

# Project Amalfi £790,000,000 Senior Facilities Agreement

Amalfi Cleanco Limited  
as Parent

and

Ares Management Limited  
as Arranger

and

Global Loan Agency Services Limited  
as Facility Agent

and

GLAS Trust Corporation Limited  
as Security Agent

## CONTENTS

CLAUSE	PAGE
1. DEFINITIONS AND INTERPRETATION .....	1
2. THE FACILITIES .....	78
3. PURPOSE .....	84
4. CONDITIONS OF LOAN .....	87
5. UTILISATION .....	91
6. OPTIONAL CURRENCIES .....	93
7. ANCILLARY FACILITIES .....	94
8. ESTABLISHMENT OF INCREMENTAL TERM FACILITIES .....	99
9. REPAYMENT .....	106
10. ILLEGALITY, VOLUNTARY PREPAYMENT AND CANCELLATION .....	108
11. MANDATORY PREPAYMENT AND CANCELLATION .....	110
12. RATE SWITCH .....	117
13. RESTRICTIONS .....	117
14. INTEREST .....	121
15. INTEREST PERIODS .....	125
16. CHANGES TO THE CALCULATION OF INTEREST .....	126
17. FEES .....	128
18. TAX GROSS UP AND INDEMNITIES .....	129
19. INCREASED COSTS .....	138
20. OTHER INDEMNITIES .....	140
21. MITIGATION BY THE LENDERS .....	142
22. COSTS AND EXPENSES .....	143
23. GUARANTEE AND INDEMNITY .....	144
24. REPRESENTATIONS .....	147
25. INFORMATION UNDERTAKINGS .....	157
26. FINANCIAL COVENANTS .....	163
27. GENERAL UNDERTAKINGS .....	178
28. EVENTS OF DEFAULT .....	194
29. CHANGES TO THE LENDERS .....	201
30. DEBT PURCHASE TRANSACTIONS .....	210
31. CHANGES TO THE OBLIGORS .....	214
32. ROLE OF THE FACILITY AGENT, THE ARRANGER AND OTHERS .....	217
33. CONDUCT OF BUSINESS BY THE FINANCE PARTIES .....	227
34. SHARING AMONG THE FINANCE PARTIES .....	227
35. PAYMENT MECHANICS .....	229
36. SET-OFF .....	233
37. NOTICES .....	233
38. CALCULATIONS AND CERTIFICATES .....	237
39. PARTIAL INVALIDITY .....	238
40. REMEDIES AND WAIVERS .....	238
41. AMENDMENTS AND WAIVERS .....	238
42. CONFIDENTIAL INFORMATION .....	247
43. CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS .....	251
44. DISCLOSURE OF LENDER DETAILS BY AGENT .....	252
45. CONTRACTUAL RECOGNITION OF BAIL-IN .....	254
46. COUNTERPARTS .....	255
47. GOVERNING LAW .....	255
48. ENFORCEMENT .....	255
SCHEDULE 1 .....	257
The Original Parties .....	257
Part 1 - The Original Obligors .....	257
Part 2 - The Original Committed Lenders .....	258
Part 3 - The Original Alternative Lenders .....	259

SCHEDULE 2 .....	261
Conditions precedent.....	261
Part 1A - Conditions precedent to signing of this agreement.....	261
Part 1B - Conditions precedent to initial Utilisation .....	264
Part 2 - Conditions precedent required to be delivered by an Additional Obligor .....	266
SCHEDULE 3 .....	1
Requests and Notices .....	1
Part 1 - Utilisation Request.....	1
Part 2 - Selection Notice .....	3
SCHEDULE 4 .....	4
Form of Transfer Certificate.....	4
SCHEDULE 5 .....	7
Form of Assignment Agreement.....	7
SCHEDULE 6 .....	11
Form of Accession Deed.....	11
SCHEDULE 7 .....	14
Form of Resignation Letter .....	14
SCHEDULE 8 .....	15
Form of Compliance Certificate .....	15
SCHEDULE 9 .....	17
Form of ESG Compliance Certificate .....	17
SCHEDULE 10.....	18
Timetables .....	18
SCHEDULE 11.....	21
Agreed Security Principles.....	21
SCHEDULE 12.....	26
Form of Increase Confirmation.....	26
SCHEDULE 13.....	30
Forms of Notifiable Debt Purchase Transaction Notice.....	30
Part 1 – Form of Notice on Entering into Notifiable Debt Purchase Transaction.....	30
Part 2 - Form of Notice on Termination of Notifiable Debt Purchase Transaction / Notifiable Debt Purchase Transaction ceasing to be with Sponsor Affiliate .....	31
SCHEDULE 14.....	32
Form of Incremental Term Facility Notice .....	32
SCHEDULE 15.....	36
Form of Incremental Term Facility Lender Certificate .....	36
SCHEDULE 16.....	38
Contingency Periods .....	38
SCHEDULE 17.....	39
Compounded Rate Terms.....	39
SCHEDULE 18.....	43
Daily Non-Cumulative Compounded RFR Rate.....	43
SCHEDULE 19.....	45
Cumulative Compounded RFR Rate .....	45

**THIS AGREEMENT** is made on 27 June 2022

**BETWEEN:**

- (1) **AMALFI CLEANCO LIMITED**, a limited liability company incorporated in England and Wales with registered number 14185950 (the "**Parent**");
- (2) **THE COMPANY** listed in part 1 of schedule 1 (The Original Parties) as original borrower (the "**Company**");
- (3) **THE COMPANIES** listed in part 1 of schedule 1 (The Original Parties) as original guarantors (the "**Original Guarantors**");
- (4) **ARES MANAGEMENT LIMITED** as mandated lead arranger (the "**Arranger**");
- (5) **THE FINANCIAL INSTITUTIONS** listed in part 2 of schedule 1 (The Original Parties) as lenders (the "**Original Committed Lenders**" and, together with each Original Alternative Lender (if any) which becomes an Alternative Committed Lender in accordance with clause 2.4 (Alternative Lenders), the "**Original Lenders**");
- (6) **THE FINANCIAL INSTITUTIONS** listed in part 3 of schedule 1 (The Original Parties) as original alternative lenders (the "**Original Alternative Lenders**");
- (7) **GLOBAL LOAN AGENCY SERVICES LIMITED** as agent of the other Finance Parties (the "**Facility Agent**"); and
- (8) **GLAS TRUST CORPORATION LIMITED** as security trustee for the Secured Parties (the "**Security Agent**").

**THE PARTIES AGREE AS FOLLOWS:**

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this agreement:

**"Acceptable Bank"** means:

- (a) a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of BBB- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency;
- (b) any Lender or an Affiliate of a Lender; or
- (c) any other bank or financial institution approved by the Facility Agent;

**"Acceptable Funding Sources"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Acceptable Funding Sources (Excluding Debt)"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Acceptable Funding Sources (Excluding Debt and Retained Cash)"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Acceptable Funding Sources (Excluding Retained Cash)"** has the meaning given to that term in clause 26.1 (Financial definitions);

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

**"Accounting Principles"** means:

- (a) in relation to the consolidated financial statements of the Group, generally accepted accounting principles in the United Kingdom, including, for the avoidance of doubt, IFRS; and
- (b) in relation to any member of the Group, generally accepted accounting principles in its jurisdiction of incorporation;

**"Accounting Reference Date"** means the accounting reference date of the relevant company determined in accordance with the Companies Act 2006;

**"Acquisition"** means the acquisition or purchase by the Company of the Target Shares, either:

- (a) where the Acquisition is being effected by way of a Scheme, pursuant to the Scheme; or
- (b) where the Acquisition is being effected by way of an Offer, pursuant to or in connection with the Offer and the operation of the Squeeze Out Procedures;

**"Acquisition Costs"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Acquisition Proceeds"** has the meaning given to that term in clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds);

**"Acquisition Purpose"** means any of the purposes set out in paragraph (a) of clause 3.1 (Purpose);

**"Acquisition Target"** has the meaning given to that term in paragraph (g) of the definition of Permitted Acquisition;

**"Additional Borrower"** means a company which becomes a Borrower in accordance with clause 31 (Changes to the Obligors);

**"Additional Business Day"** means any day specified as such in the applicable Compounded Rate Terms;

**"Additional Guarantor"** means a company which becomes a Guarantor in accordance with clause 31 (Changes to the Obligors);

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

**"Adjusted EBITDA"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Adjusted Leverage"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"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;

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

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

**"Agreed Certain Funds Obligor"** means the Parent and any member of the Group designated as an "Agreed Certain Funds Obligor" by the Parent and the relevant Incremental Term Facility Lenders who have agreed to provide an Agreed Certain Funds Utilisation in accordance with the provisions of clause 4.5 (Utilisations of Incremental Term Facility during the Agreed Certain Funds Period);

**"Agreed Certain Funds Period"** means, in respect of an Incremental Term Facility which all of the Incremental Term Facility Lenders providing such Incremental Term Facility have agreed shall be provided on a "certain funds basis" in accordance with the provisions of clause 4.5 (Utilisations of Incremental Term Facility during the Agreed Certain Funds Period), the period specified in the relevant Incremental Term Facility Notice which period shall be no longer than six months unless agreed otherwise by the relevant Incremental Term Facility Lenders and the Majority Lenders;

**"Agreed Certain Funds Utilisation"** means, in respect of an Incremental Term Facility which all of the Incremental Term Facility Lenders providing such Incremental Term Facility have agreed in their absolute discretion shall be provided on a "certain funds basis" in accordance with the provisions of clause 4.5 (Utilisations of Incremental Term Facility during the Agreed Certain Funds Period), a Utilisation made or to be made under the relevant Incremental Term Facility during the Agreed Certain Funds Period solely for any of the purposes agreed with the relevant Incremental Term Facility Lenders providing such Incremental Term Facility;

**"Agreed Security Principles"** means the principles set out in schedule 11 (Agreed Security Principles);

**"Alternative Commitment"** means an Alternative Senior Term Facility A Commitment or an Alternative Senior Term Facility B Commitment;

**"Alternative Lender"** means:

- (a) an Original Alternative Lender; or
- (b) any other Lender designated as an Alternative Lender in the Assignment Agreement or Transfer Certificate by which it became a Party as a Lender;

**"Alternative Lender Proportion"** means an Alternative Lender Senior Term Facility A Proportion or an Alternative Lender Senior Term Facility B Proportion, as the context requires;

**"Alternative Lender Senior Term Facility A Proportion"** means, in relation to an Alternative Lender, the proportion borne by its Alternative Senior Term Facility A Commitment to the aggregate of the Alternative Senior Term Facility A Commitments of all the Alternative Lenders as at the date of this agreement;

**"Alternative Lender Senior Term Facility B Proportion"** means, in relation to an Alternative Lender, the proportion borne by its Alternative Senior Term Facility B Commitment to the aggregate of the Alternative Senior Term Facility B Commitments of all the Alternative Lenders as at the date of this agreement;

**"Alternative Senior Term Facility A Commitment"** means:

- (a) in relation to an Original Alternative Lender, the amount in sterling set opposite its name under the heading "Senior Term Facility A Commitment" in part 3 of schedule 1 (The Original Parties) and the amount in sterling of any other Alternative Senior

Term Facility A Commitment transferred to it under this agreement or assumed by it in accordance with clause 2.3 (Increase); and

- (b) in relation to any other Alternative Lender, the amount in sterling of any Alternative Senior Term Facility A Commitment transferred to it under this agreement or assumed by it in accordance with clause 2.3 (Increase),

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

**"Alternative Senior Term Facility B Commitment"** means:

- (a) in relation to an Original Alternative Lender, the amount in sterling set opposite its name under the heading "Senior Term Facility B Commitment" in part 3 of schedule 1 (The Original Parties) and the amount in sterling of any other Alternative Senior Term Facility B Commitment transferred to it under this agreement or assumed by it in accordance with clause 2.3 (Increase); and
- (b) in relation to any other Alternative Lender, the amount in sterling of any Alternative Senior Term Facility B Commitment transferred to it under this agreement or assumed by it in accordance with clause 2.3 (Increase),

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

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

**"Ancillary Commitment"** means, in relation to an Ancillary Lender and an Ancillary Facility, the maximum Base Currency Amount which that Ancillary Lender has agreed (whether or not subject to satisfaction of conditions precedent) to make available from time to time under an Ancillary Facility and which has been authorised as such under clause 7 (Ancillary Facilities), to the extent that amount is not cancelled or reduced under this agreement or the Ancillary Documents relating to that Ancillary Facility;

**"Ancillary Document"** means each document relating to or evidencing the terms of an Ancillary Facility;

**"Ancillary Facility"** means any ancillary facility made available by an Ancillary Lender in accordance with clause 7 (Ancillary Facilities);

**"Ancillary Lender"** means each Lender (or Affiliate of a Lender) which makes available an Ancillary Facility in accordance with clause 7 (Ancillary Facilities);

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

- (a) the principal amount under each overdraft facility and on-demand short term loan facility (net of any Available Credit Balance);
- (b) the face amount of each guarantee, bond and letter of credit under that Ancillary Facility (to the extent not repaid or prepaid); and
- (c) the amount fairly representing the aggregate exposure (excluding interest and similar charges) of that Ancillary Lender under each other type of accommodation provided under that Ancillary Facility,

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

**"Annual Financial Statements"** has the meaning given to that term in clause 25 (Information undertakings);

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

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

**"Audit Laws"** means:

- (a) the Statutory Auditors and Third Country Auditors Regulations 2016 (SI 2016/649), the Statutory Auditors and Third Country Auditors Regulations 2017 (SI 2017/516) and the EU Regulation (537/2014) on specific requirements regarding statutory audit of public-interest entities as it forms part of domestic law of the United Kingdom by virtue of the European Union (Withdrawal) Act 2018; and
- (b) the EU Regulation (537/2014) on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC and the EU Directive (2014/56/EU) amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts and any law or regulation which implements or derives from that EU Regulation (537/2014) or that EU Directive (2014/56/EU);

**"Authorisation"** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

**"Availability Period"** means:

- (a) in relation to the Super Senior Term Facility, the Senior Term Facility A and the Senior Term Facility B, the period from and including the date of this agreement to and including the last day of the Certain Funds Period;
- (b) in relation to the Revolving Facility, the period from and including the Closing Date to and including the date falling one Month prior to the Termination Date of the Revolving Facility; and
- (c) in relation to any Incremental Term Facility, the period specified as such in the Incremental Term Facility Notice relating to that Incremental Term Facility;

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

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



- (b) in relation to any proposed Loan, the Base Currency Amount of its participation in any other Loans that are due to be made under that Facility on or before the proposed Utilisation Date and, in the case of the Revolving Facility only, the Base Currency Amount of its (and its Affiliate's) Ancillary Commitment in relation to any new Ancillary Facility that is due to be made available on or before the proposed Utilisation Date.

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

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

**"Available Credit Balance"** means, in relation to an Ancillary Facility, credit balances on any account of any Borrower of that Ancillary Facility with the Ancillary Lender making available that Ancillary Facility to the extent that those credit balances are freely available to be set off by that Ancillary Lender against liabilities owed to it by that Borrower under that Ancillary Facility;

**"Available Facility"** means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility;

**"Backstop Rate Switch Date"** means in relation to a Rate Switch Currency:

- (a) the date (if any) specified as such in the applicable Compounded Rate Terms; or
- (b) any other date agreed as such between the Facility Agent, the Majority Lenders, the Majority Super Senior Facility Lenders and the Parent in relation to that currency;

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

**"Base Currency"** means sterling;

**"Base Currency Amount"** means:

- (a) in relation to a Loan, the amount specified in the Utilisation Request delivered by a Borrower for that Loan (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Facility Agent's Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date or, if later, on the date the Facility Agent receives the Utilisation Request in accordance with the terms of this agreement); and
- (b) in relation to an Ancillary Commitment, the amount specified as such in the notice delivered to the Facility Agent by the Parent pursuant to clause 7.2 (Availability) (or, if the amount specified is not denominated in the Base Currency, that amount converted into the Base Currency at the Facility Agent's Spot Rate of Exchange on the date which is three Business Days before the Ancillary Commencement Date for that Ancillary Facility or, if later, the date the Facility Agent receives the notice of the Ancillary Commitment in accordance with the terms of this agreement),

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

**"Borrower"** means the Company or an Additional Borrower unless it has ceased to be a Borrower in accordance with clause 31 (Changes to the Obligors) and, in respect of an Ancillary Facility only, any Affiliate of a Borrower that becomes a borrower of that Ancillary Facility with the approval of the relevant Lender pursuant to clause 7.9 (Affiliates of Borrowers);

**"Borrowings"** has the meaning given to that term in clause 26.1 (Financial definitions);

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

(a) In respect of any Term Rate Loan, the amount (if any) by which:

(i) the interest excluding the Margin and any interest attributable to the difference between any applicable LIBOR and/or EURIBOR floor and LIBOR and/or EURIBOR, as the case may be, (if lower than the applicable floor) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum in that currency 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:

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

(b) in respect of any Compounded Rate Loan, any amount specified as such in the applicable Compounded Rate Terms;

**"Budget"** means:

(a) in relation to the period beginning on the Closing Date and ending on 1 October 2023, the Base Case Model to be delivered by the Parent to the Facility Agent pursuant to clause 4.1 (Initial conditions precedent); and

(b) in relation to any other period, any budget delivered by the Parent to the Facility Agent in respect of that period pursuant to clause 25.4 (Budget);

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

(c) (in relation to:

(i) any date for payment or purchase of an amount relating to a Compounded Rate Loan; or

(ii) the determination of the first day or the last day of an Interest Period for a Compounded Rate Loan, or otherwise in relation to the determination of the length of such an Interest Period),

which is an Additional Business Day relating to that Loan or Unpaid Sum;

**"Cap Agreement"** means any master agreement, confirmation, schedule or other agreement entered into to effect a Fully Paid Cap;

**"Cap Provider"** means any person which has entered into a Fully Paid Cap with the relevant member of the Group and which is not, in its capacity as a party to such transaction, (except as expressly permitted by the Intercreditor Agreement) entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity from a member of the Group in respect of any liabilities and obligations arising in relation to that transaction;

**"Capital Expenditure"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Cash"** means, at any time cash in hand or at bank and (in the case of cash at bank) credited to an account in the name of a member of the Group with an Acceptable Bank and to which a member of the Group is alone (or together with other members of the Group) beneficially entitled and for so long as:

- (a) that cash is repayable within 60 days after the relevant date of calculation but including any cash held on time deposit which is capable of being broken and the balance recovered on same day notice provided that any such cash shall only be taken into account net of any penalties or costs which would be incurred in breaking the relevant time deposit;
- (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of any member of the Group or of any other person whatsoever or on the satisfaction of any other condition other than any such condition imposed by the customary terms of a netting or set-off arrangement entered into by members of the Group in the ordinary course of their banking arrangements;
- (c) there is no Security over that cash except for Transaction Security or any Permitted Security constituted by Security in favour of account-holding banks arising under their general terms and conditions or by a netting or set-off arrangement entered into by members of the Group in the ordinary course of their banking arrangements; and
- (d) the cash is freely and (except as mentioned in paragraphs (a) and/or (b) above and for any required corporate action (if any)) immediately available to be applied in repayment or prepayment of the Facilities;

**"Cash Equivalent Investments"** means at any time:

- (a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;
- (b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;
- (c) commercial paper not convertible or exchangeable to any other security:
  - (i) for which a recognised trading market exists;
  - (ii) issued by an issuer incorporated in the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State;

- (iii) which matures within one year after the relevant date of calculation; and
- (iv) which has a credit rating of either A-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 Investors Service Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;
- (d) sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or their dematerialised equivalent);
- (e) any investment in money market funds which:
  - (i) have a credit rating of either A-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 Investors Service Limited; and
  - (ii) invest substantially all their assets in securities of the types described in paragraphs (a) to (d) (inclusive) above,  
  
to the extent that investment can be turned into cash on not more than 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 Security arising under the Transaction Security Documents);

**"Cash Overfunding"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Cashflow"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Central Bank Rate"** has the meaning given to that term in the applicable Compounded Rate Terms;

**"Central Bank Rate Adjustment"** has the meaning given to that term in the applicable Compounded Rate Terms;

**"Central Bank Rate Spread"** has the meaning given to that term in the applicable Compounded Rate Terms;

**"Certain Funds Period"** means the period commencing on the date of this agreement and ending on the earlier of:

- (a) the End Date; and
- (b)
  - (i) if the Acquisition is being effected by way of a Scheme, the earlier of:
    - (A) 11.59 p.m. London time on the date on which the Scheme lapses in accordance with the Takeover Code (including, subject to exhausting any rights of appeal, if the Court refuses to sanction the Scheme) or is withdrawn with the consent of the Takeover Panel or by order of the Court; and

- (B) 11.59 p.m. London time on the date on which the Target has become a wholly owned subsidiary of the Company and all of the consideration payable under the Acquisition in respect of the Target Shares has been paid in full; or
- (ii) if the Acquisition is being effected by way of an Offer, the earlier of:
  - (A) 11.59 p.m. London time on the date on which the Offer lapses in accordance with the Takeover Code, terminates or is withdrawn in accordance with its terms and in compliance with the Takeover Code, the requirements of the Takeover Panel and all applicable laws and regulations; and
  - (B) 11.59 p.m. London time on the date on which the Target has become a wholly owned subsidiary of the Company and all of the consideration payable under the Acquisition in respect of the Target Shares has been paid in full including in respect of the acquisition of any Target Shares to be acquired after the Closing Date (including pursuant to a Squeeze Out Procedure),

provided that, for the avoidance of doubt, neither:

- (aa) the service of an Offer Conversion Notice and the subsequent occurrence of an Offer Conversion; nor
- (bb) the service of a Scheme Conversion Notice and the subsequent occurrence of a Scheme Conversion,

(or, for the avoidance of doubt, any amendments to the terms or conditions of a Scheme or an Offer as a consequence of either of the events in paragraphs (aa) or (bb) above occurring) shall constitute a "lapse", "termination" or "withdrawal" for the purposes of this definition;

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

**"Change of Control"** means:

- (a) at any time, the Investors (taken together) cease to satisfy (directly or indirectly) one or more elements of control of the Parent;
- (b) prior to the occurrence of a Qualifying Listing, the THCP Entities (taken together) cease to have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or control the casting of, more than five per cent of the maximum number of votes that might be cast at a general meeting of the Parent;
- (c) upon and after the occurrence of a Qualifying Listing, any person or persons acting in concert (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or control the casting of a greater percentage of the maximum number of votes that might be cast at a general meeting of the Parent by Investors; or
- (d) at any time, the Parent ceases to own directly the entire issued share capital of the Company, other than as contemplated in connection with any rollover of consideration shares as contemplated in any Scheme Document or Offer Document.

For the purposes of this definition:

- (i) **"control"** of the Parent means:

- (A) prior to the occurrence of a Qualifying Listing:
  - (aa) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
    - (a) cast, or control the casting of, more than 50 per cent of the maximum number of votes that might be cast at a general meeting of the Parent; or
    - (b) appoint or remove all, or the majority, of the directors or other equivalent officers of the Parent;
  - (bb) the holding beneficially of more than 50 per cent of the issued share capital of the Parent (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); and
- (B) following the occurrence of a Qualifying Listing the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or control the casting of, more than 30 per cent of the maximum number of votes that might be cast at a general meeting of the Parent; and
- (ii) **"acting in concert"** means, a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition directly or indirectly of shares in the Parent by any of them, either directly or indirectly, to obtain or consolidate control of the Parent;

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

**"Clean-Up Period"** means the Initial Clean-Up Period or a Permitted Acquisition Clean-Up Period;

**"Closing Date"** means the date on which the first Certain Funds Utilisation occurs;

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

**"Commercial Due Diligence Report"** means the commercial due diligence report prepared by Candestic and dated 12 May 2022 relating to the Acquisition and capable of being relied upon by the Reliance Parties;

**"Commitment"** means a Super Senior Term Facility Commitment, a Senior Term Facility A Commitment, a Senior Term Facility B Commitment, an Incremental Term Facility Commitment or Revolving Facility Commitment;

**"Committed Lender"** means:

- (a) an Original Committed Lender; or
- (b) any other Lender designated as a Committed Lender in the Assignment Agreement or Transfer Certificate by which it became a Party as a Lender;

**"Competitor"** means any person or entity:

- (a) which is a competitor of the Group in any of the material activities of the Group (a **"Principal Competitor"**);

- (b) that is acting on behalf of a Principal Competitor; or
- (c) that is an Affiliate of a Principal Competitor, unless such Affiliate is a financial institution which has been established for at least six months and, during that period, regularly engaged in making, purchasing or investing in loans or debt securities, which is managed and controlled independently from the Principal Competitor, which does not hold (directly or indirectly) any equity interest in a Principal Competitor and which is administered by persons operating behind appropriate information barriers implemented or maintained as required by law, regulation and internal policy and, in any event, to the extent required to ensure that such administration is independent from such person's interests under the Finance Documents and any information provided under the Finance Documents is not (and is not capable of being) disclosed or otherwise made available to any person operating behind such information barrier;

**"Compliance Certificate"** means a certificate substantially in the form set out in schedule 8 (Form of Compliance Certificate);

**"Compounded Rate Currency"** means:

- (a) sterling; and
- (b) any Rate Switch Currency in respect of which the Rate Switch Date has occurred;

**"Compounded Rate Interest Payment"** means the aggregate amount of interest that:

- (a) is, or is scheduled to become, payable under any Finance Document; and
- (b) relates to a Compounded Rate Loan;

**"Compounded Rate Loan"** means any Loan or, if applicable, Unpaid Sum in a Compounded Rate Currency which is, or becomes, a "Compounded Rate Loan" pursuant to clause 12 (Rate Switch);

**"Compounded Rate Supplement"** means, in relation to any currency, a document which:

- (a) is agreed in writing by the Parent, the Facility Agent (in its own capacity) and the Facility Agent (acting on the instructions of the Majority Lenders and the Majority Super Senior Facility Lenders);
- (b) specifies for that currency the relevant terms which are expressed in this agreement to be determined by reference to Compounded Rate Terms; and
- (c) has been made available to the Parent and each Finance Party;

**"Compounded Rate Terms"** means in relation to:

- (a) a currency;
- (b) a Loan or an Unpaid Sum in that currency;
- (c) an Interest Period for such a Loan or Unpaid Sum (or other period for the accrual of commission or fees in a currency); or
- (d) any term of this agreement relating to the determination of a rate of interest in relation to such a Loan or Unpaid Sum,

the terms set out for that currency in schedule 17 (Compounded Rate Terms) or in any Compounded Rate Supplement;

**"Compounded Reference Rate"** means, in relation to any RFR Banking Day during the Interest Period of a Compounded Rate Loan, the percentage rate per annum which is the aggregate of:

- (a) the Daily Non-Cumulative Compounded RFR Rate for that RFR Banking Day; and
- (b) the applicable Credit Adjustment Spread (if any);

**"Compounding Methodology Supplement"** means, in relation to the Daily Non-Cumulative Compounded RFR Rate or the Cumulative Compounded RFR Rate, a document which:

- (a) is agreed in writing by the Parent, the Facility Agent (in its own capacity) and the Facility Agent (acting on the instructions of the Majority Lenders and the Majority Super Senior Facility Lenders);
- (b) specifies a calculation methodology for that rate; and
- (c) has been made available to the Parent and each Finance Party;

**"Confidential Information"** means all information relating to the Investors, the Parent, any Obligor, the Group, the Target Group, 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 Investors, any member of the Group, the Target Group or any of its or their advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or the Target Group or any of its or their advisers,

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

- (i) information that:
  - (A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of clause 42 (Confidential Information); or
  - (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or the Target Group or any of its advisers; or
  - (C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Investors, the Group or 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; and
- (ii) any Funding Rate or Reference Bank Quotation;

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



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

**"Court"** means the High Court of Justice in England and Wales;

**"Court Order"** means the order of the Court sanctioning the Scheme as required by section 899 of the Companies Act;

**"Credit Adjustment Spread"** means, in respect of any Compounded Rate Loan, any rate which is either:

- (a) specified as such in the applicable Compounded Rate Terms; or
- (b) determined by the Facility Agent (or by any other Finance Party which agrees to determine that rate in place of the Facility Agent) in accordance with the methodology specified in the applicable Compounded Rate Terms;

**"CTA"** means the Corporation Tax Act 2009;

**"Cumulative Compounded RFR Rate"** means, in relation to an Interest Period for a Compounded Rate Loan, the percentage rate per annum determined by the Facility Agent (or by any other Finance Party which agrees to determine that rate in place of the Facility Agent) in accordance with the methodology set out in schedule 19 (Cumulative Compounded RFR Rate) or in any relevant Compounding Methodology Supplement;

**"Daily Non-Cumulative Compounded RFR Rate"** means, in relation to any RFR Banking Day during an Interest Period for a Compounded Rate Loan, the percentage rate per annum determined by the Facility Agent (or by any other Finance Party which agrees to determine that rate in place of the Facility Agent) in accordance with the methodology set out in schedule 18 (Daily Non-Cumulative Compounded RFR Rate) or in any relevant Compounding Methodology Supplement;

**"Daily Rate"** means the rate specified as such in the applicable Compounded Rate Terms;

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

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

any Commitment or amount outstanding under this agreement;

**"Declared Default"** means:

- (a) a notice being served by the Facility Agent (acting on the instructions of the Majority Lenders) in accordance with paragraphs (a)(ii), (a)(iv) or (b) of clause 28.18 (Acceleration) following the occurrence of an Event of Default which is continuing; and/or
- (b) a notice being served by the Facility Agent (acting on the instructions of the Majority Super Senior Facility Lenders) in accordance with paragraphs (a), (b)(ii), (b)(iv) or (c) of clause 28.19 (Super Senior Acceleration) following the occurrence of a Material Event of Default which is continuing;

**"Default"** means an Event of Default, a Material Event of Default or any event or circumstance specified in clause 28 (Events of Default) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default or a Material Event of Default provided that any such event or circumstance which requires any determination as to materiality to be made before it may become an Event of Default or a Material Event of Default shall not be a Default until such determination is made;

