responsibility for the actions of any individual Creditor or Noteholder (save in respect of its own actions).
- (c) The Parties acknowledge and agree that the Notes Trustee shall not be charged with the knowledge or existence of facts that would impose an obligation on it hereunder to make any payment or prohibit it from making any payment unless, not less than two Business Days prior to the date of such payment, a Responsible Officer of the Notes Trustee receives written notice satisfactory to it that such payments are required or prohibited by this Agreement.
- (d) Notwithstanding anything contained herein, no provision of this Agreement shall alter or otherwise affect the rights and obligations of the Notes Issuer or any Debtor to make payments in respect of Notes Trustee Amounts as and when the same are due and payable, pursuant to the applicable Notes Finance Documents or the receipt and retention by the Notes Trustee of the same or the taking of any step or action by the Notes Trustee in respect of its rights under the Notes Finance Documents to the same.
- (e) The Notes Trustee is not responsible for the appointment or for monitoring the performance of the Security Agent.
- (f) The Security Agent agrees and acknowledges that it shall have no claim against the Notes Trustee in respect of any fees, costs, expenses and liabilities due and payable to, or incurred by, the Security Agent.

- (g) The Notes Trustee shall be under no obligation to instruct or direct the Security Agent to take any Security Enforcement Action unless it shall have been instructed to do so by the Noteholders and if it shall have been indemnified and/or secured to its satisfaction.

28.2 No Action

- (a) Notwithstanding any other provision of this Agreement, no Notes Trustee shall have any obligation to take any action under this Agreement unless it is indemnified and/or secured to its satisfaction in respect of all costs, expenses and liabilities which it would in its opinion thereby incur (together with any associated VAT). No Notes Trustee shall have an obligation to indemnify (out of its personal assets) any other person, whether or not a Party, in respect of any of the transactions contemplated by this Agreement. In no event shall the permissive rights of a Notes Trustee to take action under this Agreement be construed as an obligation to do so.
- (b) Prior to taking any action under this Agreement any Notes Trustee may request and rely upon an opinion of counsel or opinion of another qualified expert, at the expense of the Parent or another Debtor.
- (c) Notwithstanding any other provisions of this Agreement or any other Notes Finance Document to which a Notes Trustee is a party, in no event shall a Notes Trustee be liable for special, indirect, punitive or consequential loss or damages of any kind whatsoever (including but not limited to loss of business, goodwill, opportunity or profits) whether or not foreseeable even if such Notes Trustee has been advised of the likelihood of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise.

28.3 Reliance on Certificates

The Notes Trustee shall at all times be entitled to and may rely on any notice, consent or certificate given or granted by any Party without being under any obligation to enquire or otherwise determine whether any such notice, consent or certificate has been given or granted by such Party properly acting in accordance with the provisions of this Agreement.

28.4 No Fiduciary Duty

No Notes Trustee shall be deemed to owe any fiduciary duty to any Creditor (save in respect of such persons for whom it acts as trustee) and shall not be personally liable to any Creditor if it shall in good faith mistakenly pay over or distribute to any Creditor or to any other person cash, property or securities to which any other Creditor shall be entitled by virtue of this Agreement or otherwise. With respect to the Creditors, each Notes Trustee undertakes to perform or to observe only such of its covenants or obligations as are specifically set forth in the Notes Finance Documents pursuant to which it acts as trustee and this Agreement and no implied agreement, covenants or obligations with respect to the other Creditors shall be read into this Agreement against the Notes Trustee.

28.5 Debt Assumptions

- (a) The Senior Secured Notes Trustee is entitled to assume that in respect of the Secured Liabilities:
 - (i) no Senior Payment Default, Second Lien Payment Default or Senior Subordinated Payment Default has occurred;
 - (ii) no Senior Default, Second Lien Default or Senior Subordinated Default has occurred;

- (iii) none of the Senior Secured Creditor Liabilities, Second Lien Creditor Liabilities or Senior Subordinated Liabilities have been accelerated;
- (iv) no Default, Event of Default or termination event (however described) has occurred; and
- (v) none of the Senior Discharge Date, the Second Lien Discharge Date or the Senior Subordinated Discharge Date has occurred,

unless a Responsible Officer of the Senior Secured Notes Trustee has actual knowledge to the contrary.