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

- (a) which has failed to make its participation in a Loan available (or has notified the Facility Agent or the Parent (which has notified the Facility Agent) that it will not make its participation in a Loan available) by the Utilisation Date of that Loan in accordance with clause 5.4 (Lenders' participation);
- (b) which has otherwise rescinded or repudiated a Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing,

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

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

**"Delegate"** means any delegate, agent, attorney or co-trustee appointed by the Security Agent;

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

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

**"Disposal"** has the meaning given to that term in clause 11.2 (Disposal, Insurance, Listing and Acquisition 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;

**"EBITDA"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"EBT Trustee"** means any trustee of any employee benefit trust, employee share option or unit trust scheme operated for the benefit of employees or former employees of members of the Group;

**"Effective Date"** means the date on which the Court Order is filed with the Registrar of Companies as required by section 899 of the Companies Act;

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

**"End Date"** means 28 February 2023;

**"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 written claim, proceeding, formal notice or investigation by any authorised person in respect of any Environmental Law;

**"Environmental Law"** means any applicable law or regulation which relates to:

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

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

**"ESG Compliance Certificate"** means a certificate substantially in the form set out in schedule 9 (Form of ESG Compliance Certificate);

**"ESG Project"** means:

- (a) any project or initiative of the Group that supports its sustainability profile and environmental, social and governance targets; or

- (b) any charity or non-governmental organisation supporting ESG projects and initiatives that align with the Group's sustainability profile;

**"ESG Provision"** means any of:

- (a) the definitions of "ESG Compliance Certificate", "ESG Project", "Group Rating", "Group Registered Service", "Independent Regulator", "National Benchmark", "Official Statistics", "Positive Rating", "Rating Outcome", "Ratings Period", "Ratings Report" and "Social Care Service" in clause 1.1 (Definitions);
- (b) the definitions of "ESG Premium" and "ESG Discount" in clause 14.3 (Margin adjustment);
- (c) clause 14.3 (Margin adjustment);
- (d) clause 25.5 (ESG Information); and
- (e) schedule 9 (Form of ESG Compliance Certificate);

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

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

**"EURIBOR"** means, in relation to any Term Rate 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 prior to Rate Switch Date),

and if, in either case, that rate is less than zero per cent per annum, EURIBOR shall be deemed to be zero per cent per annum;

**"Event of Default"** means any event or circumstance specified as such in clause 28 (Events of Default);

**"Excess Cashflow"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Excluded Jurisdiction"** has the meaning given to that term in the Agreed Security Principles;

**"Existing Facilities Agreement"** means the term and revolving facilities agreement originally dated 16 August 2018 entered into between (among others) the Target (as borrower) and National Westminster Bank plc (as agent and security agent) as amended and/or restated from time to time;

**"Existing Lender"** has the meaning given to that term in clause 29 (Changes to the Lenders);

**"Facility"** means a Term Facility or the Revolving Facility;

**"Facility Agent's Spot Rate of Exchange"** means:

- (a) the Facility Agent's spot rate of exchange; or
- (b) (if the Facility Agent does not have an available spot rate of exchange) any other publicly available spot rate of exchange selected by the Facility Agent (acting reasonably),

for the purchase of the relevant currency with the Base Currency in the London foreign exchange market at or about 11.00 a.m. on a particular day;

**"Facility Office"** means:

- (a) in respect of a Lender, the office or offices notified by that Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this agreement; or
- (b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes;

**"FATCA"** means:

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

**"FATCA Application Date"** means:

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

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

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

**"Fee Letter"** means:

- (a) any letter or letters dated on or about the date of this agreement between the Arranger and the Parent (or the Facility Agent and the Parent or the Security Agent and the Parent) setting out any of the fees referred to in clause 17 (Fees); and
- (b) any other agreement setting out fees payable to a Finance Party referred to in paragraph (g) of clause 2.3 (Increase), clause 2.6 (Optional Reclassification of Senior Term Facility B), clause 2.7 (Mandatory Reclassification of Senior Term Facility B) or clause 17.5 (Interest, commission and fees on Ancillary Facilities) or under any other Finance Document; and

- (c) any agreement setting out fees payable in respect of an Incremental Term Facility referred to in clause 8.9 (Incremental Term Facility fees);

**"Finance Document"** means this agreement, any Accession Deed, any Ancillary Document, any Compliance Certificate, any Fee Letter, any Hedging Agreement, any Incremental Term Facility Notice, the Intercreditor Agreement, any Resignation Letter, any Selection Notice, the Syndication Letter, the Project Amalfi Side Letter, any Transaction Security Document, any Utilisation Request, any Compounded Rate Supplement, any Compounding Methodology Supplement and any other document designated as a "Finance Document" by the Facility 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 (other than a Cap Agreement) shall be a Finance Document only for the purposes of:

- (a) the definition of "Default";
- (b) the definition of "Material Adverse Effect";
- (c) paragraph (a) of the definition of "Permitted Transaction";
- (d) the definition of "Transaction Document";
- (e) the definition of "Transaction Security Document";
- (f) paragraph (a)(vi) of clause 1.2 (Construction);
- (g) clause 23 (Guarantee and indemnity); and
- (h) clause 28 (Events of Default) (other than clause 28.18 (Acceleration) and clause 28.19 (Super Senior Acceleration)),

and a Cap Agreement shall be a Finance Document only for the purposes of:

- (i) the definition of "Material Adverse Effect";
- (ii) paragraph (a) of the definition of "Permitted Transaction";
- (iii) the definition of "Transaction Document"; and
- (iv) paragraph (a)(vi) of clause 1.2 (Construction);

**"Finance Lease"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Finance Party"** means the Facility Agent, the Arranger, the Security Agent, a Lender, a Hedge Counterparty or any Ancillary Lender provided that where the term "Finance Party" is used in, and construed for the purposes of, this agreement or the Intercreditor Agreement, a Hedge Counterparty (other than a Cap Provider) 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 (c) of the definition of "Material Adverse Effect";
- (d) clause 23 (Guarantee and indemnity);
- (e) clause 27.35 (Further assurance); and

(f) clause 33 (Conduct of business by the Finance Parties),

and a Cap Provider shall be a Finance Party only for the purposes of:

- (i) paragraph (a)(i) of clause 1.2 (Construction);
- (ii) paragraph (c) of the definition of "Material Adverse Effect"; and
- (iii) clause 33 (Conduct of business by the Finance Parties);

**"Financial Due Diligence Report"** means the financial due diligence report prepared by PricewaterhouseCoopers LLP and dated 23 June 2022 relating to the Acquisition and capable of being relied upon by the Reliance Parties;

**"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 (but not Trade Instruments), notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any Finance Lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury 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:
  - (i) an underlying liability (but not, in any case, Trade Instruments) of an entity which is not a member of the Group which liability would fall within one of the other paragraphs of this definition; or
  - (ii) any liabilities of any member of the Group relating to any post-retirement benefit scheme;
- (h) any amount raised by the issue of shares to a person who is not a member of the Group which are redeemable (other than at the option of the issuer) before the Termination Date for the Senior Term Facility A or are otherwise classified as borrowings under the Accounting Principles;
- (i) any amount of any liability under an advance or deferred purchase agreement if:
  - (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question; or
  - (ii) the agreement is in respect of the supply of assets or services and payment is due more than 120 days after the date of supply;

- (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 (other than any amount which is expressly excluded under any other paragraph of this definition of Financial Indebtedness, any Treasury Transactions or any trade credit given to any member of the Group in the ordinary course of trade);
- (k) deferred consideration (excluding any contingent deferred consideration or any contingent earn-out payment) in relation to a Permitted Bolt-on Acquisition; and
- (l) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (k) (inclusive) above,

excluding:

- (i) any liability under any lease which is or would be treated as a real estate or operating lease in accordance with the Accounting Principles as applied by the members of the Group as at 31 December 2018 but which would be treated as a finance or capital lease in accordance with the Accounting Principles as applied by members of the Group at any subsequent relevant time;
- (ii) pension liabilities which are treated as borrowings or financial debt under IFRS;

**"Financial Quarter"** has the meaning given to that term in clause 26.1 (Financial definitions);

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

**"Financial Year"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Fully Paid Cap"** means an interest rate cap, the premium for which is paid upfront in its entirety by the relevant member of the Group so that no member of the Group has any other liabilities whatsoever pursuant to the interest rate cap, except as expressly permitted by clause 5.16 (No Security: Cap Provider) of the Intercreditor Agreement;

**"Funding Rate"** means any individual rate notified by a Lender to the Facility Agent pursuant to paragraph (a)(ii) of clause 16.5 (Cost of funds);

**"Funds Flow Statement"** means a funds flow statement prepared by the Parent in relation to the Acquisition;

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

**"Group"** means the Parent and each of its Subsidiaries for the time being (including, from the Closing Date, the Target Group);

**"Group Initiative"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Group Rating"** means, for any Ratings Period, the number of Group Registered Services which received a Positive Rating during that Ratings Period expressed as a percentage of the total number of Group Registered Services which received a Rating Outcome during that Ratings Period, as determined by reference to the Ratings Reports;



**"Group Registered Service"** means a Social Care Service operated by any member (or members) the Group;

**"Group Relief"** means the surrender of losses or other amounts eligible for surrender under part 5 or part 5A of the Corporation Taxes Act 2010;

**"Group Structure Chart"** means the group structure chart in the agreed form;

**"Guarantor"** means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with clause 31 (Changes to the Obligors);

**"Hedge Counterparty"** means any entity which has become a Party as a "Hedge Counterparty" in accordance with clause 29.12 (Accession of Hedge Counterparties) and which 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 or to be entered into by the Company (or any other member of the Group (other than the Parent)) and a Hedge Counterparty for the purpose of hedging interest rate and exchange rate liabilities as permitted pursuant to paragraph (a) or (b) of clause 27.33 (Treasury Transactions);

**"HMT"** means Her Majesty's Treasury of the United Kingdom;

**"Holding Company"** means, in relation to a person, any other person in respect of which it is a Subsidiary;

**"IFRS"** means UK-adopted international accounting standards within the meaning of section 474(1) of the Companies Act 2006 to the extent applicable to the relevant financial statements;

**"Impaired Agent"** means the Facility 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 Facility Agent otherwise rescinds or repudiates a Finance Document;
- (c) (if the Facility 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 Facility 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; andpayment is made within three Business Days of its due date; or
- (ii) the Facility 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 12 (Form of Increase Confirmation);

**"Increase Lender"** has the meaning given to that term in clause 2.3 (Increase);

**"Incremental Term Facility"** means any term loan facility that may be established and made available under this agreement as described in clause 8 (Establishment of Incremental Term Facilities);

**"Incremental Term Facility Commitment"** means:

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

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

**"Incremental Term Facility Conditions Precedent"** means, in relation to an Incremental Term Facility any document and other evidence specified as such in the relevant Incremental Term Facility Notice;

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

**"Incremental Term Facility Lender Certificate"** means a document substantially in the form set out in schedule 15 (Form of Incremental Term Facility Lender Certificate);

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

**"Incremental Term Facility Majority Lenders"** means, in relation to an Incremental Term Facility, a Lender or Lenders whose Incremental Term Facility Commitments relating to that Incremental Term Facility aggregate more than 50.1 per cent of the Total Incremental Term Facility Commitments relating to that Incremental Term Facility (or, if those Total Incremental Term Facility Commitments have been reduced to zero, aggregated more than 50.1 per cent of those Total Incremental Term Facility Commitments immediately prior to that reduction);

**"Incremental Term Facility Notice"** means a notice substantially in the form set out in schedule 14 (Form of Incremental Term Facility Notice);

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

- (a) the currency;
- (b) the Total Incremental Term Facility Commitments;
- (c) the Margin (and any applicable floor);
- (d) the level of commitment fee payable pursuant to clause 17.1 (Commitment fee) in respect of that Incremental Term Facility;
- (e) the Availability Period;

- (f) any Incremental Term Facility Conditions Precedent;
- (g) the repayment terms for that Incremental Term Facility for the purposes of clause 9.1 (Repayment of Term Loans); and
- (h) the Termination Date,

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

**"Independent Regulator"** means, in respect of any Social Care Service, the independent regulator for that Social Care Service in England, Scotland or Wales;

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

**"Initial Clean-Up Period"** means the period beginning on the date of this agreement and ending on the date falling 90 days after the Closing Date;

**"Initial Valuation"** means the desktop valuation of the Real Property owned by the Target Group prepared by Knight Frank LLP and prepared on the basis of the market value as that term is defined in the then current Statements of Asset Valuation Practice and Guidance Notes issued by the Royal Institution of Chartered Surveyors, delivered as a condition precedent under this agreement on or before the date of this agreement;

**"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 (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (d) above);
- (i) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;
- (j) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (i) above; or
- (k) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts;

**"Insurance Proceeds"** has the meaning given to that term in clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds);

**"Intellectual Property"** means:

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

**"Intercreditor Agreement"** means the intercreditor agreement dated on or about the date of this agreement and made between, among others, Global Loan Agency Services Limited as facility agent, GLAS Trust Corporation Limited as security agent, the Arranger as arranger, the Parent and the Company as debtors and the Parent and the Company as intra-group lenders;

**"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 14.6 (Default interest);

**"Interpolated Screen Rate"** means, in relation to any Term Rate Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

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

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

**"Investors"** means the Sponsor and funds or other investment vehicles controlled, managed or advised by the Sponsor;

**"ITA"** means the Income Tax Act 2007;

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

**"Legal Due Diligence Report"** means the legal due diligence report prepared by Ashurst LLP and dated 13 June 2022 relating to the Acquisition and capable of being relied upon by the Reliance Parties;

**"Legal Opinion"** means any legal opinion delivered to the Facility Agent under clause 4.1 (Initial conditions precedent) or clause 31 (Changes to the Obligors);

**"Legal Reservations"** means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;
- (c) the principle that in certain circumstances Security granted by way of fixed charge may be recharacterised as a floating charge or that Security purported to be constituted by an assignment may be recharacterised as a charge;
- (d) the principle that any provision for the payment of compensation or additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void;
- (e) the principle that an English court may not give effect to a provision dealing with the cost of litigation where the litigation is unsuccessful or the court itself has made an order for costs;
- (f) 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 such security has been granted;
- (g) the principle that the legality, validity, binding nature or enforceability of any Transaction Security which is not governed by the laws of the jurisdiction where the asset or assets purported to be secured under the relevant Transaction Security Document is situated may be flawed;
- (h) the uncertainty as to the continued application in the UK of EU derived laws after the end of the implementation period referred to in the European Union (Withdrawal Agreement) Act 2020;
- (i) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
- (j) any other matters which are set out as qualifications or reservations as to matters of law of general application in the Legal Opinions;

**"Lender"** means:

- (a) any Original Lender; and

- (b) any bank, financial institution, trust, fund or other entity which has become a Party as a "Lender" in accordance with clauses 2.2 (Incremental Term Facilities), 2.3 (Increase), 8 (Establishment of Incremental Term Facilities) or 29 (Changes to the Lenders),

which in each case has not ceased to be a Party as such in accordance with the terms of this agreement;

**"LIBOR"** means, in relation to any Term Rate 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 prior to Rate Switch Date),

and if, in either case, that rate is less than zero per cent per annum, LIBOR shall be deemed to be zero per cent per annum;

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

**"LMA"** means the Loan Market Association;

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

**"Loan to Own Investor"** means any person or entity:

- (a) whose principal business or material activity is in investment strategies the primary purpose of which is the purchase of loans or other debt securities with the intention of (or view to) owning the equity or gaining control of a business (directly or indirectly) (a **"loan to own strategy"**) (a **"Principal Loan to Own Investor"**);
- (b) whose principal business or material activity is in investment strategies primarily in distressed credits or opportunistic or special situations (an **"credit opportunities strategy"**) (a **"Principal Credit Opportunities Investor"**); or
- (c) that is an Affiliate or Related Fund of a Principal Loan to Own Investor or a Principal Credit Opportunities Investor, unless such Affiliate or Related Fund is a financial institution which has been established for at least six months and, during that period, regularly engaged in making, purchasing or investing in loans or debt securities, which does not have a loan-to-own strategy or a credit opportunities strategy as one of its investment strategies, which is managed and controlled independently from such person and which is administered by persons operating behind appropriate information barriers implemented or maintained as required by law, regulation and internal policy and, in any event, to the extent required to ensure that such administration is independent from such person's interests under the Finance Documents and any information provided under the Finance Documents is not (and is not capable of being) disclosed or otherwise made available to any person operating behind such information barrier;

**"Lookback Period"** means the number of days specified as such in the applicable Compounded Rate Terms;

**"Major Default"** means any circumstances constituting an Event of Default under any of:

- (a) clause 28.1 (Non-payment) in so far as it relates to non-payment of principal or interest or the fee payable pursuant to clause 17.2 (Arrangement fee);

- (b) clause 28.3 (Other obligations) insofar as it relates to a breach of a Major Undertaking;
- (c) clause 28.4 (Misrepresentation) insofar as it relates to a breach of any Major Representation;
- (d) clause 28.6 (Insolvency) provided that, in relation to a Certain Funds Utilisation only, in respect of paragraph (a)(iv) of that clause 28.6 the words "one or more of its creditors" be deemed replaced with "its creditors generally (or any class of them)";
- (e) clause 28.7 (Insolvency proceedings) other than, in relation to a Certain Funds Utilisation only, paragraph (a)(iv) of that clause 28.7 and, in relation to a Certain Funds Utilisation only, only (in respect of paragraphs (a)(i) to (iii) inclusive) to the extent of formal legal proceedings (other than in relation to a suspension of payment of debts or a moratorium of any indebtedness);
- (f) clause 28.9 (Unlawfulness and invalidity) other than, in relation to a Certain Funds Utilisation only, paragraph (c) of that clause 28.9; or
- (g) clause 28.15 (Repudiation and rescission of agreements) other than, in relation to a Certain Funds Utilisation only, paragraph (b) of that clause 28.15, and save that references to "purports" and "evidences as intention" in that clause 28.15 shall be deemed to be deleted for the purposes of a Certain Funds Utilisation only,

in each case as it relates to:

- (i) in the case of a Certain Funds Utilisation, an Original Obligor only (and not, for the avoidance of doubt, to any other member of the Group or any member of the Target Group); and
- (ii) in the case of any other acquisition or investment, the Agreed Certain Funds Obligor(s) only (and excluding any procurement obligations on the part of the Agreed Certain Funds Obligor(s) with respect to any other member of the Group or any Holding Company);

**"Major Representation"** means a representation or warranty under any of:

- (a) clause 24.2 (Status) excluding, in relation to a Certain Funds Utilisation only, paragraph (b) of that clause 24.2;
- (b) clause 24.3 (Binding obligations);
- (c) clause 24.4 (Non-conflict with other obligations) excluding, in relation to a Certain Funds Utilisation only, paragraph (c) of that clause 24.4, and save that, in relation to a Certain Funds Utilisation only, references to "Transaction Documents" in that clause 24.4 shall be deemed to be references to "Finance Documents" for the purposes of this definition;
- (d) clause 24.5 (Power and authority), save that, in relation to a Certain Funds Utilisation only, references to "Transaction Documents" in that clause 24.5 shall be deemed to be references to "Finance Documents" for the purposes of this definition;
- (e) clause 24.6 (Validity and admissibility in evidence) other than, in relation to a Certain Funds Utilisation only, paragraph (b) of that clause 24.6;
- (f) in relation to an Agreed Certain Funds Utilisation only, clause 24.7 (Governing law and enforcement); and
- (g) in relation to an Agreed Certain Funds Utilisation only, clause 24.31 (Sanctions),

in each case as it relates to:

- (i) in the case of a Certain Funds Utilisation, an Original Obligor only (and not for the avoidance of doubt any representation or warranty made by an Original Obligor in respect of matters relating to any other member of the Group or the Target Group); and
- (ii) in the case of any other acquisition or investment, the Agreed Certain Funds Obligor(s) only (and not for the avoidance of doubt any representation or warranty made by an Agreed Certain Funds Obligor in respect of matters relating to any other member of the Group or any Holding Company);

**"Major Undertaking"** means an undertaking under any of:

- (a) clause 27.7 (Merger);
- (b) clause 27.9 (Acquisitions);
- (c) clause 27.10 (Joint ventures);
- (d) clause 27.11 (Holding Companies);
- (e) clause 27.14 (Negative pledge);
- (f) clause 27.15 (Disposals);
- (g) clause 27.17 (Loans or credit);
- (h) clause 27.18 (No guarantees or indemnities);
- (i) clause 27.19 (Dividends and share redemption);
- (j) clause 27.21 (Financial Indebtedness);
- (k) clause 27.20 (Subordinated Debt);
- (l) paragraph (e) (Terms of the Scheme) of clause 27.23 (Scheme undertakings);
- (m) paragraph (d) (Terms of the Offer) of clause 27.24 (Offer undertakings); or
- (n) in relation to an Agreed Certain Funds Utilisation only, clause 27.36 (Sanctions),

in each case as it relates to:

- (i) in the case of a Certain Funds Utilisation, an Original Obligor only (and not, for the avoidance of doubt, any covenant or undertaking to procure that any other member of the Group or any member of the Target Group takes any action); and
- (ii) in the case of any other acquisition or investment, the Agreed Certain Funds Obligor(s) only (and excluding any procurement obligations on the part of the Agreed Certain Funds Obligor(s) with respect to any other member of the Group or any Holding Company);

**"Majority Lenders"** means:

- (a) (for the purposes of paragraph (a) of clause 4.1.2 (Required consents) in the context of a waiver in relation to a proposed Loan under the Revolving Facility of the condition in clause 4.2 (Further conditions precedent)), a Lender or Lenders whose Revolving



Facility Commitments aggregate more than 66⅔ per cent of the Total Revolving Facility Commitments;

- (b) (for the purposes of paragraph (a) of clause 41.2 (Required consents) in the context of a waiver in relation to a proposed Loan of an Incremental Term Facility of the condition in clause 4.2 (Further conditions precedent) (other than paragraphs (c) and (d) of that clause 4.2)), the Incremental Term Facility Majority Lenders under that Incremental Term Facility; and
- (c) (in any other case), a Lender or Lenders whose Commitments aggregate more than 50.1 per cent of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 50.1 per cent of the Total Commitments immediately prior to that reduction);

**"Majority Revolving Facility Lenders"** means a Lender or Lenders whose Revolving Facility Commitments aggregate more than 66⅔ per cent of the Total Revolving Facility Commitments (or, if the Total Revolving Facility Commitments have been reduced to zero, aggregated more than 66⅔ per cent of the Total Revolving Facility Commitments prior to that reduction);

**"Majority Super Senior Facility Lenders"** means a Lender or Lenders whose Super Senior Facility Commitments aggregate more than 66⅔ per cent of the Total Super Senior Facility Commitments (or, if the Total Super Senior Facility Commitments have been reduced to zero, aggregated more than 66⅔ per cent of the Total Super Senior Facility Commitments prior to that reduction);

**"Management Equity Transaction"** means:

- (a) any redemption, repurchase or acquisition of shares or debt instruments in any Holding Company of the Parent (for so long as it remains a Holding Company of the Parent) (together, **"Equity"**) from any future, departing or former Relevant Person;
- (b) any loan by the Parent to an Unrestricted Holdco or by a member of the Group to the EBT Trustee to, in any such case, fund an action referred to in paragraph (a) above; or
- (c) any loan by the Parent to an Unrestricted Holdco or by a member of the Group to the EBT Trustee to fund the administrative expenses of the EBT Trustee incurred by it in the ordinary course of its business,

provided that the aggregate amount of any such payments or loans made by a member of the Group shall not exceed the greater of £5,000,000 (or its equivalent in any other currency) and two per cent of Adjusted EBITDA at any time;

In this definition, **"Relevant Person"** means (i) members of Senior Management or (ii) other directors or employees of any member of the Group or any Unrestricted Holdco;

**"Mandatory Reclassification Date"** has the meaning given to that term in clause 2.7 (Mandatory Reclassification of Senior Term Facility B);

**"Mandatory Valuation"** has the meaning given to that term in clause 25.3(a)(iv);

**"Margin"** means:

- (a) in relation to any Super Senior Term Facility Loan, the same margin as is applicable to the Senior Term Facility A from time to time (assuming that the PIK Toggle Option has not been exercised), provided that, from the date on which Successful Syndication has occurred, the Margin for each Loan under the Super Senior Term Facility will be the percentage per annum agreed with the Lenders under the Super

Senior Term Facility, which Margin shall be promptly notified to the Facility Agent, and provided always that the Margin so agreed is not greater than the Super Senior Syndication Margin Cap;

- (b) in relation to any Senior Term Facility A Loan, subject to the PIK Toggle Option:
  - (i) prior to the Syndication Date, 6.25 per cent per annum; and
  - (ii) on and from the Syndication Date, 7.00 per cent per annum;
- (c) in relation to any Senior Term Facility B Loan:
  - (i) 5.50 per cent per annum until (and including) the date falling 180 days after the Closing Date; and
  - (ii) thereafter, the same margin as is applicable to the Senior Term Facility A from time to time (assuming however that the PIK Toggle Option has not been exercised);
- (d) in relation to any Incremental Term Facility Loan, the percentage rate per annum specified as such in the Incremental Term Facility Notice relating to the Incremental Term Facility under which that Incremental Term Facility Loan is made or is to be made;
- (e) in relation to any Revolving Facility Loan, the same margin as is applicable to the Senior Term Facility A from time to time (assuming however that the PIK Toggle Option has not been exercised), or such other rate as agreed with the Revolving Facility Lenders from time to time (which other agreed rate shall be promptly notified to the Facility Agent, and provided that such rate is never greater than 5.50 per cent per annum, subject always to the Syndication Letter);
- (f) in relation to any Unpaid Sum relating or referable to a Facility, the rate per annum specified above for that Facility; and
- (g) in relation to any other Unpaid Sum, the highest rate specified above;

but if:

- (i) no Relevant Event of Default has occurred and is continuing; and
- (ii) Adjusted Leverage in respect of the most recently completed Relevant Period is within a range set out below,

then from 31 December 2022, the Margin for each Loan under Senior Term Facility A (and where applicable pursuant to paragraphs (a), (c)(ii) and (e) above, the Super Senior Term Facility, Senior Term Facility B and the Revolving Facility) will be the percentage per annum set out below, for the periods specified in the column opposite that range (and subject to whether the Syndication Date has occurred or not):

<b>Adjusted Leverage</b>	<b>Senior Term Facility A Margin if Successful Syndication has occurred by the Syndication Date % p.a. adjustment</b>	<b>Senior Term Facility A Margin if Successful Syndication has not occurred by the Syndication Date % p.a. adjustment</b>
Greater than or equal to 6.00:1	8.50	7.75

Greater than or equal to 5.75:1 but less than 6.00:1	8.00	7.25
Greater than or equal to 5.00:1 but less than 5.75:1	7.50	6.75
Greater or equal to 4.25:1 but less than 5.00:1	7.25	6.50
Greater than or equal to 3.50:1 but less than 4.25:1	7.00	6.25
Less than 3.50:1	6.75	6.00

However, with respect to any Margin adjustment pursuant to the table above:

- (A) there shall be no downward adjustment to the Margin due to a reduction in Adjusted Leverage during the period from and including the Closing Date to and including the date falling 12 months after the Closing Date unless the relevant reduction in Adjusted Leverage arises solely as a result of a prepayment in whole or in part of the Senior Term Facility B Loans;
- (B) subject to paragraph (D) below, any increase or decrease in the Margin for a Loan pursuant to the table above (including, unless otherwise specified in the applicable Incremental Term Facility Notice, an Incremental Term Facility Loan) shall take effect on the date (the "**reset date**") of receipt by the Facility Agent of the Compliance Certificate for that Relevant Period pursuant to clause 25.2 (Provision and contents of Compliance Certificate);
- (C) if, following receipt by the Facility Agent of the Compliance Certificate related to the relevant Annual Financial Statements, that Compliance Certificate does not confirm the basis for a reduced or increased Margin, then paragraph (b) of clause 14.4 (Payment of Interest) shall apply and the Margin for that Loan shall be the percentage per annum determined using the table above and the revised ratio of Adjusted Leverage calculated using the figures in that Compliance Certificate;
- (D) while a Relevant Event of Default is continuing, the Margin for each Loan under the Senior Term Facility A (and where applicable pursuant to paragraphs (c)(ii) and (e) above, the Senior Term Facility B and the Revolving Facility) shall be the highest percentage per annum set out above for a Loan under that Senior Term Facility A (subject to whether Successful Syndication has occurred or not) (or, in the case of an Incremental Term Facility, set out in the relevant Incremental Term Facility Notice) provided that upon the remedy or waiver, as the case may be, of such Relevant Event of Default, the Margin will be recalculated on the basis set out above using the most recent Compliance Certificate and any change shall take effect as of the date such Relevant Event of Default ceased to be continuing;
- (E) for the purpose of determining the Margin applicable to Senior Term Facility A, the Parent may agree with the Senior Term Facility A Lenders to increase the Margin applicable to Senior Term Facility A to such rate as it elects if necessary to ensure that it is able to comply with

paragraph (b) of clause 8.5 (Restrictions on Incremental Term Facility Terms and fees) when establishing an Incremental Term Facility; and

- (F) for the purpose of determining the Margin, Adjusted Leverage and Relevant Period shall be determined in accordance with clause 26.1 (Financial definitions);

**"Market Disruption Rate"** means the rate (if any) specified as such in the applicable Compounded Rate Terms;

**"Material Adverse Effect"** means a material adverse effect on:

- (a) the business, property or financial condition of the Group taken as a whole (but for this purpose any effect on the ability of the Parent to comply with its obligations under clause 26.2 (Financial condition) shall not, for that reason alone, be a Material Adverse Effect);
- (b) the ability of the Obligors (taken as a whole) to perform their payment obligations under the Finance Documents (taking into account the financial resources available within or to the Group); or
- (c) subject to the Legal Reservations and any Perfection Requirements, the validity or enforceability of any Finance Document, or the effectiveness or ranking of any Security granted or purporting to be granted pursuant to any of the Finance Documents in a way that is materially adverse to the Finance Parties as a whole and which, if capable of remedy, is not remedied within 20 Business Days of the earlier of the Parent becoming aware of the event or the Facility Agent giving notice to the Parent of the same;

**"Material Company"** means, at any time:

- (a) an Obligor; or
- (b) a wholly-owned member of the Group that holds shares in an Obligor (and a wholly-owned member of the Group (which is not itself an Excluded Entity) that holds shares, directly or indirectly, in an Excluded Entity which is a Material Company under paragraph (c) below); or
- (c) a Subsidiary (direct or indirect) of the Parent which has earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) representing five per cent or more of EBITDA of the Group (excluding goodwill, intragroup items and investments in Subsidiaries of any member of the Group) calculated on a consolidated basis, provided that in determining whether a Subsidiary satisfies the criteria for being a Material Company under this paragraph (c):
  - (i) any Subsidiary which has negative EBITDA shall be treated as if its EBITDA were zero; and
  - (ii) the EBITDA of any member of the Group which cannot become a Guarantor due to legal prohibitions or under the terms of the Agreed Security Principles (including any member of the Group incorporated in an Excluded Jurisdiction) shall be excluded from the denominator, unless such entity has nonetheless become a Guarantor.

Compliance with the conditions set out in paragraph (c) above shall be determined by reference to the most recent Compliance Certificate supplied by the Parent to accompany the audited consolidated financial statements of the Group, the latest audited financial statements of that Subsidiary (consolidated in the case of a Subsidiary which itself has Subsidiaries) and the latest audited consolidated financial statements of the Group.

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

**"Material Event of Default"** means, in each case, subject to any materiality, thresholds and following the expiry of any grace period applicable thereunder:

- (a) an Event of Default under clause 28.1 (Non-payment) in relation to:
  - (i) any amount of principal and/or interest and/or any fees due in relation to a Super Senior Facility;
  - (ii) any commission due in relation to an Ancillary Facility; or
  - (iii) any other amounts that may otherwise be due from time to time in relation to a Super Senior Facility (including for the avoidance of doubt, in the case of the Revolving Facility, an Ancillary Facility) in excess of £100,000 in aggregate;
- (b) an Event of Default under clause 28.2 (Financial covenants and other obligations) as a result of a failure to comply with:
  - (i) paragraph (a)(i) of clause 25.1 (Financial statements) in respect of a failure to deliver Annual Financial Statements and paragraph (b) of clause 25.1 (Financial statements) in respect of a failure to deliver Quarterly Financial Statements which is not remedied within 30 days of the earlier of (i) the Facility Agent giving notice to the Parent that it has not complied with the terms set out in paragraph (a)(i) of clause 25.1 (Financial statements) and/or paragraph (b) of clause 25.1 (Financial statements) (as relevant) and (ii) the Parent becoming aware of its failure to comply;
  - (ii) clause 25.2 (Provision and contents of Compliance Certificate) which is not remedied within 30 days of the earlier of (i) the Facility Agent giving notice to the Parent that it has not complied with the terms set out in clause 25.2 (Provision and contents of Compliance Certificate) and (ii) the Parent becoming aware of its failure to comply; or
  - (iii) paragraph (b) of clause 26.2 (Financial condition) (subject to the expiry of the grace period referred to in clause 26.4 (Equity Cure) to the extent applicable);
- (c) an Event of Default under clause 28.3 (Other obligations) as a result of a breach:
  - (i) of clause 3.1 (Purpose), but solely in relation to a Super Senior Facility;
  - (ii) of clause 24.31 (Sanctions) or clause 27.36 (Sanctions);
  - (iii) of clause 24.18 (Anti-corruption law) or 27.5 (Anti-corruption law);
  - (iv) of clause 27.14 (Negative pledge) but only to the extent such breach would result in a member of the Group creating or permitting to subsist any Security ranking in priority to or pari passu with a Super Senior Facility;
  - (v) of clause 27.15 (Disposals) but only in relation to a Significant Disposal; or
  - (vi) by any member of the Group failing to comply with clause 41.3 (All Lender matters), clause 41.4 (Majority Super Senior Facility Lender and Majority Lender matters), clause 41.5 (Majority Super Senior Facility Lender matters) or clause 41.6 (Majority Revolving Facility Lender matters) to the extent that such failure to comply is:

- (A) a failure to obtain the consent or approval of the Majority Revolving Facility Lenders or the Majority Super Senior Facility Lenders for any amendment, consent or waiver that expressly requires the consent or approval of the Majority Revolving Facility Lenders or the Majority Super Senior Facility Lenders (as applicable) under the Finance Documents; or
  - (B) as a result of an amendment, consent or waiver in respect of a provision that requires the consent or approval of all the Lenders, the Majority Revolving Facility Lenders or the Majority Super Senior Facility Lenders in accordance with clause 41.3 (All Lender matters), clause 41.4 (Majority Super Senior Facility Lender and Majority Lender matters), clause 41.5 (Majority Super Senior Facility Lender matters) or clause 41.6 (Majority Revolving Facility Lender matters) which is effected without the consent or approval of the requisite Lenders with Super Senior Facility Commitments and/or Revolving Facility Commitments (as applicable);
- (d) an Event of Default under clause 28.6 (Insolvency), clause 28.7 (Insolvency proceedings) or clause 28.8 (Creditors' process) in relation to:
    - (i) a Borrower of a Super Senior Facility;
    - (ii) the Parent;
    - (iii) a Significant Company; or
    - (iv) an Obligor which has entered into any Hedging Agreement with a Super Senior Hedge Counterparty in respect of Super Senior Hedging Liabilities only;
  - (e) an Event of Default under clause 28.9 (Unlawfulness and invalidity);
  - (f) an Event of Default under clause 28.10 (Intercreditor Agreement) which materially and adversely affects the interests of the Lenders of a Super Senior Facility and/or a Super Senior Hedge Counterparty in respect of Super Senior Hedging Liabilities; or
  - (g) an Event of Default under clause 28.15 (Repudiation and rescission of agreements);

**"MidCo"** means Amalfi Midco Limited, a company incorporated under the laws of England & Wales with registered number 14185820;

**"Minimum Secured Property Condition"** has the meaning given to that term in clause 27.37(e) (Conditions Subsequent);

**"Minimum Secured Property Value"** means £425,000,000;

**"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) other than where paragraph (b) applies:
  - (i) (subject to paragraph (ii) 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;
  - (ii) 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

- (iii) 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
- (b) in relation to an Interest Period for any Loan (or any other period for the accrual of commission or fees) in a Compounded Rate Currency for which there are rules specified as "**Business Day Conventions**" in respect of that currency in the applicable Compounded Rate Terms, those rules shall apply;

The above rules will only apply to the last Month of any period;

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

**"National Benchmark"** means, for any Ratings Period, the number of Social Care Services which received a Positive Rating during that Ratings Period expressed as a percentage of the total number of Social Care Services which received a Rating Outcome during that Ratings Period, as determined by reference to the Official Statistics;

**"Net Outstandings"** means, in relation to a Multi-account Overdraft, the Ancillary Outstandings of that Multi-account Overdraft;

**"Net Proceeds"** has the meaning given to that term in clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds);

**"New Lender"** has the meaning given to that term in clause 29 (Changes to the Lenders);

**"New Shareholder Injections"** means the aggregate of:

- (a) any amount subscribed for by any person (other than a member of the Group) for additional share capital in the Parent; or
- (b) any amount made available by way of Subordinated Debt,

in each case actually received in cash by the Parent after the Closing Date;

**"Non Clean-Up Default"** means an Event of Default occurring under clause 28.1 (Non-payment), clause 28.6 (Insolvency), clause 28.7 (Insolvency Proceedings) or clause 28.8 (Creditors' process);

**"Non-Consenting Lender"** has the meaning given to that term in clause 41.12 (Replacement of Lender);

**"Notifiable Debt Purchase Transaction"** has the meaning given to that term in paragraph (b) of clause 30.2 (Disenfranchisement of Sponsor Affiliates);

**"Obligor"** means a Borrower or a Guarantor;

**"Obligor Leakage Amount"** means, at any time, the aggregate amount of:

- (a) the market value (determined by reference to the date of such disposal) of all assets disposed of by Obligors to members of the Group that are not Obligors (other than Prospective Obligors) during the life of the Facilities except to the extent for cash consideration;
- (b) the aggregate principal amount of debit balances of members of the Group that are not Obligors (other than Prospective Obligors) that are supported by Obligors;

- (c) the principal amount of any outstanding loans made during the life of the Facilities by an Obligor to members of the Group that are not Obligors (other than Prospective Obligors);
- (d) the face value of any outstanding guarantees given during the life of the Facilities by Obligors in support of liabilities or obligations of members of the Group that are not Obligors (other than Prospective Obligors); and
- (e) the cash paid during the life of the Facilities by Obligors for shares issued to them by members of the Group that are not Obligors (other than Prospective Obligors),

and provided that:

- (i) if any member of the Group that is not an Obligor subsequently accedes to this agreement as an Obligor, any items which would, prior to that accession, have fallen within paragraphs (a) to (e) above in respect of that member of the Group 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 that resignation, have fallen within paragraphs (a) to (e) above in respect of that resigning Obligor shall be included for the purposes of this definition;

**"Obligor/non-Obligor Basket"** means the greater of £10,000,000 (or its equivalent in any other currency) and ten per cent of Adjusted EBITDA in aggregate at any time;

**"Obligors' Agent"** means the Parent, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to clause 2.9 (Obligors' Agent);

**"OFAC"** means the Department of the Treasury's Office of Foreign Assets Control of the United States of America;

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

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

**"Offer Conversion Notice"** has the meaning given to that term in clause 3.3 (Conversion between a Scheme and Offer);

**"Offer Document"** means the offer document to be sent by the Company to the Target Shareholders in respect of the Offer;

**"Offer Press Announcement"** means the formal press announcement of the Offer required to be issued in compliance with section 8(c) of Appendix 7 of the Takeover Code in relation to the Offer;

**"Official Statistics"** means, for any Ratings Period, the reported results of routine inspections of Social Care Services by Independent Regulators during that Ratings Period containing (amongst other things) the Rating Outcomes of such inspections;

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

**"Original Financial Statements"** means:



- (a) in relation to the Target, its consolidated audited financial statements for its financial year ended 30 September 2021; and
- (b) in relation to any Additional Obligor, its audited financial statements delivered to the Facility Agent as required by clause 31 (Changes to the Obligors);

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

**"Original Obligor"** means the Company or an Original Guarantor;

**"Parent's Auditors"** means any firm appointed by the Parent to act as its statutory auditors;

**"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;

**"Participation Agreement"** has the meaning given to that term in clause 29.5 (Sub-participations);

**"Party"** means a party to this agreement;

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

**"Perfection Requirements"** means any and all registrations, filings, notices and other actions and steps required to be made in any jurisdiction in order to perfect security created by the Transaction Security Documents or in order to achieve the relevant priority for such Security;

**"Permitted Acquisition"** means:

- (a) the Acquisition;
- (b) any acquisition permitted by the Majority Lenders;
- (c) an acquisition by a member of the Group of an asset sold, leased, transferred or otherwise disposed of by another member of the Group in circumstances constituting a Permitted Disposal;
- (d) an acquisition of shares or securities pursuant to a Permitted Share Issue or Permitted Joint Venture;
- (e) an acquisition of securities which are Cash Equivalent Investments so long as, if acquired by an Obligor, those Cash Equivalent Investments become (subject to the Agreed Security Principles) subject to the Transaction Security as soon as is reasonably practicable;
- (f) the incorporation of a company or the acquisition of an off-the-shelf company (in each case, other than by the Parent) which on incorporation or acquisition becomes a member of the Group, but only if that company is incorporated in a Permitted Jurisdiction with limited liability;
- (g) an acquisition of (A) a Controlling Interest of a limited liability person or (B) a business or undertaking carried on as a going concern (in each case the

**"Acquisition Target"**) by a member of the Group (other than the Parent), but only if:

- (i) no Event of Default or Material Event of Default is continuing as at the date a member of the Group legally commits to make the acquisition or would (by reference to the facts and circumstances existing at that date) occur as a result of the acquisition;
- (ii) the Acquisition Target is and, if the Acquisition Target is the Holding Company of one or more Subsidiaries, its Subsidiaries are, or are engaged in, a business substantially the same as, complementary or related to that carried on by the Group (for the avoidance of doubt, technology related acquisitions shall be considered as the same as, complementary or related to the business carried on by the Group);
- (iii) the Acquisition Target is and, if the Acquisition Target is the Holding Company of one or more Subsidiaries, its Subsidiaries are, incorporated, established and/or carries on its principal business or is a business or undertaking carried on (as applicable) in a Permitted Jurisdiction;
- (iv) the Acquisition Target and, if the Acquisition Target is the Holding Company of one or more Subsidiaries which will become members of the Group at the same time as the Acquisition Target, the Acquisition Target and each such Subsidiary will, once acquired, have, so far as the Parent is aware having made due and careful enquiries, no contingent or off-balance sheet liabilities which did not arise in the ordinary course of business and are material and which would be required to be shown on a balance sheet in accordance with the relevant Accounting Principles other than:
  - (A) any such liability which is indemnified or cash collateralised in full by or on behalf of the relevant vendor or insured by a reputable insurer or guaranteed by an Acceptable Bank;
  - (B) where the maximum amount of such liability which is likely to become an actual liability is fully taken into account in determining the purchase price payable for the Acquisition Target;
  - (C) where the proceeds of Acceptable Funding Sources (Excluding Debt and Retained Cash) will be and are invested in the Group to fund the maximum amount of such liability which is likely to become an actual liability on or before such liability becomes due for payment; or
  - (D) where such liability would be permitted, or not restricted, under the terms of the Finance Documents;
- (v) with respect to any acquisition which is funded in whole or in part from the proceeds of any Facility, the Parent has delivered a certificate, signed by its finance director or chief executive officer, to the Facility Agent at least three Business Days prior to the date a member of the Group legally commits to the proposed acquisition (accompanied by reasonably detailed calculations and assumptions) confirming that Adjusted Leverage (as at the most recent Quarter Date for which financial information is available to calculate such ratio before the relevant member of the Group legally commits to make the proposed acquisition and pro forma for the acquisition) did not exceed 5.75:1; and
- (vi) the Parent has delivered a certificate, signed by its finance director or chief executive officer, to the Facility Agent at least three Business Days prior to

the date a member of the Group legally commits to the proposed acquisition (accompanied by reasonably detailed calculations and assumptions) confirming that the Parent:

- (A) was in compliance with the financial covenants set out in clause 26.2 (Financial condition) as at the most recent Quarter Date for which financial information is available to calculate such ratio before the relevant member of the Group legally commits to make the proposed acquisition; and
  - (B) would have been in compliance with the financial covenants set out in clause 26.2 (Financial condition) as at the most recent Quarter Date for which financial information is available to calculate such ratio before the relevant member of the Group legally commits to make the proposed acquisition if the calculations were adjusted to be pro forma for the acquisition;
- (vii) save where the Total Purchase Price is fully funded by New Shareholder Injections (other than any New Shareholder Injection contributed for the purpose of an equity cure pursuant to clause 26.4 (Equity Cure)), in the case of a single acquisition the Total Purchase Price of which (less the amount funded by Acceptable Funding Sources (Excluding Debt and Retained Cash)) is greater than £50,000,000 (or its equivalent in any other currency) but less than or equal to £75,000,000 (or its equivalent in any other currency), the Parent shall supply to the Facility Agent for the Lenders by no later than five Business Days prior to the date a member of the Group legally commits to make the relevant acquisition, a copy of any due diligence reports obtained by the Group in relation to the Acquisition Target, on a non-reliance basis (subject to the Facility Agent and any other relevant Reliance Party signing any required hold harmless letter) and the acquisition agreement under which the Acquisition Target is to be acquired; and
- (viii) save where the Total Purchase Price is fully funded by New Shareholder Injections (other than any New Shareholder Injection contributed for the purpose of an equity cure pursuant to clause 26.4 (Equity Cure)), in the case of a single acquisition the Total Purchase Price of which (less the amount funded by Acceptable Funding Sources (Excluding Debt and Retained Cash)) is greater than £75,000,000 (or its equivalent in any other currency), the Parent shall supply to the Facility Agent for the Lenders by no later than five Business Days prior to the date a member of the Group legally commits to make the relevant acquisition, a copy of financial and legal due diligence (if such diligence has been commissioned by the Group) and any other due diligence reports obtained by the Group in relation to the Acquisition Target, and shall use all reasonable endeavours to do so on a reliance basis (subject to the Facility Agent and any other relevant Reliance Party signing any required reliance letter) and the acquisition agreement under which the Acquisition Target is to be acquired;
- (h) any acquisition which is funded entirely using New Shareholder Injections; and
- (i) if a Controlling Interest which is less than 100 per cent of the issued share capital or equivalent ownership interest of an Acquisition Target has been the subject of a Permitted Acquisition under paragraph (g) above or if a member of the Group intends to acquire the shares or other ownership interests which it does not already own in a Joint Venture which is already a Permitted Joint Venture, the acquisition of all or part of the balance of the shares or other ownership interest in such Acquisition Target or Permitted Joint Venture provided that:

- (i) no Event of Default or Material Event of Default is continuing as at the date a member of the Group legally commits to make the acquisition or would (by reference to the facts and circumstances existing at that date) occur as a result of the acquisition; and
- (ii) with respect to such acquisition which is funded in whole or in part from the proceeds of any Facility the Parent has delivered a certificate, signed by its finance director or chief executive officer, to the Facility Agent at least three Business Days prior to the date a member of the Group legally commits to the proposed acquisition (accompanied by reasonably detailed calculations and assumptions) confirming that Adjusted Leverage (as at the most recent Quarter Date for which financial information is available to calculate such ratio before the relevant member of the Group legally commits to make the proposed acquisition) did not exceed 5.75:1,

in each case, pro-forma for the acquisition, any Utilisation in connection with the acquisition and taking into account Permitted Synergies;

For the purposes of this definition, an acquisition of a **"Controlling Interest"** means more than 50 per cent of the voting share capital (or equivalent ownership interest);

**"Permitted Bolt-on Acquisition"** means a Permitted Acquisition under paragraph (g) and/or (i) of the definition of that term;

**"Permitted Acquisition Clean-Up Period"** means, in relation to a Permitted Bolt-on Acquisition, the period beginning on the closing date for that acquisition and ending on the date falling 90 days after that closing date or on such other date agreed by the Majority Lenders;

**"Permitted Disposal"** means any sale, lease, licence, transfer or other disposal which, except in the case of paragraphs (c) and (d), is on arm's length terms:

- (a) of trading stock or cash made by any member of the Group in the ordinary course of trading of the disposing entity;
- (b) of cash which would otherwise be permitted or not restricted under the Finance Documents;
- (c) of any asset by a member of the Group (the **"Disposing Company"**) to another member of the Group (the **"Acquiring Company"**), but if:
  - (i) the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor;
  - (ii) the Disposing Company had given Transaction Security over the asset, the Acquiring Company must give equivalent Transaction Security over that asset; and
  - (iii) the Disposing Company is a Guarantor, the Acquiring Company must be a Guarantor guaranteeing on and from the time of the disposal an amount no less than that guaranteed by the Disposing Company;
- (d) of any asset by an Obligor to another member of the Group which is not an Obligor or a Prospective Obligor provided that, in aggregate, the higher of the market or book value of assets disposed of in reliance on this paragraph (d) between the date of this agreement and the Termination Date in respect of the Senior Term Facility A does not cause the Obligor Leakage Amount to exceed the Obligor/non-Obligor Basket at any time;

- (e) of assets (other than shares, businesses or real property) in exchange for other assets comparable or superior as to type, value and quality (other than an exchange of a non-cash asset for cash);
- (f) of obsolete or redundant vehicles, plant and equipment for cash;
- (g) of Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments;
- (h) constituted by a licence of intellectual property rights permitted by clause 27.30 (Intellectual Property);
- (i) to a Joint Venture, to the extent permitted by clause 27.10 (Joint ventures);
- (j) arising as a result of any Permitted Security;
- (k) arising as a result of any Project Amalfi Real Estate Transactions or any Permitted Real Estate Transaction;
- (l) arising as a result of any Permitted Transaction or any Permitted Payment;
- (m) of assets compulsorily acquired by any governmental authority, where such compulsory acquisition does not have or is not reasonably likely to have a Material Adverse Effect;
- (n) constituted by the grant of leases or licences in respect of real property from a member of the Group to another member of the Group;
- (o) of leasehold property by a member of the Group in exchange for another leasehold property which is let on comparable or superior terms to such member of the Group or where such leasehold property is rack rent and surplus to requirement;
- (p) arising from the close-out or termination of a Treasury Transaction;
- (q) of assets (other than shares or businesses (except for shares in any company which is a special purpose vehicle operating as property holding company only, which for the avoidance of doubt may be disposed of pursuant to this paragraph)) for cash or deferred consideration where the higher of the market value and net consideration receivable (net in each case of any taxes and costs and expenses of disposal) (when aggregated with the higher of the market value and net consideration receivable (net in each case of any taxes and costs and expenses of disposal) for any other sale, lease, licence, transfer or other disposal not allowed under the preceding paragraphs or as a Permitted Transaction) does not exceed the greater of £10,000,000 (or its equivalent in any other currency) and ten per cent of Adjusted EBITDA in aggregate in any Financial Year; and
- (r) a Permitted Surrender;

**"Permitted Distribution"** means the payment of a dividend or any other payment, distribution, redemption, repurchase, defeasement or retirement:

- (a) to the Parent or any of its wholly-owned Subsidiaries (or any related declaration or resolution);
- (b) by a member of the Group (other than the Parent) which is not a wholly-owned member of the Group on a pro rata basis to each of its shareholders or on a basis which results in a greater than pro rata distribution to the Parent or any of its wholly-owned Subsidiaries (or any related declaration or resolution); and

(c) by the Parent which is a Permitted Payment;

**"Permitted Financial Indebtedness"** means Financial Indebtedness:

- (a) arising under the Finance Documents including in respect of any Incremental Term Facility;
- (b) prior to one Business Day after the Closing Date, incurred under the Existing Facilities Agreement;
- (c) constituted by Subordinated Debt;
- (d) to the extent covered by a letter of credit, guarantee or indemnity issued under an Ancillary Facility;
- (e) arising under a treasury transaction entered into in connection with protection against fluctuation in currency or commodity rates where the exposure arises in the ordinary course of trade or in respect of Loans made in Optional Currencies, but not a foreign exchange transaction for investment or speculative purposes;
- (f) arising under a Permitted Loan or a Permitted Guarantee or as permitted by clause 27.33 (Treasury Transactions);
- (g) of any person acquired by a member of the Group after the Closing Date which is incurred under arrangements in existence at the date of acquisition, but not incurred or increased (save by way of accrual or capitalisation of interest) or having its maturity date extended in contemplation of, or since, that acquisition, and outstanding for a period of no more than three months following the date of acquisition;
- (h) arising under Finance Leases of vehicles, plant, equipment or computers,
- (i) arising under Finance Leases of real estate (excluding real estate leases and capital expenditure which, in each case, are categorised as Finance Leases);
- (j) arising under real estate leases which are categorised as Finance Leases;
- (k) arising under New Shareholder Injections;
- (l) arising under deferred consideration in relation to a Permitted Bolt-on Acquisition, provided that such amount shall not exceed 50 per cent of the Total Purchase Price for that Permitted Bolt-on Acquisition and, for the avoidance of doubt, the amount of any earn-out liabilities will be ignored for the purpose of this calculation unless, at the time of entering into a legally binding commitment with respect to that Permitted Bolt-on Acquisition, the quantum of such liabilities would (to the extent the acquisition had completed) be recognised in the relevant accounts as non-contingent liabilities in accordance with the Accounting Principles and provided that, to the extent any earn-out liabilities are taken into account pursuant to this paragraph, they shall also be included in the Total Purchase Price for the purpose of this paragraph notwithstanding their exclusion pursuant to the definition thereof;
- (m) arising under any cash pooling, netting, set-off or other cash management arrangements between Obligor and an Acceptable Bank;
- (n) arising:
  - (i) in respect of bank transfer or corporate credit card facilities used by members of the Group in the ordinary course of business; or

- (ii) under any local facilities or overdraft, working capital, bilateral financing lines, indebtedness relating to letters of credit, bank guarantees or other credits,

provided that the outstanding principal amount of which does not exceed the greater of £10,000,000 (or its equivalent in any other currency) and 10 per cent of Adjusted EBITDA in aggregate for the Group at any time;

- (o) arising under any factoring, sale, discounting or other disposal of receivables raising Financial Indebtedness, provided that the outstanding principal amount of which does not exceed the greater of £5,000,000 (or its equivalent in any other currency) and five per cent of Adjusted EBITDA in aggregate for the Group at any time; and
- (p) not permitted by the preceding paragraphs or as a Permitted Transaction and the outstanding principal amount of which does not exceed the greater of £25,000,000 (or its equivalent in any other currency) and 25 per cent of Adjusted EBITDA in aggregate for the Group at any time;

**"Permitted Guarantee"** means:

- (a) any guarantee under the Finance Documents, including in respect of any Incremental Term Facility;
- (b) prior to one Business Day after the Closing Date, any guarantee or indemnity given in connection with the Existing Facilities Agreement;
- (c) the endorsement of negotiable instruments in the ordinary course of trade;
- (d) any performance or similar bond guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of trade or an indemnity given in respect of such a performance or similar bond issued by a financial institution (including, for the avoidance of doubt, any insurer);
- (e) any guarantee of a Joint Venture to the extent permitted by clause 27.10 (Joint ventures);
- (f) any guarantee permitted under clause 27.21 (Financial Indebtedness) or granted in respect of Permitted Financial Indebtedness (other than under paragraph (f) of such definition);
- (g) any guarantee given in respect of the netting or set-off arrangements permitted pursuant to paragraph (d) of the definition of "Permitted Security";
- (h) any indemnity given in the ordinary course of the documentation of an acquisition or disposal transaction which is a Permitted Acquisition or Permitted Disposal which indemnity is in a customary form and subject to customary limitations;
- (i) any:
  - (i) guarantees to landlords in respect of rent payable by a member of the Group in respect of real property used in the business of the Group in the ordinary course of business; and
  - (ii) guarantees or counter indemnities in favour of financial institutions which have guaranteed rent obligations of a member of the Group in respect of real property used by such member of the Group in the ordinary course of business,

provided that such guarantees or counter indemnities relate to the exposure of such financial institutions under their guarantee of such rental obligations, provided that the outstanding principal amount of guarantees granted pursuant to paragraphs (i)

and (ii) above does not exceed the greater of £5,000,000 (or its equivalent in any other currency) and five per cent of Adjusted EBITDA in aggregate for the Group at any time;

- (j) any guarantee granted in favour of the trustee of any pension scheme of any member of the Group arising as a result of the operation of law or to comply with law;
- (k) guarantees of Treasury Transactions to the extent such Treasury Transactions are permitted under this agreement (other than Treasury Transactions entered into by a member of the Group that are not Obligor);
- (l) any indemnity granted to the EBT Trustee or any other trustee of any employee share option or unit trust scheme operated for the benefit of employees or former employees of members of the Group or an Unrestricted Holdco;
- (m) any guarantees given by:
  - (i) any Obligor in respect of any obligation or liability of any other Obligor or Prospective Obligor;
  - (ii) any member of the Group which is not an Obligor in respect of any obligation or liability of any other member of the Group;
  - (iii) any Obligor in respect of any obligation or liability of any member of the Group which is not an Obligor or Prospective Obligor provided that the maximum aggregate liability (whether present or future, actual or contingent) of all Obligors under guarantees permitted pursuant to this paragraph (iii) does not cause the Obligor Leakage Amount to exceed the Obligor/non-Obligor Basket at any time;
- (n) any authorised guarantee agreement (as such term is used in the Landlord and Tenant (Covenants) Act 1995, an "**AGA**") entered into in respect of leasehold real property disposed of in accordance with this agreement and any indemnity granted to the transferor of leasehold real property acquired by a member of the Group under which such member of the Group indemnifies such transferor in respect of a claim under an AGA entered into in respect of such real property;
- (o) any indemnity in favour of a liquidator of a member of the Group whose liquidation is a Permitted Transaction under paragraph (b) of the definition of that term under this clause 1.1 (Definitions);
- (p) customary guarantees and indemnities in favour of directors and officers of a member of the Group in their capacity as such;
- (q) customary indemnities to professional advisers and consultants under their standard terms of business;
- (r) customary indemnities in mandate and commitment letters entered into in respect of or in contemplation of Permitted Financial Indebtedness or in refinancing the Facilities;
- (s) any customary guarantee granted in relation to any member of the Group's obligations as tenant under a leasehold interest in connection with any Project Amalfi Real Estate Transaction or any Permitted Real Estate Transaction;
- (t) any guarantee created under the terms of any Preferred Debt Document; and
- (u) any guarantee not permitted by the preceding paragraphs or as a Permitted Transaction and the outstanding amount of which does not exceed the greater of



£7,500,000 (or its equivalent in any other currency) and 7.5 per cent of Adjusted EBITDA in aggregate for the Group at any time;

**"Permitted Joint Venture"** means any Joint Venture (other than a Joint Venture entered into by the Parent) where:

- (a) the Joint Venture is incorporated or established and carries on its principal business in any Permitted Jurisdiction;
- (b) the Joint Venture is engaged in a business substantially the same as, or complementary or related to, that carried on by the Group; and
- (c) the aggregate of:
  - (i) all amounts subscribed for shares in, lent to or invested in all such Joint Ventures by any member of the Group;
  - (ii) the contingent liabilities of any member of the Group under any guarantee given in respect of the liabilities of any such Joint Venture; and
  - (iii) the market value of any assets transferred by any member of the Group to any such Joint Venture,

less the aggregate of the amount of any redemption of share capital made by, repayment of borrowings made by or market value of any assets transferred by any such Joint Venture to any member of the Group, does not exceed the greater of £10,000,000 (or its equivalent in any other currency) and ten per cent of Adjusted EBITDA in any Financial Year, subject to a maximum of £25,000,000 in aggregate between the date of this agreement and the latest Termination Date;