(b) The Second Lien Notes Trustee is entitled to assume that in respect of the Secured Liabilities:

- (i) no Senior Payment Default, Second Lien Payment Default or Senior Subordinated Payment Default has occurred;
- (ii) no Senior Default, Second Lien Default or Senior Subordinated Default has occurred;
- (iii) none of the Senior Secured Creditor Liabilities, Second Lien Creditor Liabilities or Senior Subordinated Liabilities have been accelerated;
- (iv) no Default, Event of Default or termination event (however described) has occurred; and
- (v) none of the Senior Discharge Date, the Second Lien Discharge Date or the Senior Subordinated Discharge Date has occurred,

unless a Responsible Officer of the Senior Secured Notes Trustee has actual knowledge to the contrary.

(c) The Senior Subordinated Notes Trustee is entitled to assume that in respect of the Secured Liabilities:

- (i) no Senior Payment Default, Second Lien Payment Default or Senior Subordinated Payment Default has occurred;
- (ii) none of the Senior Secured Creditor Liabilities, Second Lien Creditor Liabilities or Senior Subordinated Liabilities have been accelerated;
- (iii) no Default, Event of Default or termination event (however described) has occurred; and
- (iv) none of the Senior Discharge Date, the Second Lien Discharge Date or the Senior Subordinated Discharge Date has occurred,

unless a Responsible Officer of the Senior Subordinated Notes Trustee has actual knowledge to the contrary.

(d) The Notes Trustee is not obliged to monitor or enquire whether any Event of Default has occurred.

28.6 Senior Lenders, Hedge Counterparties or Senior Secured Note Creditors/Senior Subordinated Creditors

In acting pursuant to this Agreement and the Notes Indenture, the Notes Trustee is not required to have any regard to the interests of the Senior Lenders, Hedge Counterparties, Second Lien Lenders, (in the case of the Second Lien Notes Trustee and the Senior Subordinated Notes Trustee) the Senior

Secured Note Creditors, (in the case of the Senior Secured Notes Trustee and the Senior Subordinated Notes Trustee) the Second Lien Notes Creditors or (in the case of the Senior Secured Notes Trustee and the Second Lien Notes Trustee) the Senior Subordinated Creditors.

28.7 Claims of Security Agent

The Security Agent agrees and acknowledges that it shall have no claim against the Notes Trustees in respect of any fees, costs, expenses and liabilities due and payable to, or incurred by, the Security Agent.

28.8 Reliance and Advice

Each Notes Trustee may:

- (a) rely on any notice or document believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person;
- (b) rely on any statement made by any person regarding any matters which may be assumed to be within its knowledge or within its powers to verify; and
- (c) engage, pay for and rely on professional advisers selected by it (including those representing a person other than the Notes Trustee).

28.9 Provisions Survive Termination

The provisions of this Clause 28 shall survive any termination of this Agreement.

28.10 Other Parties Not Affected

No provision of this Clause 28 shall alter or change the rights and obligations as between the other Parties in respect of each other. This Clause is intended to afford protection to the Notes Trustees only.

28.11 Instructions

In acting under this Agreement, the Notes Trustee is entitled to seek instructions from the Noteholders at any time and, where it acts on the instructions of the Noteholders, the Notes Trustee shall not incur any liability to any person for so acting. The Notes Trustee is not liable to any person for any loss suffered as a result of any delay caused as a result of it seeking instructions from the Noteholders.

28.12 Responsibility of Notes Trustee

- (a) No Notes Trustee shall be responsible to any other Senior Finance Party, Hedge Counterparty, Senior Secured Notes Finance Party, Second Lien Finance Party or Senior Subordinated Finance Party for the legality, validity, effectiveness, enforceability, adequacy, accuracy, completeness or performance of:
 - (i) any Senior Finance Document, Senior Secured Notes Finance Document, Hedging Document, Second Lien Finance Document, Senior Subordinated Finance Document or any other document;
 - (ii) any statement or information (whether written or oral) made in or supplied in connection with any Senior Finance Document, Senior Secured Notes Finance Document, Hedging

Document, Second Lien Finance Document, Senior Subordinated Finance Document or any other document; or

- (iii) any observance by any Obligor of its obligations under any Finance Document or any other document.
- (b) Each Notes Trustee may rely and shall be fully protected in acting or refraining from acting upon any notice, certificate or other document reasonably believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person.