**"Permitted Jurisdiction"** means any country which is not subject to Sanctions;

**"Permitted Loan"** means:

- (a) any trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities, any prepayment made to its suppliers in the ordinary course of its trading activities and any advance payment made in relation to capital expenditure in the ordinary course of business;
- (b) Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness (except under paragraph (f) of that definition);
- (c) any loan made to a Joint Venture to the extent permitted under clause 27.10 (Joint ventures);
- (d) any loan made by an Obligor to another Obligor or Prospective Obligor or made by a member of the Group which is not an Obligor (or was not an Obligor when such loan was made) to another member of the Group;
- (e) any loan made by an Obligor to a member of the Group which is not an Obligor or Prospective Obligor so long as the aggregate amount of the Financial Indebtedness under any such loans made in reliance on this paragraph (e) does not cause the Obligor Leakage Amount to exceed the Obligor/non-Obligor Basket at any time;
- (f) any loan by the Parent which is a Permitted Payment;
- (g) any loan between members of the Group existing prior to the Closing Date;

- (h) any loan made by a member of the Group to an employee or director or management vehicle of any member of the Group if the amount of that loan when aggregated with the amount of all outstanding loans to employees, directors and management vehicles by members of the Group made in reliance on this paragraph (h) does not exceed the greater of £2,500,000 (or its equivalent in any other currency) and 2.5 per cent of Adjusted EBITDA at any time;
- (i) any loans which constitute a Management Equity Transaction;
- (j) any deferred consideration on Permitted Disposals;
- (k) any loans described in the Structure Memorandum;
- (l) any loan or extensions of credit resulting from any Permitted Guarantee;
- (m) any Financial Indebtedness in respect of which a member of the Group is the creditor to the extent constituted by an investment in Cash Equivalent Investments, a positive balance on a bank account, a positive balance in relation to a Treasury Transaction or a Permitted Rent Arrangement; and
- (n) any loan (other than a loan made by a member of the Group to another member of the Group) so long as the aggregate amount of the Financial Indebtedness under any such loans does not exceed the greater of £5,000,000 (or its equivalent in any other currency) and five per cent of Adjusted EBITDA at any time;

so long as in the case of paragraphs (d) and (e) above:

- (i) the creditor of such Financial Indebtedness shall (if it is an Obligor) grant Security over its rights in respect of such Financial Indebtedness in favour of the Secured Parties on terms acceptable to the Facility Agent (acting on the instructions of the Majority Lenders); and
- (ii) if the amount of the relevant Financial Indebtedness owed to such a creditor by one or more members of the Group exceeds £1,000,000, the creditor and (if the debtor is a member of the Group which owes relevant Financial Indebtedness to one or more members of the Group in an amount which exceeds £1,000,000) the debtor of such Financial Indebtedness are or become party to the Intercreditor Agreement as an Intra-Group Lender and a Debtor (as defined, each case, in the Intercreditor Agreement) respectively unless such accession would, if it had constituted the creation of Security, be contrary to the Agreed Security Principles provided that any Financial Indebtedness owed to or by a Prospective Obligor shall be deemed to satisfy the requirements of this paragraph (ii) provided that such Prospective Obligor becomes a party to the Intercreditor Agreement in the appropriate capacity at the same time it becomes an Obligor;

**"Permitted Payment"** means:

- (a) a Permitted Distribution under paragraphs (a) or (b) of the definition of that term;
- (b) a payment of arrangement fees in respect of a New Shareholder Injection (such fee in an amount not exceeding three per cent of the New Shareholder Injection amount) provided that any such payment is paid by way of deduction from the proceeds of that New Shareholder Injection and only the net amount is taken into account for the purpose of this agreement;
- (c) any payment to satisfy obligations under the Finance Documents;

- (d) any payment by the Parent to any Holding Company of the Parent of an amount equal to any VAT credit or repayment obtained by a member of the Group from Her Majesty's Revenue and Customs in respect of any supply made by a Holding Company of the Group in its capacity as a Holding Company of the Group;
- (e) any payment constituting a Management Equity Transaction;
- (f) a payment by any member of the Group for Group Relief which has been surrendered to that member of the Group, provided that, if the payment is to an entity that is not a member of the Group:
  - (i) the payment does not exceed an amount equal to the rate of corporation tax applicable to that member of the Group for the period multiplied by the amount of Group Relief surrendered to it; and
  - (ii) that member of the Group makes the payment no earlier than the date one month prior to the date on which, but for the surrender, it would otherwise have been liable to pay such tax or, if applicable, the date on which it would have been liable to pay the final instalment of the corporation tax liability for the accounting period in question;
- (g) a payment constituted by a capitalisation of, or the issue of any payment in kind notes in respect of, any Subordinated Debt;
- (h) a payment to reimburse out-of-pocket expenses reasonably incurred by any Sponsor to the extent directly referable to the ownership and management of the Group provided that the aggregate amount of such payments does not exceed £500,000 (or its equivalent in any other currency) in aggregate in any Financial Year;
- (i) any payment in respect of dividends or other distributions or the cash payment of principal or interest on investor loans or any other debt instruments of the Parent or any Holding Company of the Parent, provided that the Parent has delivered a certificate to the Facility Agent at least five Business Days prior to the date of the proposed payment (accompanied by reasonably detailed calculations and assumptions) confirming that:
  - (i) Adjusted Leverage for the Relevant Period ending on the most recent Quarter Date prior to that payment is less than 3.25:1 (pro-forma for that payment);
  - (ii) the Parent was in compliance with the financial covenants set out in clause 26.2 (Financial condition) as at the most recent Quarter Date for which financial information is available to calculate such ratio before the date of the proposed payment; and
  - (iii) the Parent would have been in compliance with the financial covenants set out in clause 26.2 (Financial condition) as at the most recent Quarter Date for which financial information is available to calculate such ratio before the date of the proposed payment if the calculations were adjusted to be pro forma for the payment;
- (j) the payment of:
  - (i) remuneration, fees or costs payable to chairpersons, directors, non-executive directors, observers, consultants or employees with service contracts or agreements with an Unrestricted Holdco which are solely attributable to acting as a chairperson, director, consultant or employee of a Holding Company of the Parent (other than the Investors) in each case in the ordinary course of its business, and provided that such remuneration, fees or costs are reasonably and properly incurred; and

- (ii) expenditure reasonably incurred by an Unrestricted Holdco by way of administrative costs, tax, insurance premia, costs to maintain corporate existence, professional fees and regulatory costs in each case in relation to the ordinary course of business as a Holding Company and to the extent directly referable to the ownership and management of the Group,

provided that the aggregate amount of such payments does not exceed £2,000,000 (or its equivalent in any other currency) in any Financial Year (plus VAT if appropriate);

- (k) any payment of monitoring or advisory fees to the Investors, provided that the aggregate amount of such payments does not exceed £2,000,000 (or its equivalent in any other currency) in aggregate in any Financial Year;
- (l) any payment funded from no more than 50 per cent of the net proceeds from any Permitted Real Estate Transaction, provided that the Parent has delivered a certificate, signed by its finance director or chief executive officer, to the Facility Agent at least five Business Days prior to the date of the proposed payment (accompanied by reasonably detailed calculations and assumptions) confirming that:
  - (i) the Parent was in compliance with the financial covenants in clause 26.2 (Financial condition) as at the most recently ended Quarter Date (pro forma for the relevant payment and the prepayment of the Term Facilities referred to below);
  - (ii) Adjusted Leverage for the Relevant Period ending on the most recent Quarter Date prior to that payment is not greater than 4.00:1 (taking into account the proposed payment and the proposed prepayment of the Term Facilities referred to in (iii) below); and
  - (iii) an amount equal to the amount to be paid pursuant to this paragraph will be contemporaneously applied in prepayment of the Term Facilities in accordance with clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds) and clause 11.3 (Application of mandatory prepayments and cancellations),

provided that the aggregate amount of payments which may be made pursuant to this paragraph (l) shall not exceed £50,000,000 (or its equivalent in any other currency) over the life of the Facilities;

- (m) any payment to fund the repayment of New Shareholder Injections that were contributed to fund a Permitted Acquisition plus interest on such New Shareholder Injections which have accrued since the date of contribution, provided that:
  - (i) such payment is funded from the proceeds of Incremental Term Facility Loans;
  - (ii) payment is made no later than six months after completion of the relevant Permitted Acquisition;
  - (iii) interest paid on such New Shareholder Injections pursuant to this paragraph does not accrue at a rate higher than 5.5 per cent per annum and has not accrued for a period longer than six months;
- (n) payment of professional fees and other expenses of the Sponsor in relation to the Scheme Documents and the Scheme or the Takeover Offer Documents and the Offer and Acquisition Costs incurred by the Sponsor and any Holding Company of the Parent (in the case of the Acquisition, as set out in the Sources and Uses Statement or as otherwise approved by the Facility Agent);

- (o) payments by a member of the Group to an Unrestricted Holdco to enable the payment of:
  - (i) on-going fees payable to members of the Sheikh Group up to an aggregate amount of £5,000,000 payable on or prior to the first anniversary of the Closing Date and a further aggregate amount of up to £5,000,000 payable after the first anniversary of the Closing Date but on or prior to the second anniversary of the Closing Date; and
  - (ii) cash interest on the Preferred Debt Instrument in an aggregate amount equal to 2 per cent per annum on the principal amount outstanding under such instrument on the Closing Date (as increased pursuant to any capitalised interest in relation to such amount from time to time), provided that:
    - (aa) no payment pursuant to this sub-paragraph (ii) may be made at any time while the PIK Toggle Option is being exercised, but for the avoidance of doubt interest will continue to accrue at all times while the PIK Toggle Option is being exercised and any amount which could not be paid by operation of this sub-paragraph whilst the PIK Toggle Option is being exercised shall continue to accrue and may be paid once the PIK Toggle Option is no longer being exercised and the Margin is being paid in cash in full (in addition to any other amounts which may be paid at that time pursuant to this paragraph (o)); and
    - (bb) at any time that Adjusted Leverage as at the preceding Quarter Date (when calculated on a pro forma basis taking into account any pro forma adjustments referred to in the definition of "Adjusted Leverage" in clause 26.1 (Financial Definitions)) is more than 5.75:1, the reference in sub-paragraph (ii) above to 2 per cent shall be deemed to be a reference to 1 per cent per annum provided that any interest which is not paid by virtue of this sub-paragraph shall continue to accrue and may be paid once Adjusted Leverage is equal to or less than 5.75:1 (in addition to any other amounts which may be paid at that time pursuant to this paragraph (o)),

in each case, provided that:

- (A) none of the payments described above (other than the payment referred to in paragraphs (b), (c), (f), (j), (k), (n) or (o) above) may be made if an Event of Default is continuing or would occur as a result of making such payment;
- (B) no payment referred to in paragraphs (b), (c), (f) or (j) (inclusive) may be made if a Declared Default has occurred;
- (C) no payment referred to in paragraph (n) or (o) may be made if a Relevant Event of Default is continuing;
- (D) any amounts not capable of being paid in respect of sub-paragraph (i) of paragraph (o) above whilst a Relevant Event of Default is continuing, may be paid as soon as reasonably practicable once that Relevant Event of Default is no longer continuing, notwithstanding that the payment may be made on a date that is after the first anniversary of the Closing Date or the second anniversary of the Closing Date (as applicable); and

- (E) any amounts not capable of being paid in respect of sub-paragraph (ii) of paragraph (o) above whilst a Relevant Event of Default is continuing shall continue to accrue whilst a Relevant Event of Default is continuing and may be paid once that Relevant Event of Default is no longer continuing;

**"Permitted Real Estate Transaction"** means any arrangement entered into on or after the Closing Date with any person that is not a member of the Group whereby a member of the Group sells, transfers or disposes of any real property and thereafter rents or leases such real property (or any other arrangement achieving a substantially similar commercial effect) but excluding assets which are subject to the Project Amalfi Real Estate Transaction provided that:

- (a) the aggregate net proceeds raised pursuant to such transactions do not exceed £200,000,000 (or its equivalent in any other currency) between the date of this agreement and the latest Termination Date; and
- (b) immediately following the completion of any such transaction, the aggregate value of all the Sites owned by the Group (as calculated by reference to the most recent Valuation) exceeds 120 per cent of Total Net Debt as at the most recently ended Quarter Date (but pro forma for the application of any proceeds of such transaction which the Parent has notified the Facility Agent will be applied in prepayment and provided such proceeds are so applied in accordance with the terms of this agreement);

**"Permitted Rent Arrangement"** means a rent deposit deed or other deposit requirement entered into on arm's length terms and in the ordinary course of business securing the obligations of a member of the Group in relation to property leased or licensed to a member of the Group;

**"Permitted Security"** means:

- (a) any Security under the Finance Documents (including in respect of any Incremental Term Facility);
- (b) prior to three Business Days after the Closing Date, any Security or Quasi-Security given in connection with the Existing Facilities Agreement;
- (c) any lien arising by operation of law or contract having a similar effect and in the ordinary course of trading which secures indebtedness which is no more than 90 days overdue;
- (d) any netting or set-off arrangement 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 (including a Multi-account Overdraft) but only so long as:
  - (i) such arrangement does not permit credit balances of Obligors to be netted or set off against debit balances of members of the Group which are not Obligors; and
  - (ii) such arrangement does not give rise to other Security over the assets of Obligors in support of liabilities of members of the Group which are not Obligors,

except, in the case of (i) and (ii) above, to the extent such netting, set-off or Security relates to, or is granted in support of, a loan permitted pursuant to paragraph (e) of the definition of "Permitted Loan";

- (e) 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 which constitutes Permitted Financial Indebtedness, excluding any Security or Quasi-Security under a credit support arrangement;
- (f) any Security or Quasi-Security over or affecting any asset acquired by a member of the Group after the Closing Date if:
  - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a member of the Group;
  - (ii) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset (otherwise than by the capitalisation of interest) by a member of the Group; and
  - (iii) the Security or Quasi-Security is removed or discharged within three months of the date of acquisition of such asset;
- (g) any Security or Quasi-Security over or affecting any asset of any company which becomes a member of the Group after the Closing Date, where the Security or Quasi-Security is created prior to the date on which that company becomes a member of the Group if:
  - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that company;
  - (ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company (otherwise than by the capitalisation of interest); and
  - (iii) the Security or Quasi-Security is removed or discharged within three months of that company becoming a member of the Group;
- (h) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of trading which secures indebtedness which is no more than 90 days overdue;
- (i) any Security or Quasi-Security (existing as at the date of this agreement) over assets of any member of the Target Group so long as the Security or Quasi-Security is irrevocably removed or discharged by no later than five Business Days after the Closing Date;
- (j) any Quasi-Security arising as a result of a disposal which is a Permitted Disposal;
- (k) any Security or Quasi-Security arising as a consequence of any Finance Lease permitted pursuant to paragraphs (h) or (p) of the definition of "Permitted Financial Indebtedness";
- (l) any Security arising by operation of law in respect of taxes being contested in good faith or that are not yet due;
- (m) any Security over goods or documents of title to goods arising in the ordinary course of letter of credit transactions entered into by a member of the Group in the ordinary course of trading;
- (n) any Security arising in respect of any judgment or award for which an appeal or proceedings for review are being diligently pursued in good faith or in respect of which the relevant court is assessing the quantum of damages;

- (o) any netting or set off or escrow arrangement entered into by any member of the Group with a trading counterparty in the ordinary course of trading;
- (p) any Security arising under the standard terms of bank accounts opened in a jurisdiction outside the United Kingdom;
- (q) any Security granted over freehold or long leasehold property to creditors of any Permitted Financial Indebtedness, provided that the outstanding principal amount of which does not exceed the greater of £15,000,000 (or its equivalent in any other currency) and 15 per cent of Adjusted EBITDA for the Group in any Financial Year;
- (r) any Security arising under a Permitted Rent Arrangement, provided that the outstanding principal amount of which does not exceed the greater of £10,000,000 (or its equivalent in any other currency) and ten per cent of Adjusted EBITDA for the Group in any Financial Year;
- (s) any Security or Quasi-Security created under the terms of a Subordinated Security Document; or
- (t) any Security securing indebtedness the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness which has the benefit of Security given by any member of the Group other than, without double counting, any permitted under the preceding paragraphs or as a Permitted Transaction above) does not exceed the greater of £15,000,000 (or its equivalent in any other currency) and 15 per cent of Adjusted EBITDA at any time;

**"Permitted Share Issue"** means an issue of:

- (a) shares by the Parent, paid for in full in cash upon issue (or issued by way of the capitalisation of Subordinated Debt) and which by their terms are not redeemable (other than at the option of the Parent or if their redemption is prohibited by the Intercreditor Agreement and the holder of such shares is party to the Intercreditor Agreement) and where:
  - (i) such shares are of the same class and on the same terms as those initially issued by the Parent or are on terms which do not adversely affect the interests of the Lenders under the Finance Documents; and
  - (ii) such issue does not lead to a Change of Control of the Parent;
- (b) shares by a member of the Group (other than the Parent) which is a Subsidiary to another member of the Group where (if the existing shares of the Subsidiary are the subject of the Transaction Security) the newly-issued shares also become subject to the Transaction Security on the same terms, provided that the aggregate amount subscribed for by all Obligors in shares of members of the Group which are not Obligors (or Prospective Obligors) does not cause the Obligor Leakage Amount to exceed the Obligor/non-Obligor Basket at any time; and
- (c) shares by a non wholly-owned member of the Group to its minority shareholders provided that the member of the Group which owns the majority of the shares in such Group member is issued shares which maintains (or increases) its level of ownership of such Group member at the same time;

**"Permitted Surrender"** means any surrender by any member of the Group of Group Relief provided that if the surrender is to an entity (the "**recipient**") that is not a member of the Group:

- (a) no member of the Group may utilise such Group Relief; and



- (b) the recipient pays an amount in cash equal to the rate of corporation tax applicable to the relevant member of the Group for the period multiplied by the amount of Group Relief surrendered to the recipient not later than ten Business Days after such relief is surrendered;

**"Permitted Synergies"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Permitted Transaction"** means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Finance Documents;
- (b) the solvent liquidation or reorganisation of any member of the Group which is not an Obligor (including, for the avoidance of doubt a member of the Group which has resigned as an Obligor in accordance with this agreement for the purpose of such liquidation or reorganisation) provided that any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other members of the Group or, where such member of the Group is not a wholly-owned Subsidiary, are distributed to such Group members' shareholders in accordance with their respective shareholdings or on a basis which results in a greater distribution to Group members;
- (c) transactions (other than (i) any sale, lease, licence, transfer or other disposal and (ii) the granting or creation of Security or the incurring or permitting to subsist of Financial Indebtedness) conducted in the ordinary course of trading on arm's length terms;
- (d) any conversion of a loan, credit or other indebtedness outstanding which is permitted under the Finance Documents 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;
- (e) any payments or other transactions contemplated by the Structure Memorandum (other than any exit steps, Project Red, Project Avenue and Project Causeway), the Sources and Uses Statement or constituting a Management Equity Transaction;
- (f) provided no Default is continuing, a re-organisation, merger or amalgamation, in each case, on a solvent basis of an Obligor (the **"Old Obligor"**) if:
  - (i) the Old Obligor is not a Borrower or the Parent;
  - (ii) the re-organisation takes place within (and the entity which results from the re-organisation is also incorporated in) the same jurisdiction as the jurisdiction of incorporation of the Old Obligor;
  - (iii) if the assets or shares of the Old Obligor were subject to Transaction Security immediately prior to such event, the Security Agent is satisfied (on the basis of legal advice) that the Finance Parties will enjoy at least the same or equivalent guarantees and Transaction Security over the same assets and over the shares of that Old Obligor (or the shares of the surviving entity) after the reorganisation; and
  - (iv) any payments or assets distributed as a result of such reorganisation are distributed to its shareholders (following settlement of liabilities to creditors, if any) (provided that if the Old Obligor the subject of the reorganisation is not wholly owned not greater than a pro rata proportion of such payments or assets may be distributed to its minority shareholders);

- (g) any purchase of, or the right to call for the purchase of, any share capital of Smartbox Holdings Limited by the Target pursuant to a put and call option agreement referred to in the shareholders' agreement dated 5 October 2020 relating to Smartbox Holdings Limited (as identified in the Legal Due Diligence Report);

**"PIK Toggle Option"** has the meaning given to it in clause 14.5 (PIK Toggle);

**"Positive Rating"** means a Rating Outcome of "Good" or "Outstanding";

**"Pre-Approved New Lender List"** means the list of entities agreed in writing on or before the date of this agreement by or on behalf of the Parent and the Arranger;

**"Preferred Debt Documents"** has the meaning given to the term "Subordinated Secured Finance Documents" in the Intercreditor Agreement provided that, for avoidance of doubt, any Financial Indebtedness incurred by any member of the Group arising under any such document is subordinated pursuant to the Intercreditor Agreement (or otherwise on terms satisfactory to the Majority Lenders);

**"Preferred Debt Instrument"** means the secured subordinated notes facility agreement dated on or about the date of this agreement between, among others, MidCo as the issuer, Topco as TopCo, GLAS Loan Agency Services Limited as agent and GLAS Trust Corporation Limited as security agent;

**"Project Amalfi Leases"** means the leases entered into pursuant to the Project Amalfi Real Estate Transactions;

**"Project Amalfi Real Estate Transactions"** means any arrangement with any person that is not a member of the Group whereby a member of the Group sells, transfers or disposes of any real property and thereafter rents or leases such real property (or any other arrangement achieving a substantially similar commercial effect), provided that the aggregate amount of Net Proceeds received in respect of the disposals may not exceed £350,000,000;

**"Project Amalfi Side Letter"** means the letter headed "Project Amalfi Side Letter" from the Parent to Ares Management Limited (in its capacity as arranger under this agreement) and THCP Advisory Ltd (in its capacity as arranger under the Preferred Debt Instrument) dated on or around the date of this agreement;

**"Property Report"** means the valuation and property transaction due diligence report prepared by Cushman & Wakefield and dated 27 May 2022 and capable of being relied upon by the Reliance Parties;

**"Prospective Obligor"** means each member of the Target Group required to accede as a Guarantor pursuant to clause 27.37 (Conditions subsequent);

**"Published Rate"** means:

- (a) an RFR; or
- (b) the Screen Rate for any Quoted Tenor;

**"Published Rate Replacement Event"** means, in relation to a Published Rate:

- (a) the methodology, formula or other means of determining that Published Rate has, in the opinion of the Majority Lenders, the Majority Super Senior Facility Lenders and the Parent, materially changed;
- (b)

- (i)
    - (A) the administrator of that Published Rate or its supervisor publicly announces that such administrator is insolvent; or
    - (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Published Rate is insolvent,

provided that, in each case, at that time, there is no successor administrator to continue to provide that Published Rate;
  - (ii) the administrator of that Published Rate publicly announces that it has ceased or will cease to provide that Published Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Published Rate;
  - (iii) the supervisor of the administrator of that Published Rate publicly announces that such Published Rate has been or will be permanently or indefinitely discontinued;
  - (iv) the administrator of that Published Rate or its supervisor announces that that Published Rate may no longer be used; or
  - (v) the supervisor of the administrator of that Screen Rate makes a public announcement or publishes information stating that that Screen Rate for that Quoted Tenor is no longer representative of the underlying market or the economic reality that it is intended to measure and that representativeness will not be restored (as determined by such supervisor).
- (c) the administrator of that Published Rate (or the administrator of an interest rate which is a constituent element of that Published Rate) determines that that Published Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
- (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders, the Majority Super Senior Facility Lenders and the Obligors) temporary; or
  - (ii) that Published Rate is calculated in accordance with any such policy or arrangement for a period no less than the period which is:
    - (A) set out opposite the relevant Screen Rate in schedule 16 (Contingency Periods); or
    - (B) specified as the "RFR Contingency Period" in the Compounded Rate Terms relating to that Published Rate; or
- (d) in the opinion of the Majority Lenders, the Majority Super Senior Facility Lenders and the Parent, that Published Rate is otherwise no longer appropriate for the purposes of calculating interest under this agreement;

**"Qualifying Lender"** has the meaning given to that term in clause 18 (Tax gross up and indemnities);

**"Qualifying Listing"** has the meaning given to it in clause 11.1 (Exit);

**"Quarter Date"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Quasi-Security"** has the meaning given to that term in clause 27.14 (Negative pledge);

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

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

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

**"Quoted Tenor"** means, in relation to a Screen Rate for a Term Reference Rate applicable to Loans in a currency, any period for which that Screen Rate is customarily displayed on the relevant page or screen of an information service and which is capable of selection (without the consent of any Finance Party) as an Interest Period for Term Rate Loans in the relevant currency;

**"Rate Switch Currency"** means any currency for which there are Compounded Rate Terms;

**"Rate Switch Date"** means, in relation to any Rate Switch Currency, the earlier of:

- (a) the Backstop Rate Switch Date; and
- (b) any Rate Switch Trigger Event Date,

for that Rate Switch Currency;

**"Rate Switch Trigger Event"** means:

- (a) in relation to any Rate Switch Currency other than sterling and the Screen Rate for the Term Reference Rate applicable to Loans in that Rate Switch Currency:

- (i)

- (A) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
- (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent,

provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;

- (ii) the administrator of that Screen Rate publicly announces that it has ceased or will cease to provide that Screen Rate for any Quoted Tenor permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate for that Quoted Tenor;

- (iii) the supervisor of the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued for any Quoted Tenor; or
  - (iv) the administrator of that Screen Rate or its supervisor publicly announces that that Screen Rate for any Quoted Tenor may no longer be used; and
- (b) in relation to any Rate Switch Currency other than sterling and the Screen Rate for Loans in that Rate Switch Currency, the supervisor of the administrator of that Screen Rate publicly announces or publishes information:
- (i) stating that that Screen Rate for any Quoted Tenor is no longer, or as of a specified future date will no longer be, representative of the underlying market and the economic reality that it is intended to measure and that such representativeness will not be restored (as determined by such supervisor); and
  - (ii) with awareness that any such announcement or publication will engage certain triggers for fallback provisions in contracts which may be activated by any such pre-cessation announcement or publication;

**"Rate Switch Trigger Event Date"** means, in relation to a Rate Switch Currency other than sterling:

- (a) in the case of an occurrence of a Rate Switch Trigger Event for that Rate Switch Currency described in paragraph (a)(i) of the definition of "Rate Switch Trigger Event", the date on which the relevant Screen Rate ceases to be published or otherwise becomes unavailable;
- (b) in the case of an occurrence of a Rate Switch Trigger Event for that Rate Switch Currency described in paragraphs (a)(i), (a)(iii) or (a)(iv) of the definition of "Rate Switch Trigger Event", the date on which the relevant Screen Rate for the relevant Quoted Tenor ceases to be published or otherwise becomes unavailable; and
- (c) in the case of an occurrence of a Rate Switch Trigger Event for that Rate Switch Currency described in paragraph (b) of the definition of "Rate Switch Trigger Event", the date on which the relevant Screen Rate for the relevant Quoted Tenor ceases to be representative of the underlying market and the economic reality that it is intended to measure (as determined by the supervisor of the administrator of such Screen Rate);

**"Rating Outcome"** means the rating outcome of a routine inspection of a Social Care Service by the Independent Regulator, as classified by the Company (acting reasonably and in good faith) into one of the following categories:

- (a) "Outstanding";
- (b) "Good";
- (c) "Requires Improvement"; or
- (d) "Inadequate";

**"Ratings Period"** means each period of twelve months ending on or about the last day of March in each calendar year;

**"Ratings Report"** means the reported results of a routine inspection of a Group Registered Service by the Independent Regulator containing (amongst other things) the Rating Outcome of such inspection;

**"Real Property"** means:

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

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

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

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

- (a) in relation to LIBOR as either:
  - (i) if:
    - (A) the Reference Bank is a contributor to the applicable Screen Rate; and
    - (B) it consists of a single figure,  
the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator; or
  - (ii) in any other case, the rate at which the relevant Reference Bank could fund itself in the relevant currency for the relevant period with reference to the unsecured wholesale funding market; or
- (b) in relation to EURIBOR:
  - (i) (other than where paragraph (ii) below applies) as the rate at which the relevant Reference Bank believes one prime bank is quoting to another prime bank for interbank term deposits in euro within the Participating Member States for the relevant period; or
  - (ii) if different, as the rate (if any and applied to the relevant Reference Bank and the relevant period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator;

**"Reference Banks"** means, in relation to LIBOR, the principal London offices of such entities as may be approved by the Facility Agent in consultation with the Parent and, in relation to EURIBOR, the principal office in London of such entities as may be appointed by the Facility Agent in consultation with the Parent;

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

**"Relevant Date"** means, either:

- (a) if the Acquisition is being effected by way of a Scheme, the Effective Date; or
- (b) if the Acquisition is being effected by way of an Offer, the Unconditional Date;

**"Relevant Event of Default"** means an Event of Default or a Material Event of Default pursuant to:

- (a) clause 28.1 (Non-payment);
- (b) clause 28.2 (Financial covenants and other obligations) in relation to a breach of:
  - (i) paragraph (a) or (b) of clause 25.1 (Financial statements);
  - (ii) clause 25.2 (Provision and contents of Compliance Certificate); or
  - (iii) clause 26.2 (Financial condition);
- (c) clause 28.6 (Insolvency);
- (d) clause 28.7 (Insolvency proceedings); and/or
- (e) clause 28.8 (Creditors' process);

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

- (a) its Original Jurisdiction;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated but only where that Obligor has granted Transaction Security governed by the laws of that jurisdiction; and
- (c) any jurisdiction where it conducts its business but only where that Obligor has granted Transaction Security governed by the laws of that jurisdiction;

**"Relevant Market"** means:

- (a) subject to paragraph (b) below:
  - (i) in relation to euro, the European interbank market; and
  - (ii) in relation to any other currency, the London interbank market; and
- (b) in relation to a Compounded Rate Currency, the market specified as such in the applicable Compounded Rate Terms;

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

**"Relevant Period"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Reliance Parties"** means the Facility Agent, the Arranger, the Security Agent, each Hedge Counterparty, each Ancillary Lender and each Original Lender;

**"Repeating Representations"** means each of the representations set out in clause 24.2 (Status) to clause 24.7 (Governing law and enforcement), paragraph (a) of clause 24.11 (No default), paragraph (g) of clause 24.12 (No misleading information), paragraph (c) of clause 24.13 (Original Financial Statements), clause 24.18 (Anti-corruption law), clause 24.20 (Ranking) to paragraph (a) of clause 24.22 (Legal and beneficial ownership), clause 24.27 (Centre of main interests) and clause 24.31 (Sanctions);

**"Replacement Reference Rate"** means a benchmark rate which is:

- (a) formally designated, nominated or recommended as the replacement for a Published Rate by:
  - (i) the administrator of that Published Rate (provided that the market or economic reality that such reference rate measures is the same as that measured by that Published Rate); or
  - (ii) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Reference Rate" will be the replacement under paragraph (ii) above;
- (b) in the opinion of the Majority Lenders, the Parent and (only insofar as and to the extent that the replacement will apply to a Super Senior Facility) the Majority Super Senior Facility Lenders, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to a Published Rate; or
- (c) in the opinion of the Majority Lenders, the Parent and (only insofar as and to the extent that the replacement will apply to a Super Senior Facility) the Majority Super Senior Facility Lenders, an appropriate successor to a Published Rate;

**"Reporting Day"** means the day (if any) specified as such in the applicable Compounded Rate Terms;

**"Reporting Time"** means the relevant time (if any) specified as such in the applicable Compounded Rate Terms;

**"Reports"** means, together, the Commercial Due Diligence Report, the Financial Due Diligence Report, the Legal Due Diligence Report, the Initial Valuation, the Property Report and the Structure Memorandum;

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

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

**"Restricted Jurisdictions"** means any jurisdiction, country or territory listed on any Sanctions List or which is, or whose government is, otherwise the subject of Sanctions;

**"Restricted Person"** means a person that is:

- (a) listed on, or owned or controlled by a person listed on any Sanctions List, or a person acting on behalf of such person; or
- (b) located in, incorporated under the laws of, or owned or controlled by, or acting on behalf of, a person located in or organised under the laws of a Restricted Jurisdiction; or
- (c) otherwise the target of Sanctions;

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

**"Revolving Facility Commitment"** means:



- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Revolving Facility Commitment" in part 2 of schedule 1 (The Original Parties) and the amount of any other Revolving Facility Commitment transferred to it under this agreement or assumed by it in accordance with clause 2.3 (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 2.3 (Increase),

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

**"Revolving Facility Lender"** means any Lender which has any Revolving Facility Commitment;

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

**"Revolving Outstandings"** has the meaning given to that term in paragraph (a)(i) of clause 7.6 (Adjustment for Ancillary Facilities upon acceleration);

**"RFR"** means the rate specified as such in the applicable Compounded Rate Terms;

**"RFR Banking Day"** means any day specified as such in the applicable Compounded Rate Terms;

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

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

**"Sanctioned Country"** means a country or territory which is or whose government is at any time subject to Sanctions, which countries and territories, as at the date of this agreement, includes, without limitation, the Crimea, Donetsk and Luhansk regions of Ukraine, Cuba, Iran, Myanmar, North Korea, South Sudan, Sudan and Syria;

**"Sanctions"** means the economic or financial sanctions laws, regulations, sectoral or trade embargoes or other restrictive measures enacted, administered, implemented and/or enforced from time to time by any of the following (and including through any relevant Sanctions Authority):

- (a) the United Nations;
- (b) the European Union;
- (c) the government of the United States of America; and
- (d) the government of the United Kingdom;

**"Sanctions Authorities"** means any agency or person which is duly appointed, empowered or authorised to enact, administer, implement and/or enforce Sanctions, including (without limitation):

- (a) the United Nations;
- (b) the European Union;
- (c) OFAC;
- (d) the United States Department of State or the United States Department of Commerce; and
- (e) HMT;

**"Sanctions List"** means any of the lists of designated sanctions targets maintained by a Sanctions Authority from time to time, including (without limitation) as at the date of this agreement:

- (a) in the case of OFAC, the Specially Designated Nationals and Blocked Persons List and the Consolidated Sanctions List;
- (b) in the case of the United States Department of State or the United States Department of Commerce, the Denied Persons List, the List of Statutorily Debarred Parties, the Entity List and the Terrorist Exclusion List;
- (c) in the case of HMT, the Consolidated List of Financial Sanctions Targets and the List of Persons Subject to Restrictive Measures in View of Russia's Actions Destabilising the Situation in Ukraine; and
- (d) in the case of the European Union, the Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions;

**"Scheme"** means a scheme of arrangement under section 899 of the Companies Act, to be proposed by the Target to its shareholders to effect the Acquisition;

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

**"Scheme Conversion"** means the Company procuring the withdrawal or termination of an Offer and the Company and/or the Target issuing a Scheme Press Announcement in accordance with clause 3.3 (Conversion between a Scheme and Offer);

**"Scheme Conversion Notice"** has the meaning given to that term in clause 3.3 (Conversion between a Scheme and Offer);

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

**"Scheme Press Announcement"** means a press announcement in the agreed form to be released by the Company and/or the Target to announce the terms of the Scheme pursuant to Rule 2.7 of the Takeover Code;

**"Scheme Resolution"** means the resolution(s) referred to and in the form set out in the Scheme Circular;

**"Screen Rate"** means:

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

**"Secured Parties"** means each Finance Party from time to time party to this agreement, any Receiver or Delegate;

**"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;

**"Selection Notice"** means a notice substantially in the form set out in part 2 of schedule 3 (Requests and Notices) given in accordance with clause 15 (Interest Periods) in relation to a Term Facility;

**"Senior Management"** means each and all of the chief executive and the chief financial officer (or equivalent roles) of the Group;

**"Senior Term Facility A"** means the senior term loan facility made available under this agreement as described in paragraph (a)(i) of clause 2.1 (The Facilities);

**"Senior Term Facility A Commitment"** means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Senior Term Facility A Commitment" in part 2 of schedule 1 (The Original Parties) and the amount of any other Senior Term Facility A Commitment transferred to it under this agreement or assumed by it in accordance with clause 2.3 (Increase), less the amount of any Senior Term Facility A Commitment of that Original Committed Lender as is attributed to an Alternative Lender which has become an Alternative Committed Lender in accordance with clause 2.4 (Alternative Lenders);
- (b) in relation to an Alternative Lender, the amount of any Senior Term Facility A Commitment as is attributed to that Alternative Lender which has become an Alternative Committed Lender in accordance with clause 2.4 (Alternative Lenders); and
- (c) in relation to any other Lender, the amount in the Base Currency of any Senior Term Facility A Commitment transferred to it under this agreement or assumed by it in accordance with clause 2.3 (Increase),

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

**"Senior Term Facility A Lender"** means any Lender which has a Senior Term Facility A Commitment;

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

**"Senior Term Facility B"** means the senior term loan facility made available under this agreement as described in paragraph (a)(ii) of clause 2.1 (The Facilities);

**"Senior Term Facility B Commitment"** means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Senior Term Facility B Commitment" in part 2 of schedule 1 (The Original Parties) and the amount of any other Senior Term Facility B Commitment transferred to it under this agreement or assumed by it in accordance with clause 2.3 (Increase), less the amount of any Senior Term Facility B Commitment of that Original Committed Lender as is attributed to an Alternative Lender which has become an Alternative Committed Lender in accordance with clause 2.4 (Alternative Lenders);
- (b) in relation to an Alternative Lender, the amount of any Senior Term Facility B Commitment as is attributed to that Alternative Lender which has become an Alternative Committed Lender in accordance with clause 2.4 (Alternative Lenders); and
- (c) in relation to any other Lender, the amount in the Base Currency of any Senior Term Facility B Commitment transferred to it under this agreement or assumed by it in accordance with clause 2.3 (Increase),

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

**"Senior Term Facility B Lender"** means any Lender which has a Senior Term Facility B Commitment;

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

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

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

**"Shareholder Resolution"** means the resolution to be proposed at the Shareholder Meeting for the purposes of, amongst other things, approving and implementing the Scheme, as set out in the Scheme Circular;

**"Sheikh Group"** means Sheikh Ventures Limited, Sheikh Holdings Group (Investments) Limited, Belgravia Investments Limited and Kensington Capital Limited;

**"Significant Assets"** means assets of one or more members of the Group which contribute 20 per cent or more of EBITDA of the Group for that Financial Year (calculated using the same methodology as applicable under the definition of "Material Company"). EBITDA for this purpose shall be determined by reference to the most recent Compliance Certificate supplied by the Parent together with its Annual Financial Statements and the latest annual financial statements of that member of the Group (audited, if required to be audited by the law of the jurisdiction of incorporation of that member of the Group). However, if a member of the Group has been acquired or disposed of since the date as at which the latest Annual Financial Statements of the Parent were prepared, the financial statements shall be deemed to be adjusted in order to take into account the acquisition or disposal (as applicable) of that member of the Group;

**"Significant Company"** means any member of the Group which has earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) representing 20 per cent or more of EBITDA of the Group for that Financial Year (calculated using the same methodology as applicable under the definition of "Material Company"), provided that in determining whether a member of the Group satisfies the criteria for being a Significant Company under this definition, any member of the Group which has negative

EBITDA shall be treated as if its EBITDA were zero. EBITDA for this purpose shall be determined by reference to the most recent Compliance Certificate supplied by the Parent together with its Annual Financial Statements and the latest annual financial statements of that member of the Group (audited, if required to be audited by the law of the jurisdiction of incorporation of that member of the Group). However, if a member of the Group has been acquired or disposed of since the date as at which the latest Annual Financial Statements of the Parent were prepared, the financial statements shall be deemed to be adjusted in order to take into account the acquisition or disposal (as applicable) of that member of the Group;

**"Significant Disposal"** means a Disposal:

- (a) of a Significant Asset;
- (b) of a Significant Company; or
- (c) when aggregated with all Disposals by a member of the Group over the life of the Facilities, results in the disposal of assets of one or more members of the Group representing 30 per cent or more of EBITDA of the Group for that Financial Year (calculated using the same methodology as applicable under the definition of "Material Company"), provided that in determining whether a member of the Group satisfies the criteria for being a Significant Company under this definition, any member of the Group which has negative EBITDA shall be treated as if its EBITDA were zero. EBITDA for this purpose shall be determined by reference to the most recent Compliance Certificate supplied by the Parent together with its Annual Financial Statements and the latest annual financial statements of that member of the Group (audited, if required to be audited by the law of the jurisdiction of incorporation of that member of the Group). However, if a member of the Group has been acquired or disposed of since the date as at which the latest Annual Financial Statements of the Parent were prepared, the financial statements shall be deemed to be adjusted in order to take into account the acquisition or disposal (as applicable) of that member of the Group;

**"Site"** means any Real Property owned or to be owned by a member of the Group that is used, or is to be used, substantially as a residential care home, specialist school or fostering office and, for as long as the same are owned by a member of the Group;

**"Social Care Service"** means any education, health and social care services for adults and/or children provided in England, Scotland or Wales, which is subject to routine inspections by an Independent Regulator;

**"SONIA"** means the sterling overnight index average;

**"Sources and Uses Statement"** means the excel document illustrating the sources and uses of funding required for the Acquisition, delivered as a condition precedent under part 1A of schedule 2 (Conditions Precedent);

**"Specified Time"** means a day or time determined in accordance with schedule 10 (Timetables);

**"Sponsor"** means any member of the Sheikh Group and / or any THCP Entity;

**"Sponsor Affiliate"** means the Sponsor, each of its Affiliates, any trust of which the Sponsor or any of its Affiliates is a trustee, any partnership of which the Sponsor or any of its Affiliates is a partner and any trust, fund or other entity which is managed by, or is under the control of, the Sponsor or any of its Affiliates provided that any such trust, fund or other entity which has been established for at least six months solely for the purpose of making, purchasing or investing in loans or debt securities and which is managed or controlled independently from all other trusts, funds or other entities managed or controlled by the

Sponsor or any of its Affiliates which have been established for the primary or main purpose of investing in the share capital of companies shall not constitute a Sponsor Affiliate;

**"Sponsor Competitor"** means any person or entity:

- (a) which is a competitor of the Sponsor in any of the material activities of the Sponsor (a **"Principal Sponsor Competitor"**);
- (b) that is acting on behalf of a Principal Sponsor Competitor; or
- (c) that is an Affiliate of a Principal Sponsor Competitor, unless such Affiliate is a financial institution which has been established for at least six months and, during that period, regularly engaged in making, purchasing or investing in loans or debt securities, which is managed and controlled independently from the Principal Sponsor Competitor, which does not hold (directly or indirectly) any equity interest in a Principal Sponsor Competitor and which is administered by persons operating behind appropriate information barriers implemented or maintained as required by law, regulation and internal policy and, in any event, to the extent required to ensure that such administration is independent from such person's interests under the Finance Documents and any information provided under the Finance Documents is not (and is not capable of being) disclosed or otherwise made available to any person operating behind such information barrier;

**"Squeeze Out Notice"** means a notice given under section 979 of the Companies Act given by the Company to a Target Shareholder who has not accepted the Offer where the Company is implementing the Squeeze Out Procedures;

**"Squeeze Out Procedures"** means the procedures set out in Chapter 3 of Part 28 of the Companies Act for the compulsory acquisition of minority shareholders in an English company;

**"Structural Adjustment"** means, otherwise than as contemplated in clauses 2.2 (Incremental Term Facilities) or 2.3 (Increase):

- (a) the introduction of any additional tranche or facility under the Finance Documents, with such ranking as the participating Lenders and the Majority Lenders may approve and, to the extent such Structural Adjustment results in the reduction of the maturity of a Facility (other than a Super Senior Facility) so that it falls earlier than six months after the Termination Date for a Super Senior Facility, the Majority Super Senior Facility Lenders;
- (b) any increase in or addition to any Commitment, any extension of a Commitment's availability, the redenomination of a Commitment into another currency, the re-tranching of any Commitment and any extension of the date for, or maturity of, or redenomination of, or a re-tranching or reduction (other than as set out under paragraph (c) below) of, any amount owing under the Finance Documents (in each case not arising as a result of any change to any mandatory prepayment provision or related definitions) provided that to the extent such Structural Adjustment results in the reduction of the maturity of a Facility (other than a Super Senior Facility) so that it falls earlier than six months after the Termination Date for a Super Senior Facility, the Majority Super Senior Facility Lenders; and
- (c) changes to any Finance Documents (including changes to, the taking of, or the release coupled with the immediate retaking of Transaction Security) that are consequential on or required by reason of applicable law to implement effectively or reflect any of the foregoing,

in each case, provided that such tranche or Facility may not rank senior to the Senior Term Facility A, the Senior Term Facility B, or pari passu with a Super Senior Facility;

**"Structure Memorandum"** means the steps paper prepared by PricewaterhouseCoopers LLP entitled "Project Amalfi: Detailed tax structure memo" and dated 26 June 2022 describing the Group and the Acquisition and capable of being relied upon by the Reliance Parties;

**"Subordinated Debt"** has the meaning given to that term in clause 26.1 (Financial definitions);

**"Subordinated Security Documents"** has the meaning given to that term in the Intercreditor Agreement;

**"Subsidiary"** means a subsidiary undertaking within the meaning of section 1159 of the Companies Act 2006 which for this purpose shall be treated as including any person the shares or ownership interest in which are subject to Security granted by a member of the Group (where the definition of Group is interpreted taking this provision into account) and where the legal title to the shares or ownership interest subject to such Security is registered in the name of the secured party or its nominee pursuant to such Security;

**"Successful Syndication"** means the Original Lenders reaching their target hold level of the Super Senior Term Facility as referred to in the Syndication Letter;

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

**"Super Senior Facility"** means each of the Revolving Facility and the Super Senior Term Facility;

**"Super Senior Facility Commitments"** means, together, the Revolving Facility Commitments and the Super Senior Term Facility Commitments;

**"Super Senior Facility Lenders"** means any Lender which has a Super Senior Facility Commitment;

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

**"Super Senior Hedge Counterparty"** has the meaning given to that term in the Intercreditor Agreement;

**"Super Senior Hedging Liabilities"** has the meaning given to that term in the Intercreditor Agreement;

**"Super Senior Syndication Margin Cap"** has the meaning given to that term in the Syndication Letter;

**"Super Senior Term Facility"** means the super senior term loan facility made available under this agreement as described in paragraph (a)(iv) of clause 2.1 (The Facilities);

**"Super Senior Term Facility Commitments"** means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Super Senior Term Facility Commitment" in part 2 of schedule 1 (The Original Parties) and the amount of any other Super Senior Term Facility Commitment transferred to it under this agreement or assumed by it in accordance with clause 2.3 (Increase); and
- (b) in relation to any other Lender, the amount in the Base Currency of any Super Senior Term Facility Commitment transferred to it under this agreement or assumed by it in accordance with clause 2.3 (Increase),

in each case, to the extent not cancelled, reduced or transferred by it under this agreement;

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

**"Syndication Date"** means the later of:

- (a) the end of the first complete Financial Quarter after the Closing Date;
- (b) 31 December 2022,

or such earlier date specified by the Arranger on which Successful Syndication has occurred;

**"Syndication Letter"** means the syndication letter dated on or about the date of this agreement between the Arranger and the Parent;

**"Syndication Period"** means the period between the date of this agreement and the Syndication Date;

**"Takeover Code"** means the City Code on Takeovers and Mergers issued from time to time by the Takeover Panel;

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

**"Takeover Panel"** means the UK Panel on Takeovers and Mergers;

**"Target"** means CareTech Holdings plc, a company incorporated under the laws of England & Wales with registered number 04457287;

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

**"Target Group"** means the Target and its Subsidiaries;

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

**"Target Shares"** means all of the shares in the Target;

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

**"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);

**"Term Facility"** means the Senior Term Facility A, the Senior Term Facility B, the Super Senior Term Facility or any Incremental Term Facility;

**"Term Facility Commitments"** means, together, the Senior Term Facility A Commitments, the Senior Term Facility B Commitments, the Super Senior Term Facility Commitments and any Incremental Term Facility Commitments;

**"Term Loan"** means a Senior Term Facility A Loan, a Senior Term Facility B Loan, a Super Senior Term Facility Loan or an Incremental Term Facility Loan;



**"Term Rate Loan"** means any Loan or, if applicable, Unpaid Sum which is not a Compounded Rate Loan;

**"Term Reference Rate"** means, in relation to any Loan in euro, EURIBOR;

**"Termination Date"** means:

- (a) in relation to the Senior Term Facility A, the date falling five years and six months after the Closing Date;
- (b) in relation to the Senior Term Facility B, the date falling 18 months after the Closing Date;
- (c) in relation to the Super Senior Term Facility, the date falling five years after the Closing Date;
- (d) in relation to an Incremental Term Facility, the date specified as such in the Incremental Term Facility Notice relating to that Incremental Term Facility; and
- (e) in relation to the Revolving Facility, the date falling five years after the Closing Date;

**"THCP Entity"** means any THCP Investor together with any THCP Related Entity;

**"THCP Investor"** means THCP Advisory Limited, THCS IV GP S.à r.l., Three Hills Capital Solutions IV SCSp, TH Manager S. à r. l. and TH Pathways SPV S. à r. l.;

**"THCP Related Entity"** means (1) any THCP Investor and each of their Affiliates and Related Funds and direct and indirect Subsidiaries, (2) any sponsor, limited partnerships, co-investors or entities managed or advised or controlled by any THCP Investor or any of their Affiliates or Related Funds or any of their direct or indirect Subsidiaries, (3) any partnership or co-investor of any THCP Investor or any of their Affiliates or Related Funds or any of their direct or indirect Subsidiaries or in respect of which any such persons are a partner or a co-investor and (4) any trust, fund or other entity which is managed or advised by, or is under the control of, any THCP Investor or any of their Affiliates or Related Funds or any of their direct or indirect Subsidiaries, but excluding, in each case, any member of the Group;

**"TopCo"** means Amalfi Topco Limited, a company incorporated under the laws of Jersey with registered number 143752;

**"Total Commitments"** means the aggregate of the Total Senior Term Facility A Commitments, the Total Senior Term Facility B Commitments, the Total Super Senior Term Facility Commitments, the Aggregate Total Incremental Term Facility Commitments and the Total Revolving Facility Commitments, being £790,000,000 at the date of this agreement;

**"Total Funding Requirement"** means:

- (a) the aggregate of:
    - (i) the equity investment lent to the Parent in cash or invested in shares in the Parent (including by a transfer of Target Shares valued at the price offered under the Scheme or Offer); and
    - (ii) the Senior Term Facility A Loans, Senior Term Facility B Loans and Super Senior Term Facility Loans;
- less

- (b) all Cash and Cash Equivalent Investments held by members of the Target Group as at the Closing Date;

**"Total Incremental Term Facility Commitments"** means the aggregate of the Incremental Term Facility Commitments;

**"Total Purchase Price"** means, in respect of the target of an acquisition by a member of the Group, the consideration (including associated costs and expenses and deferred consideration (other than consideration payable on a contingent basis)) for such acquisition and any Financial Indebtedness discharged by members of the Group in connection with that acquisition or (save in the case of a Permitted Acquisition under paragraph (i) of the definition of that term) remaining in such target at the date of completion of such acquisition (other than Financial Indebtedness owed to other members of the Group);

**"Total Revolving Facility Commitments"** means the aggregate of the Revolving Facility Commitments, being £30,000,000 at the date of this agreement;

**"Total Revolving Outstandings"** has the meaning given to that term in paragraph (a)(ii) of clause 7.6 (Adjustment for Ancillary Facilities upon acceleration);

**"Total Senior Term Facility A Commitments"** means the aggregate of the Senior Term Facility A Commitments, being £210,000,000 at the date of this agreement;

**"Total Senior Term Facility B Commitments"** means the aggregate of the Senior Term Facility B Commitments, being £350,000,000 at the date of this agreement;

**"Total Super Senior Facility Commitments"** means the aggregate of the Total Revolving Facility Commitments and the Total Super Senior Term Facility Commitments;

**"Total Super Senior Term Facility Commitments"** means the aggregate of the Super Senior Term Facility Commitments, being £200,000,000 at the date of this agreement;

**"Trade Instruments"** means any performance bonds, or 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 and including, for the avoidance of doubt any such bonds or letters of credit issued under an Ancillary Facility;

**"Transaction Documents"** means the Finance Documents, the Scheme Documents or the Takeover Offer Documents;

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

**"Transaction Security Documents"** means each of the documents listed as being a Transaction Security Document in paragraph 3(e) of part 1A of schedule 2 (Conditions precedent) and any document required to be delivered to the Facility Agent under paragraph 13 of part 2 of schedule 2 (Conditions precedent), together with any other document entered into by any Obligor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents;

**"Transfer Certificate"** means a certificate substantially in the form set out in schedule 4 (Form of Transfer Certificate) or any other form agreed between the Facility 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 Facility 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;

**"UK Treasury Rate"** means the yield to maturity at the relevant prepayment date of UK Government Securities with a floating maturity (as compiled by the Office for National Statistics and published in the most recent financial statistics that have become publicly available at least two Business Days in London (but not more than five Business Days) prior to the date of any Relevant Prepayment (or, if such financial statistics are no longer published, any publicly available source or similar market data selected by the Facility Agent)) most nearly equal to the period from the relevant prepayment date to the Last Day of the Non Call Period, provided that if the UK Treasury Rate is less than zero it shall be deemed to be zero;

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

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

**"Unrestricted Holdco"** means:

- (a) TopCo;
- (b) MidCo; or
- (c) any other Holding Company of the Parent;

**"US"** means the United States of America;

**"Utilisation"** means a Loan;

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

**"Utilisation Request"** means a notice substantially in the form set out in part 1 of schedule 3 (Requests and Notices);

**"Valuation"** means a valuation of all the Sites by a Valuer, verified on a sampling process basis consistent with previous valuations carried out by the Group, prepared on the basis of the market value as that term is defined in the then current Statements of Asset Valuation Practice and Guidance Notes issued by the Royal Institution of Chartered Surveyors;

**"Valuer"** means Knight Frank, Cushman & Wakefield or any other independent reputable surveyor or valuer qualified to carry out a Valuation and which is regularly engaged in providing valuations of real property;

**"VAT"** means:

- (a) any value added tax imposed by the Value Added Tax 1994;
- (b) 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

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

## 1.2 Construction

- (a) Unless a contrary indication appears, a reference in this agreement to:
  - (i) the "**Arranger**", any "**Alternative Lender**", the "**Facility Agent**", any "**Finance Party**", any "**Hedge Counterparty**", any "**Lender**", any "**Obligor**", any "**Party**", any "**Secured Party**", the "**Security Agent**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
  - (ii) a document in "**agreed form**" is a document which is previously agreed in writing by or on behalf of the Parent and the Facility Agent;
  - (iii) "**amendment**" includes any amendment, supplement, variation, novation, modification, replacement or restatement and "**amend**", "**amending**" and "**amended**" shall be construed accordingly;
  - (iv) "**assets**" includes present and future properties, revenues and rights of every description;
  - (v) a Lender's "**cost of funds**" in relation to its participation in a Loan is a reference to the average cost (determined either on an actual or a notional basis) which that Lender would incur if it were to fund, from whatever source(s) it may reasonably select, an amount equal to the amount of that participation in that Loan for a period equal in length to the Interest Period of that Loan;
  - (vi) 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;
  - (vii) a "**group of Lenders**" includes all the Lenders;
  - (viii) "**guarantee**" means (other than in clause 23 (Guarantee and indemnity)) any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
  - (ix) "**including**" means including without limitation and "**includes**" and "**included**" shall be construed accordingly;
  - (x) "**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;
  - (xi) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);

- (xii) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law being of a type with which the person to whom it applies customarily complies) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
  - (xiii) on a **"certain funds basis"** means on the same or substantially the same basis as the certain funds provisions applicable to a Facility as set out in clause 4.5 (Utilisations during the Certain Funds Period) or clause 4.5 (Utilisations of Incremental Term Facility during the Agreed Certain Funds Period);
  - (xiv) a provision of law is a reference to that provision as amended or re-enacted from time to time. Where such a reference is to a provision of law other than the laws of England, then that provision shall have the meaning given to it in the relevant jurisdiction;
  - (xv) a time of day is a reference to London time; and
  - (xvi) an Obligor of a particular nationality will be construed as a reference to an Obligor incorporated in the corresponding jurisdiction.
- (b) Any references in this agreement to:
- (i) the Acquisition being **"effected by way of a Scheme"** means that the Company and/or the Target has issued a Scheme Press Announcement (and, if the Company has subsequently issued an Offer Press Announcement, the Company and/or the Target has subsequently issued a Scheme Press Announcement); and
  - (ii) the Acquisition being **"effected by way of an Offer"** means that the Company has issued an Offer Press Announcement (and, if the Company and/or the Target has subsequently issued a Scheme Press Announcement, the Company has subsequently issued an Offer Press Announcement).
- (c) The determination of the extent to which a rate is "for a period equal in length" to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this agreement.
- (d) Section, clause and schedule headings are for ease of reference only.
- (e) 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.
- (f) A Borrower providing **"cash cover"** for an Ancillary Facility means a Borrower paying an amount in the currency of the Ancillary Facility to an interest-bearing account in the name of the Borrower and the following conditions being met:
- (i) the account is with the Ancillary Lender for which that cash cover is to be provided;
  - (ii) until no amount is or may be outstanding under that Ancillary Facility, withdrawals from the account may only be made to pay the relevant Finance Party amounts due and payable to it under this agreement in respect of that Ancillary Facility; and

- (iii) the Borrower has executed a security document over that account, in form and substance satisfactory to the Finance Party with which that account is held, creating a first ranking security interest over that account.
- (g) A Default, an Event of Default and a Material Event of Default is **"continuing"** if it has not been remedied or waived.
- (h) A Borrower **"repaying"** or **"prepaying"** Ancillary Outstandings means:
- (i) that Borrower providing cash cover in respect of the Ancillary Outstandings;
  - (ii) the maximum amount payable under the Ancillary Facility being reduced or cancelled in accordance with its terms; or
  - (iii) the Ancillary Lender being satisfied that it has no further liability under that Ancillary Facility,
- and the amount by which Ancillary Outstandings are repaid or prepaid under paragraphs (i) and (ii) above is the amount of the relevant cash cover, reduction or cancellation.
- (i) An amount borrowed includes any amount utilised under an Ancillary Facility.
- (j) A reference in this agreement to a page or screen of an information service displaying a rate shall include:
- (i) any replacement page of that information service which displays that rate; and
  - (ii) the appropriate page of such other information service which displays that rate from time to time in place of that information service,
- and, if such page or service ceases to be available, shall include any other page or service displaying that rate specified by the Facility Agent after consultation with the Parent.
- (k) A reference in this agreement to a Central Bank Rate shall include any successor rate to, or replacement rate for, that rate.
- (l) Any Compounded Rate Supplement relating to a currency overrides anything relating to that currency in:
- (i) schedule 17 (Compounded Rate Terms); or
  - (ii) any earlier Compounded Rate Supplement.
- (m) A Compounding Methodology Supplement relating to the Daily Non-Cumulative Compounded RFR Rate or the Cumulative Compounded RFR Rate overrides anything relating to that rate in:
- (i) schedule 18 (Daily Non-Cumulative Compounded RFR Rate) or schedule 19 (Cumulative Compounded RFR Rate), as the case may be; or
  - (ii) any earlier Compounding Methodology Supplement.
- (n) The determination of the extent to which a rate is "for a period equal in length" to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this agreement.

### 1.3 **Currency symbols and definitions**

- (a) **"£", "GBP" and "sterling"** denote the lawful currency of the United Kingdom.
- (b) **"€", "EUR" and "euro"** denote the single currency of the Participating Member States.

### 1.4 **Third party rights**

- (a) Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the **"Third Parties Act"**) to enforce or enjoy the benefit of any term of this agreement.
- (b) Subject to clause 41.7 (Other 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.