28.13 Confirmation

Without affecting the responsibility of any Debtor or the Parent for information supplied by it or on its behalf in connection with any Senior Secured Finance Documents, the Second Lien Finance Documents and the Senior Subordinated Finance Documents (as applicable), each Senior Finance Party, Hedge Counterparty, Senior Secured Notes Finance Party, Second Lien Lender Finance Party, Second Lien Notes Finance Party, Senior Subordinated Facility Finance Party and Senior Subordinated Notes Finance Party (other than the Notes Trustee (in its personal capacity) and the Security Agent) confirms that it:

- (a) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Senior Finance Documents, the Senior Secured Notes Finance Documents, the Second Lien Lender Finance Documents, the Second Lien Notes Finance Documents, the Senior Subordinated Facility Finance Documents, the Senior Subordinated Notes Finance Documents or the Hedging Documents (including the financial condition and affairs of each Debtor or their related entities and the nature and extent of any recourse against any Party or its assets); and
- (b) has not relied on any information provided to it by the Notes Trustee in connection with any Senior Finance Document, Senior Secured Notes Finance Document, Second Lien Lender Finance Document, Second Lien Notes Finance Document, Senior Subordinated Notes Finance Document or Hedging Document.

28.14 Provision of Information

No Notes Trustee is obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party. No Notes Trustee is responsible for:

- (a) providing any Senior Lender, Senior Secured Note Creditor, Hedge Counterparty, Second Lien Lender, Second Lien Notes Creditor or Senior Subordinated Creditor with any credit or other information concerning the risks arising under or in connection with the Debt Documents (including any information relating to the financial condition or affairs of any Debtor or their related entities or the nature or extent of recourse against any Party or its assets) whether coming into its possession before, on or after 2 May 2013; or
- (b) obtaining any certificate or other document from any Debtor or the Parent.

28.15 Departmentalism

In acting as the Notes Trustee, each Notes Trustee shall be treated as acting through its agency division which shall be treated as a separate entity from its other divisions and departments. Any information received or acquired by a Notes Trustee which, in its opinion, is received or acquired by some other division or department or otherwise than in its capacity as the Notes Trustee may be

treated as confidential by the Notes Trustee and will not be treated as information possessed by the Notes Trustee in its capacity as such.

28.16 Disclosure of Information

Each Obligor irrevocably authorises any Notes Trustee to disclose to any Senior Finance Party, Hedge Counterparty, Senior Secured Notes Finance Party, Second Lien Finance Party and Senior Subordinated Notes Finance Party any information that is received by the Notes Trustee in its capacity as the Notes Trustee.

28.17 Illegality

- (a) Each Notes Trustee may refrain from doing anything (including disclosing any information) which might, in its opinion, constitute a breach of any law or regulation and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.
- (b) Furthermore, each Notes Trustee may also refrain from taking such action if it would otherwise render it liable to any person in that jurisdiction or if, in its opinion based upon such legal advice, it would not have the power to do the relevant thing in that jurisdiction by virtue of any applicable law in that jurisdiction or if it is determined by any court or other competent authority in that jurisdiction that it does not have such power.

28.18 Resignation of Notes Trustee

Each Notes Trustee may resign or be removed in accordance with the terms of the applicable Notes Indenture, provided that a replacement Notes Trustee agrees with the Parties to become the replacement trustee under this Agreement by the execution of an Creditor/Agent Accession Undertaking.

28.19 Notes Trustee Assumptions

- (a) The Notes Trustee is entitled to assume that:
 - (i) any payment or other distribution made pursuant to this Agreement in respect of the Senior Subordinated Notes Liabilities, Second Lien Notes Liabilities or Senior Secured Notes Liabilities (as the case may be) has been made in accordance with the ranking in Clause 2 (Ranking and Priority) and is not prohibited by any provisions of this Agreement and is made in accordance with these provisions;
 - (ii) the proceeds of enforcement of any Security conferred by the Transaction Security Documents have been applied in the order set out in Clause 16 (Application of Proceeds);
 - (iii) any Security, collateral, guarantee or indemnity or other assurance granted to it has been done so in compliance with Clause 3.5 (Security and Guarantees: Senior Secured Creditors); and
 - (iv) any Senior Secured Notes, Second Lien Notes or Senior Subordinated Notes issued comply with the provisions of this Agreement including, without limitation, Clauses 5 (Issue of Senior Secured Notes), 6 (Second Lien Creditors and Second Lien Liabilities) and 7 (Senior Subordinated Creditors and Senior Subordinated Liabilities).
- (b) The Notes Trustee is entitled to assume that any payment or distribution made in respect of the Senior Subordinated Notes Liabilities, Second Lien Notes Liabilities or Senior Secured Notes

Liabilities (as the case may be) is not prohibited by this Agreement, unless it has actual knowledge to the contrary, provided, however, that the Notes Trustee shall be liable under this Agreement for its own gross negligence or wilful misconduct.

- (c) a Notes Trustee shall not have any obligation under Clause 11 (Effect of Insolvency Event) or Clause 13 (Redistribution) in respect of amounts received or recovered by it unless (i) it has actual knowledge that the receipt or recovery falls within paragraphs (a) or (b) above, and (ii) it has not distributed to the relevant Noteholders in accordance with the Notes Indenture any amount so received or recovered.
- (d) A Notes Trustee shall not be obliged to monitor performance by the Debtors, the Security Agent or any other Party to this Agreement or the Noteholders of their respective obligations under, or compliance by them with, the terms of this Agreement.

28.20 Agents

Each Notes Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any attorney or agent appointed with due care by it hereunder.

28.21 No Requirement for Bond or Surety

No Notes Trustee shall be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Agreement.

28.22 Note Trustee Liabilities and Payments

No provision of this Agreement shall alter or otherwise affect the rights and obligations of any Debtor to make payments in respect of the Notes Trustee Liabilities as and when the same are due and payable and demand, receipt and retention by any Notes Trustee of the same or taking of any step or action by any Secured Notes Trustee in respect of its rights under the Notes Finance Documents to the same.

29. COUNTERPARTS

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.

30. GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

31. ENFORCEMENT

31.1 Jurisdiction

- (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 any non-contractual obligation 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 31.1 is for the benefit of the Secured Parties only. As a result, no 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 Secured Parties may take concurrent proceedings in any number of jurisdictions.
- (d) Paragraph (c) above shall not apply in relation to any proceedings commenced by a Secured Party against any Obligor incorporated in France (including where such Obligor is a joint defendant with any other Parties) and any such proceedings shall be commenced in the English courts pursuant to paragraph (b) above.

31.2 Service of Process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Debtor (unless incorporated in England and Wales):
 - (i) irrevocably appoints Weil Secretaries Limited of 110 Fetter Lane, London, EC4A 1AY as its agent for service of process in relation to any proceedings before the English courts in connection with this Agreement; and
 - (ii) agrees that failure by a process agent to notify the relevant Debtor of the process will not invalidate the proceedings concerned.

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 Debtors) must promptly (and in any event within ten days of such event taking place) notify the Agents and appoint another agent on terms acceptable to the Senior Agent or, after the Senior Discharge Date, Senior Secured Notes Trustee or, after the Senior Secured Note Discharge Date, the Second Lien Agent or, after the Second Lien Lender Discharge Date, the Second Lien Notes Trustee or, after the Priority Discharge Date, the Senior Subordinated Creditor Representative (each acting reasonably and in good faith). Failing this, the Senior Agent, Senior Secured Notes Trustee, Second Lien Agent, Second Lien Notes Trustee, Senior Subordinated Agent or Senior Subordinated Notes Trustee (as the case may be) may appoint another agent for this purpose.

- (b) Each Debtor expressly agrees and consents to the provisions of this Clause 31 and Clause 30 (Governing Law).

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement and executed as a deed by the Intra-Group Lenders, the Debtors, the Original Investor, the Parent and the Company and is intended to be and is delivered by them as a deed on the date specified above.

SCHEDULE 1

FORM OF DEBTOR ACCESSION UNDERTAKING

This Agreement is made on [●] and made

Between:

- (1) *[Insert Full Name of New Debtor]* (the **Acceding Debtor**); and
- (2) *[Insert Full Name of Current Security Agent]* (the **Security Agent**), for itself and each of the other parties to the intercreditor agreement referred to below.

This agreement is made on [date] by the Acceding Debtor in relation to an intercreditor agreement (the **Intercreditor Agreement**) dated [●] between, amongst others, [●] as parent, [●] as security agent, [●] as senior agent, [●] as second lien agent, the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement).

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:

1. Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Agreement, bear the same meaning when used in this Agreement.
2. The Acceding Debtor and the Security Agent agree that the Security Agent shall hold:
 - (a) any Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;
 - (b) all proceeds of that Security; and
 - (c) all obligations expressed to be undertaken by the Acceding Debtor to pay amounts in respect of the Liabilities to the Security Agent as trustee (or agent) or otherwise for the benefit of the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Secured Parties (as represented by the Security Agent) as trustee (or agent) or otherwise for the benefit of the Secured Parties,

on trust or, in the jurisdictions where a trust would not be recognised, as an agent or as otherwise provided for in the Security Documents for the benefit of the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.