### 1.5 **Provision of information by directors**

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

### 1.6 **Fluctuations in exchange rates**

For the purposes of clause 24 (Representations) (and related definitions), clause 27 (General undertakings) (and related definitions) or clause 28 (Events of Default) (and related definitions) but excluding any Event of Default or Material Event of Default resulting from a breach of clause 26.2 (Financial condition), a reference to an amount (or its equivalent in another currency) shall be determined by reference to the rate of exchange between the Base Currency and any other relevant currency on the date of incurrence or making of a relevant disposal, acquisition, investment, lease, loan, debt or guarantee or taking of any other relevant action and any subsequent exchange rate fluctuation shall not cause an Event of Default or Material Event of Default or the breach of any provision of clause 27 (General undertakings) or misrepresentation in respect of any provision of clause 24 (Representations).

### 1.7 **Facility Agent and Security Agent**

- (a) Where the Facility Agent or the Security Agent is referred to as acting "reasonably" or "in a reasonable manner" or as coming to an opinion or determination that is "reasonable" (or any similar or analogous wording is used), or acting or exercising any discretion (or refraining from acting or exercising any discretion) this shall mean that the Facility Agent and the Security Agent shall be acting or coming to an opinion or determination on the instructions of the Lenders, the Majority Lenders or Majority Super Senior Facility Lenders (as the case may be) acting reasonably or in a reasonable manner and the Facility Agent and the Security Agent shall be under no obligation to determine the reasonableness of such instructions or whether in giving such instructions the Lenders, the Majority Lenders or Majority Super Senior Facility Lenders (as the case may be) are acting reasonably or in a reasonable manner.
- (b) Where acceptability to or satisfaction of the Facility Agent or the Security Agent is referred to in relation to a matter not affecting the personal interests of the Facility Agent or Security Agent (including, for the avoidance of doubt, any satisfaction or determination in relation to conditions precedent) this shall mean the acceptability to or satisfaction of the Lenders, the Majority Lenders or Majority Super Senior

Facility Lenders (as the case may be) as notified by it to the Facility Agent or Security Agent.

- (c) In respect of paragraphs (a) and (b) above, the Facility Agent and the Security Agent shall not be responsible for any liability occasioned or by any delay or failure on the part of the Lenders, the Majority Lenders or Majority Super Senior Facility Lenders (as the case may be) to give any such instructions or direction or to form any such opinion.

## 1.8 **Baskets**

- (a) To the extent that a basket which is capped by reference to a Financial Year is not used in full during the relevant Financial Year, the unused amount may be carried forward into the immediately following Financial Year (the "**Basket Carry Forward Amount**"). A Basket Carry Forward Amount may only be carried forward into the immediately following Financial Year and in that Financial Year the amount of the relevant basket shall be treated as being used before any Basket Carry Forward Amount. Any unused Basket Carry Forward Amount shall be confirmed in the Compliance Certificate delivered to the Facility Agent pursuant to clause 25.2 (Provision and contents of Compliance Certificate) with the Annual Financial Statements.
- (b) Where a basket is capped by reference to the greater of (i) an amount and (ii) a percentage of Adjusted EBITDA, Adjusted EBITDA shall be calculated by reference to Adjusted EBITDA in the most recent Compliance Certificate delivered to the Facility Agent pursuant to clause 25.2 (Provision and contents of Compliance Certificate).
- (c) When establishing whether any indebtedness, loan, investment, disposal, guarantee, payment or other transaction is permitted under the terms of this agreement or any other Finance Document, the Group shall be entitled to rely on the fact that such indebtedness, loan, investment, disposal, guarantee, payment or other transaction committed, incurred or made by any member of the Group is permitted under the terms of this agreement or any other Finance Documents based on the amount of Adjusted EBITDA as at a particular date. If there is a subsequent change in the amount of Adjusted EBITDA, such indebtedness, loan, investment, disposal, guarantee, payment or other transaction shall not constitute or be deemed to constitute, or result in, a breach of the terms of this agreement or any other Finance Document solely as a result of that change in the amount of Adjusted EBITDA and the consequential reduction in the applicable basket. For the avoidance of doubt, where Adjusted EBITDA is used as a component for determining whether any new indebtedness, loan, investment, disposal, guarantee, payment or other transaction is permitted to be incurred or made under the terms of this agreement or any other Finance Document, the Adjusted EBITDA threshold as at the date such new indebtedness, loan, investment, disposal, guarantee, payment or other transaction is to be incurred or made shall apply.
- (d) If any amount or transaction meets the criteria of more than one of the baskets or exceptions set out in this agreement, the Company (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 Company be split between different baskets or exceptions).

## 1.9 **Treatment of leases**

For all purposes under the Finance Documents (including the definition of Permitted Financial Indebtedness and when calculating any financial definitions and/or calculations



(including for the purposes of calculating any covenant (including the financial conditions in clause 26.2 (Financial condition), basket, ratio, threshold, compliance, usage, incurrence, ratchet or permission))), no lease, hire purchase contract, concession, license or other arrangement (or any guarantee of any of the foregoing) shall be treated as a finance lease or capital lease if that lease, hire purchase contract, concession, license or (as the case may be) other arrangement (or guarantee) was treated (or would have been permitted to be treated) as an operating lease in accordance with the Accounting Principles as applied by members of the Group prior to 1 January 2019 (and the applicable effects of IFRS 16 on and from 1 January 2019 will be disregarded in respect of such leases (including for the avoidance of doubt for all purposes under this agreement and including with respect to the calculation of EBITDA)).

## 2. THE FACILITIES

### 2.1 The Facilities

- (a) Subject to the terms of this agreement, the Lenders make available:
  - (i) a Base Currency senior term loan facility in an aggregate amount equal to the Total Senior Term Facility A Commitments;
  - (ii) a Base Currency senior term loan facility in an aggregate amount equal to the Total Senior Term Facility B Commitments;
  - (iii) a multicurrency revolving credit facility in an aggregate amount the Base Currency Amount of which is equal to the Total Revolving Facility Commitments; and
  - (iv) a Base Currency super senior term loan facility in an aggregate amount equal to the Total Super Senior Term Facility Commitments.
- (b) The Senior Term Facility A, the Senior Term Facility B and the Super Senior Term Facility will be available to the Company and the Revolving Facility will be available to the Company and any Additional Borrower.
- (c) Subject to the terms of this agreement and the Ancillary Documents, an Ancillary Lender may make all or part of its Revolving Facility Commitment available to any Borrower (or Affiliates of Borrowers nominated pursuant to clause 7.9 (Affiliates of Borrowers)) as an Ancillary Facility.

### 2.2 Incremental Term Facilities

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

### 2.3 Increase

- (a) The Parent may by giving prior notice to the Facility Agent by no later than the date falling 30 days after the effective date of a cancellation of:
  - (i) the Available Commitments of a Defaulting Lender in accordance with clause 10.6 (Right of cancellation in relation to a Defaulting Lender); or
  - (ii) the Commitments of a Lender in accordance with:
    - (A) clause 10.1 (Illegality); or
    - (B) paragraph (a) of clause 10.5 (Right of cancellation and repayment in relation to a single Lender),

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

- (iii) the increased Commitments will be assumed by one or more Eligible Institutions (each an "**Increase Lender**") each of which confirms in writing (whether in the relevant Increase Confirmation or otherwise) its willingness to assume and does assume all the obligations of a Lender corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Lender in respect of those Commitments;
  - (iv) each of the Obligors and any Increase Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and the Increase Lender would have assumed and/or acquired had the Increase Lender been an Original Lender in respect of that part of the increased Commitments which it is to assume;
  - (v) each Increase Lender shall, if it is not already a Lender, 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 in respect of that part of the increased Commitments which it is to assume;
  - (vi) the Commitments of the other Lenders shall continue in full force and effect; and
  - (vii) any increase in the Commitments relating to a Facility shall, subject to the condition set out in paragraph (d) below, take effect on the date specified by the Parent in the notice referred to above or any later date on which the Facility Agent executes an otherwise duly completed Increase Confirmation delivered to it by the relevant Increase Lender.
- (b) The Facility Agent shall, subject to paragraph (c) below, as soon as reasonably practicable after receipt by it of a duly completed Increase Confirmation appearing on its face to comply with the terms of this agreement and delivered in accordance with the terms of this agreement, execute that Increase Confirmation.
  - (c) The Facility Agent shall only be obliged to execute an Increase Confirmation delivered to it by an Increase Lender once it is satisfied (acting reasonably) it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Lender.
  - (d) An increase in the Commitments relating to a Facility will only be effective if the Increase Lender enters into the documentation required for it to accede as a party to the Intercreditor Agreement.
  - (e) Each Increase Lender, by executing the Increase Confirmation, confirms (for the avoidance of doubt) that the Facility 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 in accordance with this agreement and that it is bound by that decision to the same extent as it would have been had it been an Original Lender.

- (f) The Increase Lender shall, on the date upon which the increase takes effect, pay to the Facility Agent (for its own account) a fee in an amount equal to the fee which would be payable under clause 29.7 (Assignment or transfer fee) if the increase was a transfer pursuant to clause 29.9 (Procedure for transfer) and if the Increase Lender was a New Lender.
- (g) The Parent may pay (or may procure that another Obligor pays) 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.
- (h) Neither the Facility Agent nor any Lender shall have any obligation to find an Increase Lender and in no event shall any Lender whose Commitment is replaced by an Increase Lender be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents.
- (i) Clause 29.8 (Limitation of responsibility of Existing Lenders) shall apply mutatis mutandis in this clause 2.3 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 **Alternative Lenders**

- (a) If the Relevant Date has occurred:
  - (i) each Alternative Lender may elect (in its sole discretion), by making available to the Facility Agent (and the Facility Agent may accept) an amount in cash in immediately available cleared funds equal to its Alternative Lender Proportion of the participation in a Senior Term Facility A Loan or a Senior Term Facility B Loan (as applicable) which the Original Committed Lenders are required to make available pursuant to clause 5.4 (Lenders' participation) (an **"Alternative Lender Funded Amount"**), to assume a Senior Term Facility A Commitment or Senior Term Facility B Commitment (as applicable) in an amount equal to that Alternative Lender Funded Amount (an **"Alternative Lender Assumed Commitment"**) and to make its participation in a Senior Term Facility A Loan or Senior Term Facility B Loan (as applicable) available in an amount in cash in immediately available cleared funds equal to that Alternative Lender Funded Amount (an **"Alternative Lender Loan Participation"**), in each case in place of the relevant Original Committed Lenders;
  - (ii) the Facility Agent shall apply the proceeds of each Alternative Lender Funded Amount received from an Alternative Lender which has made an election under sub-paragraph (i) above (an **"Electing Alternative Lender"**) as if they had been amounts received from the relevant Original Committed Lenders pursuant to paragraph (a) of clause 5.4 (Lenders' participation); and
  - (iii) immediately upon receipt of the proceeds of a Senior Term Facility A Loan or Senior Term Facility B Loan (as applicable) pursuant to sub-paragraph (i) above in cash in immediately available cleared funds in the account so designated by the Company for this purpose in the relevant Utilisation Request:

- (A) each Alternative Lender Assumed Commitment shall be attributed to the relevant Electing Alternative Lender as if it had been an Original Committed Lender in respect of that Alternative Lender Assumed Commitment (and shall no longer be a Senior Term Facility A Commitment or Senior Term Facility B Commitment (as applicable) of the relevant Original Committed Lender) (and such Electing Alternative Lenders shall constitute an "**Alternative Committed Lender**"); and
  - (B) each Alternative Committed Lender shall assume all of the rights and obligations as an Original Committed Lender in respect of the relevant Alternative Lender Loan Participation.
- (b) For the avoidance of doubt, if an Alternative Lender has not elected to fund an Alternative Lender Funded Amount (and no Senior Term Facility A Commitment or Senior Term Facility B Commitment (as applicable) have been attributed to it in accordance with this clause 2.4), the Parties agree that such Alternative Lender shall:
- (i) not be a Defaulting Lender; and
  - (ii) have no rights under this agreement or any other Finance Document save for those expressed in paragraph (a) above unless and until such time as such Alternative Lender becomes an Alternative Committed Lender in accordance with this clause 2.4.
- (c) If (and to the extent that):
- (i) any Senior Term Facility A Commitment or Senior Term Facility B Commitment (as applicable) is attributed to an Electing Alternative Lender which becomes an Alternative Committed Lender in accordance with paragraph (a)(iii)(A) above, each Original Committed Lender (pro rata in accordance with the respective Senior Term Facility A Commitments or Senior Term Facility B Commitments (as applicable) of the Committed Lenders) shall not be required to make its participation (in an amount equal to the Alternative Lender Funded Amount) in the relevant Senior Term Facility A Loan or Senior Term Facility B Loan (as applicable) available; or
  - (ii) any Senior Term Facility A Commitment or Senior Term Facility B Commitment (as applicable) is not attributed to an Alternative Lender in accordance with paragraph (a) above or funds have not been received from any Electing Alternative Lender which becomes an Alternative Committed Lender in accordance with paragraph (a)(iii)(A) above, each Original Committed Lender (on a several basis pro rata in accordance with the respective Senior Term Facility A Commitments or Senior Term Facility B Commitments (as applicable) of the Original Committed Lenders) shall be required to make its participation in the relevant Senior Term Facility A Loan or Senior Term Facility B Loan (as applicable) available in accordance with the Senior Term Facility A Commitment or Senior Term Facility B Commitment (as applicable) of such Original Committed Lender.

## 2.5 **Reclassification of Super Senior Term Facility**

If, on the Syndication Date, any of the Super Senior Term Facility Commitments are held by any Original Lender under the Super Senior Term Facility (or their Affiliates or Related Funds) (each an "**Original Super Senior Term Facility Lender**") then, with effect from the Syndication Date:

- (a) any Super Senior Term Facility Commitments which constitute Available Commitments held by the Original Super Senior Term Facility Lenders as at the Syndication Date, and such date falls, either:
  - (i) prior to the end of the Certain Funds Period, the Available Commitments shall be automatically reclassified as Senior Term Facility A Commitments and each Original Super Senior Term Facility Lender shall, following such reclassification, be a Lender under Senior Term Facility A; or
  - (ii) on or after the end of the Certain Funds Period, the Available Commitments shall be automatically cancelled;
- (b) the aggregate participations of the Original Super Senior Term Facility Lenders in any Super Senior Term Facility Loans (the "**Residual Super Senior Term Facility Loans**") shall be deemed to be a separate Loan and shall be automatically reclassified as a Senior Term Facility A Loan with an Interest Period ending on the same date as the Interest Period applicable to the Residual Super Senior Term Facility Loans (the "**Reclassified Super Senior Term Facility Loan**"); and
- (c) any accrued but unpaid interest in respect of the Residual Super Senior Term Facility Loans as at the Syndication Date shall be paid at the end of the Interest Period relating to the Reclassified Super Senior Term Facility Loan (and for the avoidance of doubt, on and from the Syndication Date, interest shall accrue on such Reclassified Super Senior Term Facility Loan at the rate applicable to Senior Term Facility A).

## 2.6 **Optional Reclassification of Senior Term Facility B**

- (a) After the Closing Date but prior to the Mandatory Reclassification Date, if Adjusted Leverage (when calculated on a pro forma basis and taking into account any pro forma adjustments referred to in the definition of "Adjusted Leverage" in clause 26.1 (Financial Definitions)) is less than or equal to 5.75:1 (or otherwise with the consent of the Facility Agent and all Lenders under Senior Term Facility B) the Parent may, by giving no less than ten Business Days' notice to the Facility Agent request that all or part of the Senior Term Facility B Loans (but if in part, being an amount not less than £5,000,000 and, if in part such reclassification shall be pro rata across the Senior Term Facility B Loans) (the "**Residual Senior Term Facility B Loans**") be reclassified as Senior Term Facility A Loans.
- (b) The parties agree that, with effect from the date which falls ten Business Days after the date of such request (the "**Reclassification Date**"):
  - (i) the Residual Senior Term Facility B Loans shall be automatically reclassified as Senior Term Facility A Loans with an Interest Period ending on the same date as the Interest Period applicable to the Residual Senior Term Facility B Loans (the "**Reclassified Senior Term Facility B Loans**") and the corresponding Senior Term Facility B Commitments shall be automatically reclassified as Senior Term Facility A Commitments;
  - (ii) each Lender under each Residual Senior Term Facility B Loan shall, following such reclassification, be a Lender under Senior Term Facility A; and
  - (iii) any accrued but unpaid interest in respect of the Residual Senior Term Facility B Loans as at the Reclassification Date shall be paid at the end of the Interest Period relating to such Reclassified Senior Term Facility B Loans (and for the avoidance of doubt, on and from the Reclassification Date, interest shall accrue on such Reclassified Senior Term Facility B Loans at the rate applicable to Senior Term Facility A).

- (c) On the Reclassification Date the Parent shall pay, or procure the payment, to the Arranger an adjustment fee in the amount and at the times agreed in a Fee Letter.
- (d) For the avoidance of doubt, there is no limit to the number of times that the Parent may request that any Senior Term Facility B Loans may be reclassified as Senior Term Facility A Loans pursuant to this clause 2.6.

## 2.7 **Mandatory Reclassification of Senior Term Facility B**

On the earlier to occur of:

- (a) if Adjusted Leverage (when calculated on a pro forma basis and taking into account any pro forma adjustments referred to in the definition of "Adjusted Leverage" in clause 26.1 (Financial definitions) and where, for this purpose only, the Relevant Period for the purpose of the definition of Relevant Period is the period of 12 months ending on or around the date falling six months after the Closing Date) is greater than 5.75:1 (a "**Mandatory Conversion Event**"), the date falling six months after the Closing Date; and
- (b) the date falling 18 months after the Closing Date,

(such earlier date being, the "**Mandatory Reclassification Date**"), the parties agree that:

- (i) any Senior Term Facility B Commitments which constitute Available Commitments held by the Original Super Senior Term Facility Lenders as at the Mandatory Reclassification Date, shall be automatically cancelled;
- (ii) any Senior Term Facility B Loans which are outstanding as at the Mandatory Reclassification Date (the "**Residual Senior Term Facility B Loans**") shall be automatically reclassified as Senior Term Facility A Loans (the "**Reclassified Senior Term Facility B Loans**") and the corresponding Senior Term Facility B Commitments shall be automatically reclassified as a Senior Term Facility A Commitments;
- (iii) each Lender under each Residual Senior Term Facility B Loan shall, following such reclassification, be a Lender under Senior Term Facility A; and
- (iv) any accrued but unpaid interest in respect of the Residual Senior Term Facility B Loans as at the Mandatory Reclassification Date shall be paid at the end of the Interest Period relating to such Reclassified Senior Term Facility B Loans (and for the avoidance of doubt, on and from the Mandatory Reclassification Date, interest shall accrue on such Reclassified Senior Term Facility B Loans at the rate applicable to Senior Term Facility A); and
- (v) on the Mandatory Reclassification Date the Parent shall pay, or procure the payment, to the Arranger an adjustment fee in the amount and at the times agreed in a Fee Letter.

## 2.8 **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 (save that an Ancillary Lender is responsible for the obligations of its relevant Affiliate in the circumstances described in paragraph (e) of clause 7.8 (Affiliates of Lenders as Ancillary Lenders)).

- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by an Obligor which relates to a Finance Party's participation in a Facility or its role under a Finance Document (including any such amount payable to the Facility Agent on its behalf) is a debt owing to that Finance Party by that Obligor.
- (c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

## 2.9 **Obligors' Agent**

- (a) Each Obligor (other than the Parent) by its execution of this agreement or an Accession Deed irrevocably appoints the Parent (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
  - (i) the Parent on its behalf to supply all information concerning itself contemplated by this agreement to the Finance Parties and to give all notices and instructions (including, in the case of a Borrower, Utilisation Requests), to agree any Incremental Term Facility Terms and to deliver any Incremental Term Facility Notice, to make such agreements and to effect the relevant amendments, supplements and variations (in each case, however fundamental) capable of being given, made or effected by any Obligor (notwithstanding that they may increase the Obligor's obligations or otherwise affect the Obligor) and to give confirmation as to continuation of surety obligations, without further reference to or the consent of that Obligor; and
  - (ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Parent,

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

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

## 3. **PURPOSE**

### 3.1 **Purpose**

- (a) The Company shall apply all amounts borrowed by it under Senior Term Facility A, Senior Term Facility B and the Super Senior Term Facility towards financing or refinancing (directly or indirectly):

- (i) payment to the Target Shareholders of the purchase price for the Target Shares either:
    - (A) if the Acquisition is being effected by way of a Scheme, pursuant to the Scheme or as otherwise described in the Scheme Circular; or
    - (B) if the Acquisition is being effected by way of an Offer, pursuant to the Offer and pursuant to the operation of the Squeeze Out Procedures;
  - (ii) payment of amounts payable in relation to outstanding options and awards granted by the Target pursuant to share option schemes, share plans or awards in consideration for the acquisition and/or cancellation of such options or awards;
  - (iii) payment of the Acquisition Costs relating to the Acquisition; and
  - (iv) refinancing the Financial Indebtedness incurred under the Existing Facilities Agreement and certain Financial Indebtedness of the Target and its Subsidiaries to third parties (including, without limitation, any breakage costs, prepayment fees, hedging close-out costs and other related fees costs and expenses).
- (b) Each Borrower shall apply all amounts borrowed by it under the Revolving Facility towards:
- (i) the general corporate and working capital purposes of the Group (but not towards the payment of any dividends, the repayment or prepayment of any Term Loan or interest or, in the case of any utilisation of any Ancillary Facility, towards the repayment or prepayment of any Revolving Facility Loan);
  - (ii) payment of the Acquisition Costs relating to the Acquisition;
  - (iii) funding Permitted Bolt-on Acquisitions;
  - (iv) payment of fees, costs and expenses, stamp, registration and other Taxes payable in connection with any such Permitted Bolt-on Acquisitions;
  - (v) refinancing Financial Indebtedness of any company, limited liability partnership, business or undertaking which is the subject of any such Permitted Bolt-on Acquisition and payment of any deferred consideration and/or completion accounts payments payable in respect of any such Permitted Bolt-on Acquisition;
  - (vi) funding a subscription for shares, loans or other investments in Permitted Joint Ventures; and
  - (vii) payment of Capital Expenditure,
- or as otherwise agreed between the relevant Borrower and Revolving Facility Lenders.
- (c) Each Borrower shall apply all amounts borrowed by it under an Incremental Term Facility towards:
- (i) funding Permitted Bolt-on Acquisitions;
  - (ii) payment of fees, costs and expenses, stamp, registration and other Taxes payable in connection with any such Permitted Bolt-on Acquisitions;



- (iii) refinancing Financial Indebtedness of any company, limited liability partnership, business or undertaking which is the subject of any such Permitted Bolt-on Acquisition and payment of any deferred consideration and/or completion accounts payments payable in respect of any such Permitted Bolt-on Acquisition;
- (iv) funding a subscription for shares, loans or other investments in Permitted Joint Ventures; and
- (v) refinancing any amount referred to in paragraph (i) to (iv) (inclusive) above, provided that any refinancing occurs within six months of the date of the relevant acquisition or investment,

or for any other purpose not prohibited by this agreement as agreed between the relevant Borrower and applicable Incremental Term Facility Lenders.

### 3.2 **Monitoring**

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

### 3.3 **Conversion between a Scheme and Offer**

- (a) Where the Acquisition is being effected by way of a Scheme, at any time before the Effective Date, the Company may give written notice to the Facility Agent (an "**Offer Conversion Notice**") that it intends to withdraw the Scheme and to issue an Offer instead.
- (b) Following the issue of an Offer Conversion Notice, within:
  - (i) 10 Business Days of the date of the Offer Conversion Notice, the Company shall withdraw the Scheme; and
  - (ii) 30 Business Days of the date of the Offer Conversion Notice, the Company shall request the consent of the Takeover Panel to issue an Offer Press Announcement and, subject to receipt of such consent and to the Scheme having been withdrawn, procure that an Offer Press Announcement is issued.
- (c) Where the Acquisition is being effected by way of an Offer, at any time before the Unconditional Date, the Company may give written notice to the Facility Agent (a "**Scheme Conversion Notice**") that it intends to withdraw the Offer and to proceed by way of a Scheme instead.
- (d) Following the issue of a Scheme Conversion Notice, within:
  - (i) 10 Business Days of the date of the Scheme Conversion Notice, the Company shall withdraw the Offer; and
  - (ii) 30 Business Days of the date of the Scheme Conversion Notice, the Company and/or the Target shall request the consent of the Takeover Panel to issue a Scheme Press Announcement and, subject to receipt of such consent and to the Offer having been withdrawn, the Company shall procure that a Scheme Press Announcement is issued.
- (e) For the avoidance of doubt, there shall be no limit to the number of times that the Company may issue an Offer Conversion Notice or a Scheme Conversion Notice.

#### 4. **CONDITIONS OF LOAN**

##### 4.1 **Initial conditions precedent**

- (a) The Lenders will only be obliged to comply with clause 5.4 (Lenders' participation) in relation to any Loan if on or before the Utilisation Date for that Loan, the Facility Agent has received:
- (i) all of the documents and other evidence listed in part 1A of schedule 2 (Conditions precedent); and
  - (ii) all of the documents and other evidence listed in part 1B of schedule 2 (Conditions precedent),
- in each case (unless otherwise stated) in form and substance satisfactory to the Facility Agent (acting on instruction of the Majority Lenders (acting reasonably)), and the Facility Agent shall notify the Parent and the Lenders promptly upon being so satisfied.
- (b) Other than to the extent that the Majority Lenders notify the Facility Agent in writing to the contrary before the Facility Agent gives the notification described in paragraph (a) above, the Lenders authorise (but do not require) the Facility Agent to give that notification. The Facility Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
- (c) The Lenders will only be obliged to comply with clause 5.4 (Lenders' participation) in relation to any Incremental Term Facility Loan if on or before the Utilisation Date for that Loan, the Facility Agent has received all of the Incremental Term Facility Conditions Precedent relating to the relevant Incremental Term Facility (if any) in form and substance satisfactory to the Facility Agent (acting on instruction of the Incremental Term Facility Majority Lenders (acting reasonably)). The Facility Agent shall notify the Parent and the Lenders promptly upon being so satisfied.
- (d) Other than to the extent that the Incremental Term Facility Majority Lenders under the relevant Incremental Term Facility notify the Facility Agent in writing to the contrary before the Facility Agent gives a notification described in paragraph (c) above, the Lenders authorise (but do not require) the Facility Agent to give that notification. The Facility Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

##### 4.2 **Further conditions precedent**

Subject to clause 4.1 (Initial conditions precedent), the Lenders will only be obliged to comply with clause 5.4 (Lenders' participation) in relation to a Loan other than one to which clause 4.4 (Loans 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 Declared Default has occurred, and in the case of any other Loan, no Default is continuing or would result from the proposed Loan;
- (b) in relation to any Loan on the Closing Date, all the representations and warranties in clause 24 (Representations) or, in relation to any other Loan (other than a Rollover Loan), the Repeating Representations to be made by each Obligor are true in all respects (or, to the extent they do not contain a concept of materiality, in all material respects);
- (c) in relation to any Incremental Term Facility Loan being used to finance a Permitted Bolt-on Acquisition within six months of the relevant member of the Group legally

committing to make the proposed acquisition, the Parent has delivered a certificate, signed by its finance director or chief executive officer, to the Facility Agent at least three Business Days prior to the proposed Utilisation Date of such Loan (accompanied by reasonably detailed calculations and assumptions) confirming that:

- (i) no Event of Default or Material Event of Default is continuing or would occur as a result of making such utilisation; and
- (ii) Adjusted Leverage (as at the most recent Quarter Date for which financial information is available to calculate such ratio before the relevant member of the Group legally committed to make the proposed acquisition) did not exceed 5.75:1,

in each case, calculated pro-forma for such proposed Loan and the proposed acquisition and taking into account Permitted Synergies; and

- (d) in relation to any other Incremental Term Facility Loan, the Parent has delivered a certificate, signed by its finance director or chief executive officer, to the Facility Agent at least three Business Days prior to the proposed Utilisation Date of such Loan (accompanied by reasonably detailed calculations and assumptions) confirming that:

- (i) no Event of Default or Material Event of Default is continuing or would occur as a result of making such utilisation; and
- (ii) Adjusted Leverage (as at the most recent Quarter Date before the proposed Utilisation Date of such Loan for which financial information is available to calculate such ratio) did not exceed 5.75:1,

in each case, calculated pro-forma for such proposed Loan and the proposed expenditure of the proceeds of such Loan.

#### 4.3 **Conditions relating to Optional Currencies**

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

#### 4.4 **Loans during the Certain Funds Period**

- (a) Subject to clause 4.1 (Initial conditions precedent), during the Certain Funds Period, the Lenders will only be obliged to comply with clause 5.4 (Lenders' participation) in

relation to a Certain Funds Utilisation if, on the date of the Utilisation Request and on the proposed Utilisation Date:

- (i) no Major Default is continuing or would result from the proposed Loan;
  - (ii) all the Major Representations are true in all respects (or, to the extent they are not qualified by materiality, in all material respects);
  - (iii) no Change of Control has occurred (provided that for the purposes of this paragraph (a)(iii), THCP Advisory Limited shall not be a THCP Entity for the purposes of the definition of "Change of Control") ; and
  - (iv) in any applicable jurisdiction, it has not become unlawful for a Lender to perform any of its obligations as contemplated by this agreement or to fund, issue or maintain its participation in any Loan. For the avoidance of doubt, any unlawfulness for a Lender shall not limit any other Lenders' obligations to fund.
- (b) Notwithstanding any other provision in the Finance Documents, during the Certain Funds Period (save in circumstances where, pursuant to paragraph (a) above, a Lender is not obliged to comply with clause 5.4 (Lenders' participation)), none of the Finance Parties shall be entitled to:
- (i) cancel any of its Commitments to the extent to do so would prevent or limit the making of a Certain Funds Utilisation;
  - (ii) rescind, terminate or cancel this agreement 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 Loan to the extent to do so would prevent or limit the making of a Certain Funds Utilisation; or
  - (v) cancel, accelerate or cause repayment or prepayment of any amounts owing under this agreement or under any other Finance Document or enforce any security under any Transaction Security Document,

provided that immediately upon the expiry of the Certain Funds Period all such rights, remedies and entitlements shall, subject to clause 28.20 (Clean-Up Period), be available to the Finance Parties notwithstanding that they may not have been used or been available for use during the Certain Funds Period.