3. The Acceding Debtor confirms that it intends to be party to the Intercreditor Agreement as a Debtor, undertakes to perform all the obligations expressed to be assumed by a Debtor under the Intercreditor Agreement and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement.

4. [In consideration of the Acceding Debtor being accepted as an Intra-Group Lender for the purposes of the Intercreditor Agreement, the Acceding Debtor also confirms that it intends to be party to the Intercreditor Agreement as an Intra-Group Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Intra-Group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement].²

[4]/[5] This Agreement and any non-contractual obligations arising out of or in connection with it are governed by, English law.

THIS AGREEMENT has been signed on behalf of the Security Agent and executed as a deed by the Acceding Debtor and is delivered on the date stated above.

The Acceding Debtor

[EXECUTED as a DEED

By: [Full Name of Acceding Debtor]

}

.....
Director

.....
Director/Secretary

or

[EXECUTED as a DEED

By: [Full name of Acceding Debtor]
in the presence of

}

.....
Name of Director

.....

Name of witness:

Address of witness:

Occupation of witness:]

Address for notices:

Address:

Fax:

The Security Agent

[Full Name of Current Security Agent]

² Include this paragraph in the relevant Debtor Accession Undertaking if the Acceding Debtor is also to accede as an Intra-Group Lender to the Intercreditor Agreement.

By:

Date:

SCHEDULE 2

FORM OF CREDITOR/AGENT ACCESSION UNDERTAKING

To: *[Insert full name of current Security Agent]* for itself and each of the other parties to the Intercreditor Agreement referred to below.

[To: *[Insert full name of current Senior Agent]* as Senior Agent.³

From: *[Acceding Creditor/Agent]*

This Undertaking is made on [date] by [insert full name of new Senior Lender/Hedge Counterparty/Senior Agent/Second Lien Lender/Second Lien Agent/Intra-Group Lender/Investor/Senior Secured Notes Trustee/Senior Subordinated Lender/Senior Subordinated Agent/Senior Subordinated Notes Trustee] (the **Acceding [Senior Lender/Hedge Counterparty/Senior Agent/Second Lien Lender/Second Lien Agent/Intra-Group Lender/Investor/Senior Secured Notes Trustee/Senior Subordinated Lender/Senior Subordinated Agent/Senior Subordinated Notes Trustee]**) in relation to the intercreditor agreement (the **Intercreditor Agreement**) dated [●] between, amongst others, [●] as parent, [●] as security agent, [●] as senior agent, [●] as second lien agent, the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement). Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.

In consideration of the Acceding *[Senior Lender/Hedge Counterparty/Senior Agent/Second Lien Lender/Second Lien Agent/Intra-Group Lender/Investor/Senior Secured Notes Trustee/Senior Subordinated Lender/Senior Subordinated Agent/Senior Subordinated Notes Trustee]* being accepted as a *[Senior Lender/Hedge Counterparty/Senior Agent/Second Lien Lender/Second Lien Agent/Intra-Group Lender/Investor/Senior Secured Notes Trustee/Senior Subordinated Lender/Senior Subordinated Agent/Senior Subordinated Notes Trustee]* for the purposes of the Intercreditor Agreement, the Acceding *[Senior Lender/Hedge Counterparty/Senior Agent/Second Lien Lender/Second Lien Agent/Intra-Group Lender/Investor/Senior Secured Notes Trustee/Senior Subordinated Lender/Senior Subordinated Agent/Senior Subordinated Notes Trustee]* confirms that, as from [date], it intends to be party to the Intercreditor Agreement as a *[Senior Lender/Hedge Counterparty/Senior Agent/Second Lien Lender/Second Lien Agent/Intra-Group Lender/Investor/Senior Secured Notes Trustee/Senior Subordinated Lender/Senior Subordinated Agent/Senior Subordinated Notes Trustee]* and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a *[Senior Lender/Hedge Counterparty/Senior Agent/Second Lien Lender/Second Lien Agent/Intra-Group Lender/Investor/Senior Secured Notes Trustee/Senior Subordinated Lender/Senior Subordinated Agent/Senior Subordinated Notes Trustee]* 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.

[The Acceding Lender is an Affiliate of a Senior Lender and has become a provider of an Ancillary Facility. In consideration of the Acceding Lender being accepted as an Ancillary Lender for the purposes of the Senior Facilities Agreement, the Acceding Lender confirms, for the benefit of the parties to the Senior Facilities Agreement, that, as from [date], it intends to be party to the Senior Facilities Agreement as an Ancillary Lender, and undertakes to perform all the obligations expressed in the Senior Facilities Agreement to be assumed by a Finance Party and agrees that it shall be bound by all the provisions of the Senior Facilities Agreement, as if it had been an original party to the Senior Facilities Agreement as an Ancillary Lender.]

³ Include only in the case of (a) a Hedge Counterparty or (b) an Ancillary Lender which is an Affiliate of a Senior Lender.

[The Acceding Hedge Counterparty has become a provider of hedging arrangements to the [Parent]. In consideration of the Acceding Hedge Counterparty being accepted as a Hedge Counterparty for the purposes of the Senior Facilities Agreement, the Acceding Hedge Counterparty confirms, for the benefit of the parties to the Senior Facilities Agreement, that, as from [date], it intends to be party to the Senior Facilities Agreement as a Hedge Counterparty, and undertakes to perform all the obligations expressed in the Senior Facilities Agreement to be assumed by a Hedge Counterparty and agrees that it shall be bound by all the provisions of the Senior Facilities Agreement, as if it had been an original party to the Senior Facilities Agreement as a Hedge Counterparty.]

The Acceding [●] hereby expressly ratifies and approves any and all acts done by the Security Agent on its behalf prior to execution by the Acceding [*Senior Lender/Hedge Counterparty/Senior Agent/Second Lien Lender/Second Lien Agent/Intra-Group Lender/Investor/Senior Secured Notes Trustee/Senior Subordinated Lender/Senior Subordinated Agent/Senior Subordinated Notes Trustee*] of this [Creditor/Agent] Accession Undertaking.

[The Acceding [Lender] confirms that it has received a copy of each Security which constitute pledges (or any other accessory security rights (*akzessorische Sicherheiten*)) and is governed by German law, is aware of their contents and hereby expressly consents to and ratifies the declarations of the Security Agent made on behalf of it as future pledgee in such Security.]

[The Acceding [Lender] expressly confirms that it [can/cannot] exempt the Security Agent from the restrictions pursuant to section 181 Civil Code (*Bürgerliches Gesetzbuch*) and similar restrictions applicable to it pursuant to any other applicable law as provided for in paragraph (b) of Clause 19.1 (Appointment by Secured Parties).]

This Undertaking and any non-contractual obligations arising out of or in connection with it are governed by English law.

This Undertaking has been entered into on the date stated above [and is executed as a deed by the Acceding Creditor, if it is acceding as an Intra-Group Lender and is delivered on the date stated above].

Acceding [Creditor/Agent]

[**EXECUTED** as a **DEED**]
[insert full name of Acceding
Creditor/Agent]

}
By:

Address:

Fax:

Accepted by the Security Agent
for and on behalf of
[Insert full name of current Security Agent]

}
Signer
Date:

[Accepted by the Senior Agent]
for and on behalf of
[Insert full name of Senior Agent]

}
Signer
Date:]⁴

⁴ Include only in the case of (a) a Hedge Counterparty or (b) an Ancillary Lender which is an Affiliate of a Senior Lender.

SCHEDULE 3

FORM OF DEBTOR RESIGNATION REQUEST

To: [●] as Security Agent

From: [*resigning Debtor*] and [*Parent*]

Dated:

Dear Sirs,

Intercreditor Agreement dated [●] between, amongst others, [●] as parent, [●] as security agent, [●] as senior agent, [●] as second lien agent, the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement) (the Intercreditor Agreement)

1. We refer to the Intercreditor Agreement. This is a Debtor Resignation Request. Terms defined in the Intercreditor Agreement have the same meaning in this Debtor Resignation Request unless given a different meaning in this Debtor Resignation Request.
2. Pursuant to Clause 21.19 (Resignation of a Debtor) of the Intercreditor Agreement we request that [*resigning Debtor*] be released from its obligations as a Debtor under the Intercreditor Agreement.
3. We confirm that:
 - (a) no Default is continuing or would result from the acceptance of this request; and
 - (b) [*resigning Debtor*] is under no actual or contingent obligations in respect of the Intra-Group Liabilities.
4. This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[*Parent*]

[*resigning Debtor*]

By:

By:

SCHEDULE 4

SENIOR SUBORDINATED LIABILITIES MAJOR TERMS

1. Issuer

The issuer or borrower of the Senior Subordinated Liabilities shall be the Parent and no other member of the Group may be a co-issuer or co-borrower of the Senior Subordinated Lien Liabilities.