#### **4.5 Utilisations of Incremental Term Facility during the Agreed Certain Funds Period**

- (a) Subject to clause 4.1, during the relevant Agreed Certain Funds Period, an Incremental Term Facility Lender will only be obliged to comply with clause 5.4 (Lenders' participation) in relation to the relevant Agreed Certain Funds Utilisation if:
- (i) the Obligors' Agent and each of the relevant Incremental Term Facility Lenders have agreed that the relevant Incremental Term Facility shall be made available on a "certain funds basis" for a specified purpose in connection with a Permitted Acquisition or such other agreed purpose, for such period and on such terms or conditions (if any) as the Obligors' Agent and those relevant Incremental Term Facility Lenders (as the case may be) shall agree and notify in writing to the Facility Agent at least three Business Days (or such

shorter period agreed with the Facility Agent) prior to the date of the Utilisation Request; and

- (ii) on the proposed Utilisation Date:
  - (A) the Facility Agent has made the notification contemplated by clause 4.1;
  - (B) the Major Representations are true in all respects or all material respects to the extent not already qualified by materiality;
  - (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 that Agreed Certain Funds Utilisation;
  - (D) no Major Default is continuing or would result from the proposed Agreed Certain Funds Utilisation;
  - (E) paragraphs (c) and (d) of clause 4.2 (Further conditions precedent) will be complied with; and
  - (F) no Change of Control has occurred in relation to an Original Obligor.
  
- (b) During the Agreed Certain Funds Period (save in respect of a relevant Incremental Term Facility Lender in circumstances where, pursuant to paragraph (a) above, that Incremental Term Facility Lender (as the case may be) is not obliged to comply with clause 5.4 (Lenders' participation)), none of the relevant Incremental Term Facility Lenders shall be entitled in respect of an Agreed Certain Funds Utilisation (and the corresponding Commitments to which it relates) to:
  - (i) cancel any of its Incremental Term 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 Incremental Term 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;
  - (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;
  - (v) cancel, accelerate or cause repayment or prepayment of any amounts owing under this agreement or under any other Finance Document in respect of a Facility to which the provisions of this clause 4.5 apply to the extent to do so would prevent or limit the making of an Agreed 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 an Agreed Certain Funds Utilisation,provided that:
  - (A) 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; and

- (B) this clause 4.5 shall be without prejudice to, and shall not prevent or limit the exercise of, any rights of any of the Finance Parties in respect of any other Facility, Loan, Utilisation or Commitment.

#### 4.6 **Maximum number of Loans**

- (a) A Borrower (or the Parent) may not deliver a Utilisation Request if as a result of the proposed Loan:
- (i) if the Acquisition is being implemented by way of a Scheme, more than two Senior Term Facility A Loans would be outstanding or, if the Acquisition is being implemented by way of an Offer, more than 15 Senior Term Facility A Loans would be outstanding; or
  - (ii) if the Acquisition is being implemented by way of a Scheme, more than two Senior Term Facility B Loans would be outstanding or, if the Acquisition is being implemented by way of an Offer, more than 15 Senior Term Facility B Loans would be outstanding; or
  - (iii) if the Acquisition is being implemented by way of a Scheme, more than two Super Senior Term Facility Loans would be outstanding or, if the Acquisition is being implemented by way of an Offer, more than 15 Super Senior Term Facility Loans would be outstanding; or
  - (iv) more than ten Revolving Facility Loans would be outstanding; or
  - (v) more than five Incremental Term Facility Loans would be outstanding.
- (b) A Borrower (or the Parent) may not request that a Senior Term Facility A Loan, a Senior Term Facility B Loan or a Super Senior Term Facility Loan be divided.
- (c) Any Separate Loan or separate Loan referred to in clause 6.2 (Unavailability of a currency) shall not be taken into account in this clause 4.6.

### 5. **UTILISATION**

#### 5.1 **Delivery of a Utilisation Request**

A Borrower (or the Parent on its behalf) may utilise a Facility by delivery to the Facility Agent of a duly completed Utilisation Request not later than the Specified Time or, in respect of Loans to be made on the Closing Date, such later time agreed by the Facility Agent.

#### 5.2 **Completion of a Utilisation Request**

- (a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:
- (i) it identifies the Facility to be utilised;
  - (ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
  - (iii) the currency and amount of the Loan comply with clause 5.3 (Currency and amount); and

- (iv) the proposed Interest Period complies with clause 15 (Interest Periods).
- (b) Multiple Loans may be requested in a Utilisation Request where the proposed Utilisation Date is the Closing Date. Only one Loan may be requested in each subsequent Utilisation Request.

### 5.3 **Currency and amount**

- (a) The currency specified in a Utilisation Request must be:
  - (i) in relation to the Senior Term Facility A, the Base Currency;
  - (ii) in relation to the Senior Term Facility B, the Base Currency;
  - (iii) in relation to the Super Senior Term Facility, the Base Currency;
  - (iv) in relation to any Incremental Term Facility, the Base Currency or an Optional Currency; and
  - (v) in relation to the Revolving Facility, the Base Currency or an Optional Currency.
- (b) The amount of the proposed Loan must be:
  - (i) for the Senior Term Facility A, a minimum of £100,000 or, if less, the Available Facility;
  - (ii) for the Senior Term Facility B, a minimum of £100,000 or, if less, the Available Facility;
  - (iii) for the Super Senior Term Facility, a minimum of £100,000 or, if less, the Available Facility;
  - (iv) for the Incremental Term Facility, an amount equal to the minimum amount agreed in respect of a Loan denominated in a particular currency agreed with the Incremental Term Facility Lenders of that Incremental Term Facility or, if less, the Available Facility; or
  - (v) for the Revolving Facility:
    - (A) if the currency selected is the Base Currency, a minimum of £100,000 or, if less, the Available Facility;
    - (B) if the currency selected is euro, a minimum of €100,000 or, if less, the Available Facility; or
    - (C) if the currency selected is an Optional Currency other than euro, the minimum amount specified by the Facility Agent pursuant to paragraph (b)(ii) of clause 4.3 (Conditions relating to Optional Currencies) or, if less, the Available Facility.

### 5.4 **Lenders' participation**

- (a) If the conditions set out in this agreement have been met, and subject to clause 9.2 (Repayment of Revolving Facility Loans), each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.
- (b) Other than as set out in paragraph (c) below, the amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.

- (c) If a Revolving Facility Loan is made to repay Ancillary Outstandings under that Revolving Facility, each Lender's participation in that Loan will be in an amount (as determined by the Facility Agent) which will result as nearly as possible in the aggregate amount of its participations in the Revolving Facility Loans then outstanding bearing the same proportion to the aggregate amount of the Revolving Facility Loans then outstanding as its Revolving Facility Commitment bears to the Total Revolving Facility Commitments.
- (d) The Facility Agent shall determine the Base Currency Amount of each Revolving Facility Loan and/or Incremental Term 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 accordance with clause 35.1 (Payments to the Facility Agent) by the Specified Time.

## 5.5 **Limitations on Loans**

- (a) The Revolving Facility shall not be utilised unless a Term Facility has been, or will on the date of the first utilisation of the Revolving Facility be, utilised.
- (b) The maximum aggregate amount of the Ancillary Commitments of all the Lenders shall not at any time exceed the Total Revolving Facility Commitments.
- (c) No Incremental Term Facility shall be utilised unless each of the Senior Term Facility A and the Senior Term Facility B has been utilised in full.
- (d) No Term Facility (other than an Incremental Term Facility) may be utilised if, as a consequence of such utilisation, the Commitments of the Original Lenders (when aggregated with the Commitments of their Affiliates and Related Funds and assuming for this purpose only that any undrawn Commitments which are not to be drawn contemporaneously with such utilisation of a Term Facility are cancelled undrawn) would be 50.1 per cent or less of the Total Commitments immediately after that utilisation (to the extent that such aggregated Commitments exceeded 50.1 per cent of the Total Commitments immediately prior to that utilisation).

## 5.6 **Cancellation of Commitment**

- (a) The Senior Term Facility A Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for the Senior Term Facility A.
- (b) The Senior Term Facility B Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for the Senior Term Facility B.
- (c) The Super Senior Term Facility Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for the Super Senior Term Facility.
- (d) The Incremental Term Facility Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for that Incremental Term Facility.
- (e) 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.

## 6. **OPTIONAL CURRENCIES**

### 6.1 **Selection of currency**



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

## 6.2 **Unavailability of a currency**

If before the Specified Time:

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

the Facility Agent will give notice to the relevant Borrower or Parent to that effect by the Specified Time. In this event, any Lender that gives notice pursuant to this clause 6.2 will be required to participate in the Loan in the Base Currency (in an amount equal to that Lender's proportion of the Base Currency Amount, or in respect of a Rollover Loan, an amount equal to that Lender's proportion of the Base Currency Amount of the Rollover Loan that is due to be made) and its participation will be treated as a separate Loan denominated in the Base Currency during that Interest Period.

## 6.3 **Facility Agent's calculations**

Each Lender's participation in a Loan will be determined in accordance with paragraph (b) of clause 5.4 (Lenders' participation).

## 7. **ANCILLARY FACILITIES**

### 7.1 **Type of Facility**

An Ancillary Facility may be by way of:

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

### 7.2 **Availability**

- (a) If the Parent and a Lender agree and except as otherwise provided in this agreement, the Lender (or, in accordance with clause 7.8 (Affiliates of Lenders as Ancillary Lenders), one of its Affiliates) may provide all or part of its Revolving Facility Commitment as an Ancillary Facility.
- (b) An Ancillary Facility shall not be made available unless, not later than three Business Days prior to the Ancillary Commencement Date for an Ancillary Facility, the Facility Agent has received from the Parent:

- (i) a notice in writing of the establishment of an Ancillary Facility and specifying:
    - (A) the proposed Borrower(s) (or Affiliates of a Borrower) which may use the Ancillary Facility;
    - (B) the proposed Ancillary Commencement Date and expiry date of the Ancillary Facility;
    - (C) the proposed type of Ancillary Facility to be provided;
    - (D) the proposed Ancillary Lender;
    - (E) the proposed Ancillary Commitment, the maximum amount of the Ancillary Facility and, in the case of a Multi-account Overdraft, its Designated Gross Amount and its Designated Net Amount; and
    - (F) the proposed currency of the Ancillary Facility (if not denominated in the Base Currency); and
  - (ii) any other information which the Facility Agent may reasonably request in connection with the Ancillary Facility.
- (c) The Facility Agent shall promptly notify the Ancillary Lender and the other Lenders of the establishment of an Ancillary Facility.
- (d) Subject to compliance with paragraph (b) above:
- (i) the Lender concerned (or, in accordance with clause 7.8 (Affiliates of Lenders as Ancillary Lenders), one of its Affiliates) will become an Ancillary Lender; and
  - (ii) the Ancillary Facility will be available,
- with effect from the date agreed by the Parent and the Ancillary Lender.

### 7.3 **Terms of Ancillary Facilities**

- (a) Except as provided below, the terms of any Ancillary Facility will be those agreed by the Ancillary Lender and the Parent.
- (b) Those terms:
  - (i) must be based upon normal commercial terms at that time (except as varied by this agreement);
  - (ii) may allow only Borrowers (or Affiliates of Borrowers nominated pursuant to clause 7.9 (Affiliates of Borrowers)) to use the Ancillary Facility;
  - (iii) may not allow the Ancillary Outstandings to exceed the Ancillary Commitment;
  - (iv) may not allow a Lender's Ancillary Commitment to exceed that Lender's Available Commitment relating to the Revolving Facility (before taking into account the effect of the Ancillary Facility on that Available Commitment); and
  - (v) must require that the Ancillary Commitment is reduced to zero, and that all Ancillary Outstandings are repaid not later than the Termination Date applicable to the Revolving Facility (or such earlier date as the applicable 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 38.3 (Day count convention and interest calculation) which shall not prevail for the purposes of calculating fees, interest or commission relating to an Ancillary Facility;
  - (ii) an Ancillary Facility comprising more than one account where the terms of the Ancillary Documents shall prevail to the extent required to permit the netting of balances on those accounts; and
  - (iii) where the relevant term of this agreement would be contrary to, or inconsistent with, the law governing the relevant Ancillary Document, in which case that term of this agreement shall not prevail.
- (d) Interest, commission and fees on Ancillary Facilities are dealt with in clause 17.5 (Interest, commission and fees on Ancillary Facilities).

#### 7.4 **Repayment of Ancillary Facility**

- (a) An Ancillary Facility shall cease to be available on the Termination Date applicable to the Revolving Facility or such earlier date on which its expiry date occurs or on which it is cancelled in accordance with the terms of this agreement.
- (b) If an Ancillary Facility expires in accordance with its terms the Ancillary Commitment of the Ancillary Lender shall be reduced to zero.
- (c) No Ancillary Lender may demand repayment or prepayment of any Ancillary Outstandings prior to the expiry date of the relevant Ancillary Facility unless:
  - (i) required to reduce the Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Net Outstandings;
  - (ii) the Total Revolving Facility Commitments have been cancelled in full or all outstanding Loans under the Revolving Facility have become due and payable in accordance with the terms of this agreement;
  - (iii) it becomes unlawful in any applicable jurisdiction for the Ancillary Lender to perform any of its obligations as contemplated by this agreement or to fund, issue or maintain its participation in its Ancillary Facility (or it becomes unlawful for any Affiliate of the Ancillary Lender for the Ancillary Lender to do so); or
  - (iv) both:
    - (A) the Available Commitments relating to the Revolving Facility; and
    - (B) the notice of the demand given by the Ancillary Lender,

would not prevent the relevant Borrower funding the repayment of those Ancillary Outstandings in full by way of Revolving Facility Loan.
- (d) If a Revolving Facility Loan is made to repay Ancillary Outstandings in full, the relevant Ancillary Commitment shall be reduced to zero.

#### 7.5 **Limitation on Ancillary Outstandings**

Each Borrower shall procure that:

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

**7.6 Adjustment for Ancillary Facilities upon acceleration**

- (a) In this clause 7.6:

**"Revolving Outstandings"** means, in relation to a Lender under the Revolving Facility, the aggregate of the equivalent in the Base Currency of:

- (i) its participation in each Revolving Facility Loan then outstanding under the Revolving Facility (together with the aggregate amount of all accrued interest, fees and commission owed to it as a Lender under the Revolving Facility); and
- (ii) if the Lender is also an Ancillary Lender, the Ancillary Outstandings in respect of Ancillary Facilities provided by that Ancillary Lender (or by its Affiliate) under the Revolving Facility (together with the aggregate amount of all accrued interest, fees and commission owed to it (or to its Affiliate) as an Ancillary Lender in respect of the Ancillary Facility); and

**"Total Revolving Outstandings"** means the aggregate of all Revolving Outstandings under the Revolving Facility.

- (b) If the Facility Agent exercises any of its rights under clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration) (other than declaring Loans to be due on demand), each Lender and each Ancillary Lender shall (subject to paragraph (g) below) promptly adjust (by making or receiving (as the case may be) corresponding transfers of rights and obligations under the Finance Documents relating to Revolving Outstandings) their claims in respect of amounts outstanding to them under the Revolving Facility and each Ancillary Facility to the extent necessary to ensure that after such transfers the Revolving Outstandings of each Lender under the Revolving Facility bear the same proportion to the Total Revolving Outstandings as such Lender's Revolving Facility Commitment under the Revolving Facility bears to the Total Revolving Facility Commitments in respect of the Revolving Facility, each as at the date the Facility Agent exercises the relevant right(s) under clause 28.18 (Acceleration) or clause 28.19 (Super Senior 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 (b) above, then each Lender and Ancillary Lender will make a further adjustment (by making or receiving (as the case may be) corresponding transfers of rights and obligations under the Finance Documents relating to Revolving Outstandings to the extent necessary) to put themselves in the position they would have been in had the original adjustment been determined by reference to the actual liability or, as the case may be, zero liability and not the contingent liability.
- (d) Any transfer of rights and obligations relating to Revolving Outstandings made pursuant to this clause 7.6 shall be made for a purchase price in cash, payable at the time of transfer, in an amount equal to those Revolving Outstandings (less any accrued interest, fees and commission to which the transferor will remain entitled to

receive notwithstanding that transfer, pursuant to clause 29.14 (Pro rata interest settlement)).

- (e) Prior to the application of the provisions of paragraph (b) above, an Ancillary Lender that has provided a Multi-account Overdraft shall set-off any Available Credit Balance on any account comprised in that Multi-account Overdraft.
- (f) All calculations to be made pursuant to this clause 7.6 shall be made by the Facility Agent based upon information provided to it by the Lenders and Ancillary Lenders and the Facility Agent's Spot Rate of Exchange.
- (g) This clause 7.6 shall not oblige any Lender to accept the transfer of a claim relating to an amount outstanding under an Ancillary Facility which is not denominated (pursuant to the relevant Finance Document) in either the Base Currency, a currency which has been an Optional Currency for the purpose of any Revolving Facility Loan or in another currency which is acceptable to that Lender.

#### **7.7 Information**

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

#### **7.8 Affiliates of Lenders as Ancillary Lenders**

- (a) Subject to the terms of this agreement, an Affiliate of a Lender may become an Ancillary Lender. In such case, the Lender and its Affiliate shall be treated as a single Lender whose Revolving Facility Commitment is the amount set out either opposite the relevant Lender's name in part 2 of schedule 1 (The Original Parties) in relation to the Revolving Facility 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.
- (b) The Parent shall specify any relevant Affiliate of a Lender in any notice delivered by the Parent to the Facility Agent pursuant to paragraph (b)(i) of clause 7.2 (Availability).
- (c) If a Lender assigns all of its rights and benefits or transfers all of its rights and obligations to a New Lender, its Affiliate shall cease to have any obligations under this agreement or any Ancillary Document.
- (d) An Affiliate of a Lender which becomes an Ancillary Lender shall accede to the Intercreditor Agreement as an Ancillary Lender and any person which so accedes to the Intercreditor Agreement shall, at the same time, become a Party as an "Ancillary Lender" in accordance with clause 21.11 (Creditor Accession Undertaking) of the Intercreditor Agreement.
- (e) Where this agreement or any other Finance Document imposes an obligation on an Ancillary Lender and the relevant Ancillary Lender is an Affiliate of a Lender which is not a party to that document, the relevant Lender shall ensure that the obligation is performed by its Affiliate.

#### **7.9 Affiliates of Borrowers**

- (a) Subject to the terms of this agreement, an Affiliate incorporated in a Permitted Jurisdiction of a Borrower may with the approval of the relevant Lender become a borrower with respect to an Ancillary Facility.

- (b) The Parent shall specify any relevant Affiliate of a Borrower in any notice delivered by the Parent to the Facility Agent pursuant to paragraph (b)(i) of clause 7.2 (Availability).
- (c) If a Borrower ceases to be a Borrower under this agreement in accordance with clause 31.3 (Resignation of a Borrower), its Affiliate shall cease to have any rights under this agreement or any Ancillary Document.
- (d) Where this agreement or any other Finance Document imposes an obligation on a Borrower under an Ancillary Facility and the relevant Borrower is an Affiliate of a Borrower which is not a party to that document, the relevant Borrower shall ensure that the obligation is performed by its Affiliate.
- (e) Any reference in this agreement or any other Finance Document to a Borrower being under no obligations (whether actual or contingent) as a Borrower under such Finance Document shall be construed to include a reference to any Affiliate of a Borrower being under no obligations under any Finance Document or Ancillary Document.

#### 7.10 **Revolving Facility Commitment amounts**

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

- (a) its Ancillary Commitment; or
  - (b) where relevant, the Ancillary Commitment of its Affiliate,
- made available under such Term Facility.

#### 7.11 **Amendments and waivers – Ancillary Facilities**

No amendment or waiver of a term of any Ancillary Facility shall require the consent of any Finance Party other than the relevant Ancillary Lender unless such amendment or waiver itself relates to or gives rise to a matter which would require an amendment of or under this agreement (including, for the avoidance of doubt, under this clause 7). In such a case, clause 41 (Amendments and waivers) will apply.

### 8. **ESTABLISHMENT OF INCREMENTAL TERM FACILITIES**

#### 8.1 **Selection of Incremental Term Facility Lenders**

##### (a) **Definitions**

In this agreement:

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

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

- (i) invites that Relevant Lender (and its Affiliates and Related Funds) to participate in a proposed Incremental Term Facility; and
- (ii) sets out the proposed Incremental Term Facility Terms applicable to that Incremental Term Facility and any fee or commission proposed to be payable to lenders under that proposed Incremental Term Facility;

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

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

**"Participating Lender"** means, in relation to an Incremental Term Facility Proposal, any Relevant Lender or Affiliate or Related Fund of a Relevant Lender which makes an offer in respect of the Incremental Term Facility proposed in that Incremental Term Facility Proposal pursuant to paragraph (c) below;

**"Proposed Facility Size"** means, in relation to an Incremental Term Facility Proposal, the proposed Total Incremental Term Facility Commitments set out in that Incremental Term Facility Proposal; and

**"Relevant Lender"** means an Original Lender in respect of Senior Term Facility A and/or Senior Term Facility B.

(b) **Invitation to all Relevant Lenders**

The Parent shall solicit potential Incremental Term Facility Lenders for any proposed Incremental Term Facility by delivery of an Incremental Term Facility Proposal to the Facility Agent and each Relevant Lender. If there are no Relevant Lenders, the Parent may, in its absolute discretion approach one or more Eligible Institutions to receive their respective offers with regard to the proposed terms of the proposed Incremental Term Facility and paragraphs (c) to (j) (inclusive) below shall not apply.

(c) **Relevant Lender's offer**

Any Relevant Lender or any Affiliate or Related Fund of a Relevant Lender which wishes to become an Incremental Term Facility Lender in respect of an Incremental Term Facility proposed in an Incremental Term Facility Proposal shall notify the Parent and the Facility Agent of the proposed Incremental Term Facility Commitment that it unconditionally offers to make available in respect of that proposed Incremental Term Facility no later than 5.00 p.m. on the last day of the Incremental Term Facility Solicitation Period relating to that Incremental Term Facility Proposal.

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

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

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

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

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

(f) **Participating Lender's Incremental Term Facility Commitment**

Each Participating Lender's Incremental Term Facility Commitment specified in any Incremental Term Facility Notice delivered in respect of an Incremental Term Facility proposed in an Incremental Term Facility Proposal shall, unless that Participating Lender agrees to be allocated an Incremental Term Facility Commitment in a lower amount, be in an amount equal to the amount of the proposed Incremental Term Facility Commitment offered by that Participating Lender in response to that Incremental Term Facility Proposal (as adjusted, if applicable, pursuant to paragraph (e) above), save that the Parent may in its sole discretion, reduce a Participating Lender's Incremental Term Facility Commitment provided that, in respect of an Incremental Term Facility, following establishment of the proposed Incremental Term Facility the Commitments of the Original Lenders (when aggregated with its Affiliates' and Related Funds' Commitments) will not be 50.1 per cent or less of the Total Commitments.

(g) **Wider invitation**

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

(h) **Incremental Term Facility Terms**

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

(i) **Amendment and withdrawal**

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

(j) **Effect of withdrawal**

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

## 8.2 **Delivery of Incremental Term Facility Notice**



- (a) On completion of the solicitation process set out in clause 8.1 (Selection of Incremental Term Facility Lenders), the Parent and each relevant Incremental Term Facility Lender may request the establishment of an Incremental Term Facility by the Parent delivering to the Facility Agent a duly completed Incremental Term Facility Notice not later than three Business Days prior to the proposed Establishment Date specified in that Incremental Term Facility Notice.
- (b) No Incremental Term Facility Notice may be delivered on or before the Closing Date.

### 8.3 **Completion of an Incremental Term Facility Notice**

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

### 8.4 **Maximum number of Incremental Term Facilities**

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

### 8.5 **Restrictions on Incremental Term Facility Terms and fees**

#### (a) **Currency**

Any Incremental Term Facility shall be denominated in the Base Currency or an Optional Currency which complies with clause 4.3 (Conditions relating to Optional Currencies).

#### (b) **Amount**

There shall be no cap on the Aggregate Total Incremental Term Facility Commitments.

#### (c) **Aggregate Yield**

- (i) The Aggregate Yield applicable to any Incremental Term Facility shall not exceed the Aggregate Yield applicable to the Senior Term Facility A (or, if the

Commitments under the Senior Term Facility A have been reduced to zero, that Facility immediately prior to that reduction) by more than one per cent per annum (the "**MFN Term Rate**") unless the Margin in respect of the Senior Term Facility A is increased by an amount equal to the amount by which the Aggregate Yield for such Incremental Term Facility exceeds the applicable MFN Term Rate.

(ii) In this agreement:

**"Aggregate Yield"** means in relation to a Facility, the aggregate of:

- (A) the highest Margin applicable to that Facility;
- (B) any applicable floor; and
- (C) any fee or commission (other than any fee payable pursuant to clause 17.1 (Commitment fee)) payable to the Lenders (in their capacity as such) under that Facility (amortised (on a straight line basis) over a period of three years).

(d) **Commitment fee**

The percentage rate per annum according to which the fee payable under clause 17.1 (Commitment fee) in respect of an Incremental Term Facility is computed shall not exceed 50 per cent of the Margin applicable to the Incremental Term Facility.

(e) **Borrowers**

Any Incremental Term Facility shall be available only to the Company or any Additional Borrower approved by all the Lenders under the applicable Incremental Term Facility.

(f) **Ranking**

Any Incremental Term Facility shall rank pari passu with the Senior Term Facility A.

(g) **No procurement of breach**

The Parent shall ensure that satisfaction of any Incremental Term Facility Conditions Precedent shall not breach any term of any Finance Document.

(h) **Maturity of Incremental Term Facilities**

Each Incremental Term Facility shall be repaid in one instalment on the Termination Date applicable to that Incremental Term Facility, clause 9 (Repayment) shall not provide for the scheduled repayment of any Incremental Term Facility before the Termination Date applicable to the Senior Term Facility A and, for the avoidance of doubt, the Termination Date of any Incremental Term Facility shall be no earlier than (x) the Termination Date applicable to the Senior Term Facility A and (y) the date falling six Months after the Termination Date applicable to each Super Senior Facility.

## 8.6 **Conditions to establishment**

The establishment of an Incremental Term Facility will only be effected in accordance with clause 8.7 (Establishment of Incremental Term Facility) if:

(a) on the date of the Incremental Term Facility Notice and on the Establishment Date:

- (i) no Event of Default or Material Event of Default is continuing or would result from the establishment of the proposed Incremental Term Facility;
  - (ii) Adjusted Leverage (as at the most recent Quarter Date before the proposed establishment of the Incremental Term Facility for which financial information is available to calculate such ratio pro forma for the utilisation of such Incremental Term Facility in full and the application thereof) did not exceed 5.75:1; and
  - (iii) the Repeating Representations to be made by each Obligor are true in all material respects;
- (b) each Incremental Term Facility Lender which is not already party to the Intercreditor Agreement in the capacity of Incremental Term Facility Lender enters into the documentation required for it to accede as a party to the Intercreditor Agreement; and
  - (c) each Incremental Term Facility Lender delivers an Incremental Term Facility Lender Certificate to the Facility Agent and the Parent.

#### 8.7 **Establishment of Incremental Term Facility**

- (a) If the conditions set out in this agreement have been met the establishment of an Incremental Term Facility is effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Incremental Term Facility Notice. The Facility Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Incremental Term Facility Notice appearing on its face to comply with the terms of this agreement and delivered in accordance with the terms of this agreement, execute that Incremental Term Facility Notice.
- (b) The Facility Agent shall only be obliged to execute an Incremental Term Facility Notice delivered to it by the Parent once it is satisfied it has complied with all necessary **"know your customer"** or other similar checks under all applicable laws and regulations in relation to the establishment of the relevant Incremental Term Facility.
- (c) On the Establishment Date:
  - (i) subject to the terms of this agreement the Incremental Term Facility Lenders make available a multi-currency Incremental Term Facility in an aggregate amount equal to the Total Incremental Term Facility Commitments specified in the Incremental Term Facility Notice which will be available to the Borrowers specified in the Incremental Term Facility Notice;
  - (ii) each Incremental Term Facility Lender shall assume all the obligations of a Lender corresponding to the Incremental Term Facility Commitment (the **"Assumed Incremental Term Facility Commitment"**) specified opposite its name in the Incremental Term Facility Notice as if it had been an Original Lender in respect of that Incremental Term Facility Commitment;
  - (iii) each of the Obligors and each Incremental Term Facility Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and that Incremental Term Facility Lender would have assumed and/or acquired had that Incremental Term Facility Lender been an Original Lender in respect of the Assumed Incremental Term Facility Commitment;
  - (iv) each Incremental Term Facility Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one

another as that Incremental Term Facility Lender and those Finance Parties would have assumed and/or acquired had the Incremental Term Facility Lender been an Original Lender in respect of the Assumed Incremental Term Facility Commitment; and

- (v) each Incremental Term Facility Lender shall become a Party as a "Lender".

#### 8.8 **Notification of establishment**

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

#### 8.9 **Incremental Term Facility fees**

- (a) Subject to clause 8.5 (Restrictions on Incremental Term Facility Terms and fees) the Parent may:
  - (i) pay (or procure that another Obligor pays) to any Incremental Term Facility Lender under an Incremental Term Facility a fee in the amount and at the times agreed between the Parent and that Incremental Term Facility Lender in a Fee Letter; and
  - (ii) pay (or procure that another Obligor pays) to any arranger of any Incremental Term Facility a fee in the amount and at the times agreed between the Parent and that arranger in a Fee Letter.
- (b) The Parent shall, promptly following the establishment of an Incremental Term Facility with an Incremental Term Facility Commitment equal to or greater than £20,000,000, pay (or procure that another Obligor pays) to the Facility Agent a fee in the amount of £3,500 in consideration for the costs and expenses incurred by the Facility Agent and the Security Agent in connection with the establishment of such Incremental Term Facility under this clause 8.