2. Maturity

The repayment profile for the Senior Subordinated Liabilities shall be a bullet repayment, provided that it is consistent with (or not prohibited by) the provisions of paragraph (a) of the definition of "Permitted Alternative Debt", it being acknowledged that the Senior Subordinated Liabilities may have customary optional redemption, change of control, asset sale and mandatory redemption provisions.

3. Guarantees/Security and Amendments

- (a) The Senior Subordinated Facility Agreement or the Senior Subordinated Notes Indenture (as applicable) does not prohibit the borrowing or incurrence of the relevant Liabilities as at the date of its borrowing or incurrence.
- (b) The Senior Subordinated Facility Agreement or the Senior Subordinated Notes Indenture (as applicable) permits the Senior Facilities Agreement to be refinanced, amended, restated, extended, supplemented or modified.
- (c) The Senior Subordinated Facility Agreement or the Senior Subordinated Notes Indenture (as applicable) permits the guarantees and security taken in respect of the Senior Lender Liabilities, the Hedging Liabilities, Senior Secured Notes Liabilities, Second Lien Lender Liabilities, the Second Lien Notes Liabilities and any other Senior Subordinated Liabilities in accordance with this Agreement.

4. Subject to Intercreditor Agreement

Each of the Senior Subordinated Facility Agreement(s), Senior Subordinated Notes and the Senior Subordinated Notes Indenture states that the document is, and each Senior Subordinated Facility Finance Document and the Senior Subordinated Notes Finance Document is, subject to the terms of this Agreement.

5. Senior Subordinated Creditors

No Senior Subordinated Creditor can be a Sponsor Affiliate.

6. Trust Indenture Act

If any Senior Subordinated Notes Finance Documents are registered under the Securities Act of 1933 of the United States of America or required to be qualified under the Trust Indenture Act of 1939 of the United States of America, those Senior Subordinated Notes Finance Documents comply with that Trust Indenture Act having regard to, and in a manner consistent with, this Agreement, which may include such Senior Subordinated Note Finance Documents.

SCHEDULE 5

SENIOR SECURED NOTES MAJOR TERMS

1. Issuer

The issuer or borrower of the Senior Secured Notes shall be the Company or such other Subsidiary of the Company that is an Obligor under (and as defined in) the Senior Facilities Agreement and no other member of the Group may be a co-issuer or co-borrower of the Senior Secured Notes.

2. Maturity

The repayment profile for the Senior Secured Notes Liabilities shall be, at the option of the Parent, a bullet repayment or an amortising repayment, provided that it is consistent with (or not prohibited by) the provisions of paragraph (a) of the definition of "Permitted Alternative Debt", it being acknowledged that the Senior Secured Notes may have customary optional redemption, change of control, asset sale and mandatory redemption provisions.

3. Guarantees/Security and Amendments

- (a) The Senior Secured Notes Indenture does not prohibit the borrowing or incurrence of the relevant Liabilities as at the date of its borrowing or incurrence.
- (b) The Senior Secured Notes Indenture permits the Senior Facilities Agreement to be refinanced, amended, restated, extended, supplemented or modified.
- (c) The Senior Secured Notes Indenture permits the guarantees and security taken in respect of the Senior Lender Liabilities, the Hedging Liabilities, Second Lien Lender Liabilities, the Second Lien Notes Liabilities and any other Senior Secured Notes Liabilities and the Senior Subordinated Liabilities in accordance with this Agreement.

4. Subject to Intercreditor Agreement

Each of the Senior Secured Notes and the Senior Secured Notes Indenture states that the document is, and each Senior Secured Notes Finance Document is, subject to the terms of this Agreement.

5. Trust Indenture Act

If any Senior Secured Notes Finance Documents are registered under the Securities Act of 1933 of the United States of America or required to be qualified under the Trust Indenture Act of 1939 of the United States of America, those Senior Secured Notes Finance Documents comply with that Trust Indenture Act having regard to, and in a manner consistent with, this Agreement.

SCHEDULE 6

SECOND LIEN NOTES MAJOR TERMS

1. Issuer

The only issuer or borrower of the Second Lien Notes shall be the Company or the Parent and no other member of the Group may be a co-issuer or co-borrower of the Second Lien Notes.

2. Maturity

The repayment profile for the Second Lien Notes Liabilities shall be a bullet repayment, provided that it is consistent with (or not prohibited by) the provisions of paragraph (a) of the definition of "Permitted Alternative Debt".

3. Guarantees/Security and Amendments

- (a) The Second Lien Notes Indenture does not prohibit the borrowing or incurrence of the relevant Liabilities as at the date of its borrowing or incurrence.
- (b) The Second Lien Notes Indenture permits the Senior Facilities Agreement to be refinanced, amended, restated, extended, supplemented or modified.
- (c) The Second Lien Notes Indenture permits the guarantees and security taken in respect of the Senior Secured Liabilities, the Hedging Liabilities, the Second Lien Liabilities and the Senior Subordinated Liabilities in accordance with this Agreement.

4. Subject to Intercreditor Agreement

Each of the Second Lien Notes and the Second Lien Notes Indenture states that the document is, and each Second Lien Notes Finance Document is, subject to the terms of this Agreement.

5. Second Lien Noteholders

No Second Lien Noteholder can be a Sponsor Affiliate.

6. Trust Indenture Act

If any Second Lien Notes Finance Documents are registered under the Securities Act of 1933 of the United States of America or required to be qualified under the Trust Indenture Act of 1939 of the United States of America, those Second Lien Notes Finance Documents comply with that Trust Indenture Act having regard to, and in a manner consistent with, this Agreement.

SCHEDULE 7

THE ORIGINAL DEBTORS

AI ALABAMA MIDCO B.V. (registered number 63594412)

AI ALABAMA B.V. (registered number 63278979)

SCHEDULE 8

THE ORIGINAL INTRA-GROUP LENDERS

AI ALABAMA B.V. (registered number 63278979)

SIGNATORIES

The Senior Agent

SIGNED by
COÖPERATIEVE CENTRALE
RAIFFEISEN-BOERENLEENBANK B.A.
(ACTING AS RABOBANK)
as **Senior Agent**
acting by

}

The Senior Lenders

SIGNED by
JEFFERIES FINANCE LLC
as **Senior Lender**
acting by

}

SIGNED by
ING BANK NV
as **Senior Lender**
acting by

}

SIGNED by
COÖPERATIEVE CENTRALE
RAIFFEISEN-BOERENLEENBANK B.A.
(ACTING AS RABOBANK)
as **Senior Lender**
acting by

}

SIGNED by
MIZUHO BANK NEDERLAND N.V.
as **Senior Lender**
acting by

}

The Second Lien Agent

SIGNED by
COÖPERATIEVE CENTRALE
RAIFFEISEN-BOERENLEENBANK B.A.
(ACTING AS RABOBANK)
as **Second Lien Agent**

}

The Second Lien Lender

SIGNED by
JEFFERIES FINANCE LLC
as **Second Lien Lender**
acting by

}

The Senior Arrangers

SIGNED by
JEFFERIES FINANCE LLC
as **Senior Arranger**
acting by

}

SIGNED by
ING BANK NV
as **Senior Arranger**
acting by

}

SIGNED by
COÖPERATIEVE CENTRALE
RAIFFEISEN-BOERENLEENBANK B.A.
(ACTING AS RABOBANK)
as **Senior Arranger**
acting by

}

SIGNED by
MIZUHO BANK, LTD
as **Senior Arranger**
acting by

}

The Second Lien Arranger

SIGNED by
Jefferies Finance LLC
as **Second Lien Arranger**
acting by

}

The Original Investor

EXECUTED as a **DEED** by
AI ALABAMA HOLDING B.V.
as **Original Investor**
acting by

}

The Parent

EXECUTED as a **DEED** by
AI ALABAMA MIDCO B.V.
as **Parent**
acting by

}

The Company

EXECUTED as a **DEED** by
AI ALABAMA B.V.
as the **Company**
acting by

}

The Original Debtors

EXECUTED as a **DEED** by
AI ALABAMA MIDCO B.V.
as **Original Debtor**
acting by

}

EXECUTED as a **DEED** by
AI ALABAMA B.V.
as **Original Debtor**
acting by

}

The Original Intra-Group Lenders

EXECUTED as a **DEED** by
AI ALABAMA B.V.
as **Original Intra-Group Lender**
acting by

}

The Security Agent

SIGNED by
COÖPERATIEVE CENTRALE
RAIFFEISEN-BOERENLEENBANK B.A.
(ACTING AS RABOBANK)
as the **Security Agent**
acting by

}