#### 8.10 **Prior amendments binding**

Each Incremental Term Facility Lender, by executing an Incremental Term Facility Notice, confirms for the avoidance of doubt, that the Facility Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this agreement on or prior to the date on which the establishment of the Incremental Term Facility requested in that Incremental Term Facility Notice became effective in accordance with this agreement and that it is bound by that decision to the same extent as it would have been had it been an Original Lender.

#### 8.11 **Limitation of responsibility**

Clause 29.8 (Limitation of responsibility of Existing Lenders) shall apply mutatis mutandis in this clause 8 in relation to any Incremental Term Facility Lender as if references in that clause to:

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

## 9. REPAYMENT

### 9.1 Repayment of Term Loans

- (a) The Borrowers under the Senior Term Facility A shall repay the Senior Term Facility A Loan in full on the Termination Date applicable to the Senior Term Facility A.
- (b) The Borrowers under the Senior Term Facility B shall repay the Senior Term Facility B Loan in full on the Termination Date applicable to the Senior Term Facility B (subject always to the operation of clause 2.7 (Mandatory Reclassification of Senior Term Facility B) which shall be deemed to operate prior to this clause).
- (c) The Borrowers under the Super Senior Term Facility shall repay the Super Senior Term Facility Loan in full on the Termination Date applicable to the Super Senior Term Facility.
- (d) The Borrowers under an Incremental Term Facility shall repay the Incremental Term Facility Loans in full on the Termination Date applicable to that Incremental Term Facility.
- (e) The Borrowers may not reborrow any part of a Term Facility which is repaid.

### 9.2 Repayment of Revolving Facility Loans

- (a) Subject to paragraph (c) below, each Borrower which has drawn a Revolving Facility Loan shall repay that Loan on the last day of its Interest Period.
- (b) Without prejudice to each Borrower's obligation under paragraph (a) above, if:
  - (i) one or more Revolving Facility Loans are to be made available to a Borrower:
    - (A) on the same day that a maturing Revolving Facility Loan is due to be repaid by that Borrower;
    - (B) in the same currency as the maturing Revolving Facility Loan (unless it arose as a result of the operation of clause 6.2 (Unavailability of a currency)); and
    - (C) in whole or in part for the purpose of refinancing the maturing Revolving Facility Loan; and
  - (ii) the proportion borne by each Lender's participation in the maturing Revolving Facility Loan to the amount of that maturing Revolving Facility Loan is the same as the proportion borne by that Lender's participation in the new Revolving Facility Loans to the aggregate amount of those new Revolving Facility Loans,

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

- (A) if the amount of the maturing Revolving Facility Loan exceeds the aggregate amount of the new Revolving Facility Loans:
  - (aa) the relevant Borrower will only be required to make a payment under clause 35.1 (Payments to the Facility Agent) in an amount in the relevant currency equal to that excess; and

- (bb) each Lender's participation in the new Revolving Facility Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender's participation in the maturing Revolving Facility Loan and that Lender will not be required to make a payment under clause 35.1 (Payments to the Facility Agent) in respect of its participation in the new Revolving Facility Loans; 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:
  - (aa) the relevant Borrower will not be required to make a payment under clause 35.1 (Payments to the Facility Agent); and
  - (bb) each Lender will be required to make a payment under clause 35.1 (Payments to the Facility Agent) in respect of its participation in the new Revolving Facility Loans only to the extent that its participation in the new Revolving Facility Loans exceeds that Lender's participation in the maturing Revolving Facility Loan and the remainder of that Lender's participation in the new Revolving Facility Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender's participation in the maturing Revolving Facility Loan.
- (c) At any time when a Lender under the Revolving Facility becomes a Defaulting Lender, the maturity date of each of the participations of that Lender in the Revolving Facility Loans then outstanding under such Revolving Facility will be automatically extended to the Termination Date applicable to such Revolving Facility and will be treated as separate Revolving Facility Loans under such Revolving Facility (the "**Separate Loans**") denominated in the currency in which the relevant participations are outstanding.
- (d) If the Borrower makes a prepayment of a Revolving Facility Loan pursuant to clause 10.4 (Voluntary prepayment of Revolving Facility Loans), a Borrower to whom a Separate Loan is outstanding under the same Revolving Facility may prepay that Loan by giving not less than three Business Days' prior notice to the Facility Agent. The proportion borne by the amount of the prepayment of the Separate Loan to the amount of the Separate Loans shall not exceed the proportion borne by the amount of the prepayment of a Revolving Facility Loan to the Revolving Facility Loans, in each case, under the Revolving Facility. The Facility Agent will forward a copy of a prepayment notice received in accordance with this paragraph (d) to the Defaulting Lender concerned as soon as practicable on receipt.
- (e) Interest in respect of a Separate Loan will accrue for successive Interest Periods selected by the Borrower by the time and date specified by the Facility Agent (acting reasonably) and will be payable by that Borrower to the Facility Agent (for the account of that Defaulting Lender) on the last day of each Interest Period of that Loan.
- (f) The terms of this agreement relating to Revolving Facility Loans generally 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.
- (g) Each Borrower which has drawn a Revolving Facility Loan shall repay that Loan in full on the Termination Date applicable to the Revolving Facility.

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

### 10.1 **Illegality**

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

- (a) that Lender shall promptly notify the Facility Agent upon becoming aware of that event;
- (b) save where such Lender is to be replaced pursuant to clause 41.12 (Replacement of Lender):
  - (i) upon the Facility Agent notifying the Parent, each Available Commitment of that Lender will be immediately cancelled; and
  - (ii) to the extent that the Lender's participation has not been transferred pursuant to clause 41.12 (Replacement of Lender), each Borrower shall repay that Lender's participation in the Loans made to that Borrower on the last day of the Interest Period for each Loan occurring after the Facility Agent has notified the Parent or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment(s) shall be cancelled in the amount of the participations repaid.

### 10.2 **Voluntary cancellation**

The Parent may, if it gives the Facility Agent not less than three Business Days' (or such shorter period as the Majority Lenders or, in the case of the Revolving Facility, the Majority Revolving Facility Lenders, or, in the case of a Super Senior Facility, the Majority Super Senior Facility Lenders, may agree) prior notice, cancel the whole or any part (being a minimum amount of £500,000 (or its equivalent in other currencies)) of an Available Facility. Any cancellation under this clause 10.2 shall reduce the Commitments of the Lenders rateably under that Facility, provided that:

- (a) any cancellation in respect of the Revolving Facility shall reduce the Commitments of the Lenders under each Revolving Facility on a pro rata basis and the £500,000 minimum amount of such cancellation shall apply to the Revolving Facilities in aggregate; and
- (b) the Parent shall not be permitted to cancel the whole or any part of any Term Facility Commitment pursuant to this clause 10.2 (other than a cancellation of all Term Facility Commitments) if, as a result of such cancellation, the Commitments of the Original Lenders (when aggregated with the Commitments of their Affiliates and Related Funds) would be 50.1 per cent or less of the Total Commitments immediately after that cancellation (to the extent that such aggregated Commitments exceeded 50.1 per cent of the Total Commitments immediately prior to that cancellation).

### 10.3 **Voluntary prepayment of Term Loans**

- (a) Subject to paragraph (b) and (c) below, a Borrower to which a Term Loan has been made may, if it or the Parent gives the Facility Agent not less than:
  - (i) in the case of a Term Rate Loan, three Business Days' (or such shorter period as the Majority Lenders or, in the case of a Super Senior Term Facility Loan, the Majority Super Senior Facility Lenders, may agree) prior notice; or

- (ii) in the case of a Compounded Rate Loan, five RFR Banking Days' (or such shorter period as the Majority Lenders or, in the case of a Super Senior Term Facility Loan, the Majority Super Senior Facility Lenders, may agree) prior notice,

prepay the whole or any part of that Term Loan (but, if in part, being an amount that reduces the Base Currency Amount of that Term Loan by a minimum amount of £500,000 (or its equivalent in any other currency)).

- (b) A Term Loan may only be prepaid after the last day of the Availability Period for the applicable Facility (or, if earlier, the day on which the applicable Available Facility is zero).
- (c) To the extent that Term Loans which are Compounded Rate Loans are prepaid in whole or in part on a day prior to the last day of an Interest Period for the relevant Loan more than four times in any 12 month period, the Borrower shall prepay, together with other amounts required to be prepaid under this agreement the administration costs of the relevant Lenders incurred in connection with such prepayment (which such Lender shall certify to the Borrower in reasonable detail).
- (d) A Borrower may elect to apply the proceeds of any prepayment under paragraph (a) above against such Facilities and in such amounts as the Borrower may (in its sole discretion) elect provided that a Borrower shall not be permitted to prepay the whole or any part of any Term Loan pursuant to paragraph (a) above (other than as part of a prepayment of all Loans) if, as a result of such prepayment, the Commitments of the Original Lenders (when aggregated with the Commitments of their Affiliates and Related Funds) would be 50.1 per cent or less of the Total Commitments immediately after that prepayment (to the extent that such aggregated Commitments exceeded 50.1 per cent of the Total Commitments immediately prior to that prepayment).

#### 10.4 **Voluntary prepayment of Revolving Facility Loans**

- (a) Subject to paragraph (b) below, a Borrower to which a Revolving Facility Loan has been made may, if it or the Parent gives the Facility Agent not less than:
  - (i) in the case of a Term Rate Loan, three Business Days' (or such shorter period as the Majority Revolving Facility Lenders, may agree) prior notice; or
  - (ii) in the case of a Compounded Rate Loan, five RFR Banking Days' (or such shorter period as the Majority Revolving Facility Lenders, may agree) prior notice,

prepay the whole or any part of the outstanding Revolving Facility Loans (but if in part, being an amount that reduces the Base Currency Amount of the outstanding Revolving Facility Loans in aggregate by a minimum amount of £500,000), on a pro rata basis.

- (b) To the extent that Revolving Facility Loans which are Compounded Rate Loans are prepaid in whole or in part on a day prior to the last day of an Interest Period for the relevant Loan more than four times in any 12 month period, the Borrower shall prepay, together with other amounts required to be prepaid under this agreement the administration costs of the relevant Lenders incurred in connection with such prepayment (which such Lender shall certify to the Borrower in reasonable detail).

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

- (a) If:



- (i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of clause 18.2 (Tax gross-up);
- (ii) any Lender claims indemnification from the Parent or an Obligor under clause 18.3 (Tax indemnity) or clause 19.1 (Increased costs);
- (iii) any Lender's costs of funding participations in any Loan is in excess of LIBOR or, if applicable, EURIBOR and it has notified the Facility Agent of its cost of funding under clause 16.5 (Cost of funds);
- (iv) any Lender becomes a Defaulting Lender or a Non-Consenting Lender,

the Parent may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, or whilst such Lender remains a Lender which is invoking clause 16.5 (Cost of funds) or a Defaulting Lender or Non-Consenting Lender give the Facility Agent notice of cancellation of the Commitment(s) of that Lender and its intention to procure the repayment of that Lender's participation in the Loans provided that in the case of a prepayment of a Lender under paragraphs (iii) or (iv) above such prepayment is funded from Acceptable Funding Sources.

- (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 Loan is outstanding shall repay that Lender's participation in that Loan together with all interest and other amounts accrued in relation to such repaid amount under the Finance Documents.

#### 10.6 **Right of cancellation in relation to a Defaulting Lender**

- (a) If any Lender becomes a Defaulting Lender, the Parent may, at any time whilst the Lender continues to be a Defaulting Lender, give the Facility Agent three 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 Facility Agent shall as soon as practicable after receipt of a notice referred to in paragraph (a) above, notify all the Lenders.

### 11. **MANDATORY PREPAYMENT AND CANCELLATION**

#### 11.1 **Exit**

- (a) For the purposes of this clause 11.1:

**"FCA"** means the Financial Conduct Authority acting in accordance with part 6 of the Financial Services and Markets Act 2000;

**"Listing"** means:

- (i) a successful application being made for the admission of any part of the share capital of any member of the Group (or Holding Company of any member of the Group) to the Official List maintained by the FCA and the admission of any part of the share capital of any member of the Group (or Holding Company of any member of the Group) to trading on the London Stock Exchange plc; or

- (ii) the grant of permission to deal in any part of the issued share capital of any member of the Group (or Holding Company of any member of the Group) on the Alternative Investment Market or the Main Board or the Growth Market of the ICAP Securities & Derivatives Exchange (ISDX) or on any recognised investment exchange (as that term is used in the Financial Services and Markets Act 2000) or in or on any exchange or market replacing the same or any other exchange or market in any country; and

**"Qualifying Listing"** means a Listing which does not result in a Change of Control.

- (b) Upon the occurrence of:
  - (i) a Change of Control;
  - (ii) the sale of all or substantially all of the assets of the Group whether in a single transaction or a series of related transactions; or
  - (iii) a Listing which is not a Qualifying Listing,

the Parent shall promptly notify (a **"Change of Control Notice"**) the Facility Agent of such event (and in any event, within ten Business Days following the Change of Control).

- (c) The Facility Agent shall promptly forward such notification to each Lender and:
  - (i) no Lender shall be obliged to fund any Utilisation (except a Rollover Loan); and
  - (ii) if a Lender so requires and notifies the Facility Agent within 30 days of receipt by the Facility Agent of the Change of Control Notice, the Facility Agent shall on 30 days' notice to the Parent, cancel the Commitments of that Lender and declare the participation of that Lender in all Loans and Ancillary Outstandings, accrued interest and all other amounts under the Finance Documents immediately due and payable.

## 11.2 **Disposal, Insurance, Listing and Acquisition Proceeds**

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

**"Acquisition Proceeds"** means the Net Proceeds of a claim (a **"Recovery Claim"**) against the vendor in relation to the relevant acquisition documents relating to a Permitted Bolt-on Acquisition or against the provider of a Report or any report delivered to the Finance Parties in respect of a Permitted Bolt-on Acquisition, except for Excluded Acquisition Proceeds;

**"Corresponding Prepayment Proceeds"** means the Net Proceeds of any Permitted Real Estate Transaction which are required to be applied in prepayment of the Term Facilities as a result of paragraph (l) of the definition of Permitted Payment;

**"Disposal"** means a sale, lease, licence, transfer, loan or other disposal (other than, for the avoidance of doubt, a loan of cash) by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions);

**"Disposal Proceeds"** means the Net Proceeds received by any member of the Group (including any amount received in repayment of intercompany debt) for any Disposal made by any member of the Group except for Excluded Disposal Proceeds;

**"Excluded Acquisition Proceeds"** means any Net Proceeds of a Recovery Claim which:

- (i) are working capital adjustments, or are to be, applied:
  - (A) in payment of amounts payable to any vendor pursuant to the relevant acquisition agreement by way of adjustment to the purchase price in respect of the relevant Permitted Bolt-on Acquisition (except to the extent relating to a working capital adjustment);
  - (B) to satisfy (or reimburse a member of the Group which has discharged) any liability of or, charge or claim upon a member of the Group by a person which is not a member of the Group;
  - (C) in the replacement, reinstatement and/or repair of assets of members of the Group which have been lost, destroyed or damaged or in the amelioration of any other loss or defect affecting a member of the Group (or in reimbursing a member of the Group for its expenditure on the replacement, reinstatement and/or repairing of such assets or in such amelioration of loss or defect); or
  - (D) otherwise in the business of the Group (including to fund Permitted Acquisitions or Capital Expenditure),

in each case as a result of the events or circumstances giving rise to that Recovery Claim, if those proceeds are committed by a member of the Group to be so applied as soon as possible (but in any event within 12 Months, or such longer period as the Majority Lenders may agree) and are so applied within 18 Months, or such longer period as the Majority Lenders may agree, in each case, after receipt;

- (ii) are less than the greater of £2,500,000 (or its equivalent in any other currency) and 2.5 per cent of Adjusted EBITDA; or
- (iii) when aggregated with any other such proceeds received by members of the Group (other than proceeds referred to in paragraphs (i) or (ii) above) in any Financial Year, are less than the greater of £5,000,000 (or its equivalent in any other currency) and five per cent of Adjusted EBITDA;

**"Excluded Disposal Proceeds"** means any Net Proceeds for a Disposal which:

- (i) are reinvested in assets of a comparable type and comparable or superior quality to the assets disposed of (or in reimbursing a member of the Group for its expenditure on such assets) or otherwise reinvested in the business of the Group (including to fund Permitted Acquisitions or Capital Expenditure) if those proceeds are committed by a member of the Group to be so applied as soon as possible (but in any event within 12 Months (or, in the case of any Net Proceeds arising as a result of a Project Amalfi Real Estate Transaction, not applied pursuant to paragraph (ii) below, 18 months) or such longer period as the Majority Lenders may agree) and are so applied within 18 Months (or, in the case of any Net Proceeds arising as a result of a Project Amalfi Real Estate Transaction not applied pursuant to paragraph (ii) below, 24 months), or such longer period as the Majority Lenders may agree, in each case, after receipt;
- (ii) is a Permitted Disposal other than pursuant to paragraphs (f), (subject to paragraph (iii) below) (k), (m) or (q) of such definition;

- (iii) is a Permitted Disposal pursuant paragraph (k) of such definition to the extent that such proceeds are applied pursuant to clause 11.2(b)(vi) or such proceeds constitute Retained Real Estate Proceeds;
- (iv) is a Permitted Payment pursuant to paragraph (l) of such definition or which constitutes Corresponding Prepayment Proceeds;
- (v) are received in a form other than cash until such proceeds are converted into cash;
- (vi) are less than the greater of £2,500,000 (or its equivalent in any other currency) and 2.5 per cent of Adjusted EBITDA; or
- (vii) when aggregated with any other such proceeds received by members of the Group (other than proceeds referred to in paragraphs (i) to (vi) above) in any Financial Year, are less than the greater of £10,000,000 (or its equivalent in any other currency) and ten per cent of Adjusted EBITDA;

**"Excluded Insurance Proceeds"** means any Net Proceeds of an insurance claim which:

- (i) are committed by a member of the Group to be applied:
  - (A) to meet a third party claim;
  - (B) to cover operating losses in respect of which the relevant insurance claim was made;
  - (C) in the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made (or in reimbursing a member of the Group for its expenditure or the replacement, reinstatement and/or repairing of such assets or in such amelioration of loss);
  - (D) to cover business interruption and similar claims in respect of which the relevant insurance claim was made; or
  - (E) otherwise in the business of the Group (including to fund Permitted Acquisitions or Capital Expenditure),

in each case as soon as possible (but in any event within 12 Months, or such longer period as the Majority Lenders may agree) and are so applied within 18 Months, or such longer period as the Majority Lenders may agree, in each case, after receipt;

- (ii) are less than the greater of £2,500,000 (or its equivalent in any other currency) and 2.5 per cent of Adjusted EBITDA; or
- (iii) when aggregated with any other such proceeds received by members of the Group (other than proceeds referred to in paragraphs (i) or (ii) above) in any Financial Year, are less than the greater of £5,000,000 (or its equivalent in any other currency) and five per cent of Adjusted EBITDA;

**"Insurance Proceeds"** means the Net Proceeds of any insurance claim under any insurance maintained by any member of the Group except for Excluded Insurance Proceeds;

**"Listing Proceeds"** means the cash proceeds of a Qualifying Listing after deducting:

- (i) all fees and transaction costs which are reasonably and properly incurred by a member of a Group (or a Holding Company of a member of the Group) in connection with that Qualifying Listing;
- (ii) any Taxes incurred and required to be paid by a member of the Group (or a Holding Company of a member of the Group) in connection with the receipt of such proceeds (or reserved for by the recipient of such proceeds in accordance with the relevant Accounting Principles) in connection with the receipt of such proceeds (as reasonably determined by the Parent on the basis of existing rates and taking account of any available credit deduction or allowance (as certified to the Facility Agent by the Parent)) as a result of that Qualifying Listing; and
- (iii) £2,000,000;

**"Net Proceeds"** means the cash proceeds received by any member of the Group (and, if the recipient is not a wholly owned Subsidiary, the proceeds proportionate to the interest owned by members of the Group in the recipient) of any Disposal, insurance claim or Recovery Claim (as the case may be) after deducting:

- (i) reasonably and properly incurred fees, costs and expenses incurred by any member of the Group with respect to that Disposal or claim to persons who are not members of the Group (including, without limitation, bonus payments to, or any other payments in connection with management incentive schemes for, management of a disposed business or entity; agent's fees or costs);
- (ii) any Tax incurred and required to be paid (or reserved for by the recipient of such proceeds in accordance with the relevant Accounting Principles) in connection with that Disposal or claim (as reasonably determined by the relevant recipient) or the transfer of such proceeds intra-Group;
- (iii) amounts required to be applied in repayment of any Financial Indebtedness secured over the relevant disposed asset (other than Financial Indebtedness under the Facilities);
- (iv) amounts retained to cover liabilities in connection with a Disposal reasonably anticipated to be paid within 12 Months after completion of such Disposal; and
- (v) to the extent not included in any of the foregoing paragraphs, related reasonably anticipated costs of redundancy, closure, relocation, reorganisation, restructuring and of making good any dilapidations including costs incurred in preparing the relevant asset for disposal (as evidenced in reasonable detail to the Facility Agent on request);

**"Retained Real Estate Proceeds"** means the Net Proceeds from any Permitted Disposal pursuant paragraph (k) of such definition not applied in prepayment of Senior Term Facility B Loans by virtue of the proviso in the definition of Specified Real Estate Proceeds; and

**"Specified Real Estate Proceeds"** means the Net Proceeds from any Permitted Disposal pursuant paragraph (k) of such definition up to an amount equal to the lower of:

- (i) such amount of the Specified Real Estate Proceeds (if any) as would reduce Total Net Debt to an amount such that Adjusted Leverage for the Relevant Period ending on the most recent Quarter Date as at the date of calculation (pro-forma for such prepayments and any other prepayments made after the

most recent Quarter Date prior to the proposed date of prepayment) is not higher than 5.75:1; and

- (ii) £350,000,000 (or its equivalent in any other currency) provided that no amount shall be required to be prepaid pursuant to this limb (ii) if as a result of such prepayment the Commitments of the Original Lenders (when aggregated with the Commitments of their Affiliates and Related Funds) would be 50.1 per cent or less of the Total Commitments immediately after that prepayment (to the extent that such aggregated Commitments exceeded 50.1 per cent of the Total Commitments immediately prior to that prepayment) (and for this purpose disapplying the provisions of Clause 11.3(i) (Application of mandatory prepayments and cancellation) and any such amount not so applied in prepayment shall constitute "**Retained Real Estate Proceeds**").
- (b) Subject to clause 16.4 (Adjustment of Mandatory Prepayments) of the Intercreditor Agreement, the Parent shall ensure that the Borrowers prepay Loans, and cancel Available Commitments, in amounts equal to the following amounts at the times and in the order of application contemplated by clause 11.3 (Application of mandatory prepayments and cancellations):
- (i) the amount of Acquisition Proceeds;
  - (ii) the amount of Disposal Proceeds;
  - (iii) the amount of Insurance Proceeds;
  - (iv) such amount of the Listing Proceeds (if any) as would reduce Total Net Debt to an amount such that Adjusted Leverage for the Relevant Period ending on the most recent Quarter Date as at the date of calculation (pro-forma for such prepayment) is not higher than 3.00:1;
  - (v) the amount of Corresponding Prepayment Proceeds; and
  - (vi) the amount of the Specified Real Estate Proceeds.

### 11.3 **Application of mandatory prepayments and cancellations**

- (a) A prepayment of Loans or cancellation of Available Commitments made under clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds) other than under paragraph (b)(v) and (b)(vi) of that clause 11.2, shall be applied in the following order:
- (i) first, in prepayment of Term Loans as contemplated in paragraphs (b) to (h) inclusive below;
  - (ii) second, in cancellation of Available Commitments under the Term Facilities;
  - (iii) third, in cancellation of Available Commitments under each Revolving Facility (and the Available Commitments of the Lenders under each Revolving Facility will be cancelled rateably);
  - (iv) fourth, in prepayment of Revolving Facility Loans such that outstanding Revolving Facility Loans shall be prepaid on a pro rata basis and the corresponding Revolving Facility Commitments are cancelled; and
  - (v) then, in:
    - (A) repayment of the Ancillary Outstandings (and cancellation of corresponding Ancillary Commitments); and

(B) cancellation of Ancillary Commitments,

(on a pro rata basis) and cancellation, in each case, of the corresponding Revolving Facility Commitments.

- (b) A prepayment of Loans under paragraph (b)(v) of clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds) shall be applied in prepayment of Term Loans (other than Senior Term Facility B Loans), pro rata and then, following repayment in full of Term Loans (other than Senior Term Facility B Loans), shall be applied in prepayment of Senior Term Facility B Loans, pro rata.
- (c) A prepayment of Loans under paragraph (b)(vi) of clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds) shall be applied in prepayment of Senior Term Facility B Loans, pro rata, and then, following repayment in full of the Senior Term Facility B Loans, shall be applied in prepayment of the Term Loans, pro rata.
- (d) Unless the Parent makes an election under paragraph (g) below:
  - (i) the Borrowers shall prepay Loans, in the case of any prepayment relating to the amounts of Acquisition Proceeds, Disposal Proceeds, Insurance Proceeds or Listing Proceeds, promptly upon the later of receipt of those proceeds and such amounts ceasing to be Excluded Acquisition Proceeds, Excluded Disposal Proceeds or Excluded Insurance Proceeds; and
  - (ii) the Borrowers shall prepay Senior Term Facility B Loans, in the case of any prepayment relating to the amounts of Specified Real Estate Proceeds, promptly upon the receipt of those proceeds.
- (e) The Borrowers shall prepay loans in the case of any prepayment relating to Corresponding Prepayment Proceeds no later than the date of the proposed payment to be made pursuant to paragraph (l) of the definition of Permitted Payment.
- (f) Subject to paragraphs (b) and (c) above, a prepayment under clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds) shall prepay the Term Loans in amounts which reduce the Senior Term Facility A Loan, the Senior Term Facility B Loan, the Super Senior Term Facility Loan and the Incremental Term Facility Loans pro rata.
- (g) Subject to paragraph (h) below, the Parent may elect that any prepayment under clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds) other than under paragraph (b)(v) of that clause 11.2, be applied in prepayment of a Loan on the last day of the Interest Period relating to that Loan. If the Parent makes that election then a proportion of the Loan equal to the amount of the relevant prepayment will be due and payable on the last day of its Interest Period.
- (h) If the Parent has made an election under paragraph (g) above but an Event of Default or a Material Event of Default has occurred and is continuing, that election shall no longer apply and a proportion of the Loan in respect of which the election was made equal to the amount of the relevant prepayment shall be immediately due and payable (unless the Majority Lenders or, in the case of a Material Event of Default (but only in relation to a prepayment in respect of a Super Senior Facility) the Majority Super Senior Facility Lenders, otherwise agree in writing).
- (i) Notwithstanding the preceding paragraphs of this clause 11.3 if, as a result of the application of prepayments in accordance with this clause 11.3, the Commitments of the Original Lenders (when aggregated with the Commitments of their Affiliates and Related Funds) would be 50.1 per cent or less of the Total Commitments immediately after that prepayment (to the extent that such aggregated Commitments exceeded 50.1 per cent of the Total Commitments immediately prior to that prepayment), the application of prepayments will be adjusted such that the amount of any prepayment

which would otherwise have this effect are applied in prepayment of Term Loans (other than Senior Term Facility B Loans), pro rata provided always that the provisions of this paragraph (i) shall not apply to any Retained Real Estate Proceeds, which shall be retained by the Group.

## 12. **RATE SWITCH**

### 12.1 **Switch to Compounded Reference Rate**

Subject to clause 12.2 (Delayed switch for existing Term Rate Loans), on and from the Rate Switch Date for a Rate Switch Currency:

- (a) use of the Compounded Reference Rate will replace the use of the Term Reference Rate for the calculation of interest for Loans in that Rate Switch Currency; and
- (b) any Loan or Unpaid Sum in that Rate Switch Currency shall be a "Compounded Rate Loan" and clause 14.2 (Calculation of interest – Compounded Rate Loans) shall apply to each such Loan or Unpaid Sum.

### 12.2 **Delayed switch for existing Term Rate Loans**

If the Rate Switch Date for a Rate Switch Currency falls before the last day of an Interest Period for a Term Rate Loan in that currency:

- (a) that Loan shall continue to be a Term Rate Loan for that Interest Period and clause 14.1 (Calculation of interest – Term Rate Loans) shall continue to apply to that Loan for that Interest Period;
- (b) any provision of this agreement which is expressed to relate to a Compounded Rate Currency shall not apply in relation to that Loan for that Interest Period; and
- (c) on and from the first day of the next Interest Period (if any) for that Loan:
  - (i) that Loan shall be a "Compounded Rate Loan"; and
  - (ii) clause 14.2 (Calculation of interest – Compounded Rate Loans) shall apply to that Loan.

## 13. **RESTRICTIONS**

### 13.1 **Notices of cancellation or prepayment**

Any notice of cancellation, prepayment, authorisation or other election given by any Party under clause 10 (Illegality, voluntary prepayment and cancellation) or paragraph (g) of clause 11.3 (Application of mandatory prepayments and cancellations) shall (subject to the terms of those clauses) be irrevocable and, unless a contrary indication appears in this agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

### 13.2 **Interest and other amounts**

Any prepayment under this agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs (which shall be payable in accordance with clause 16.7 (Break Costs) and clause 13.12 (Senior Term Facility A Prepayment Fees)), without premium or penalty.

### 13.3 **No reborrowing of Term Facilities**

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



#### 13.4 **Reborrowing of Revolving Facility**

Unless a contrary indication appears in this agreement, any part of 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 Loans 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 **Facility Agent's receipt of notices**

If the Facility Agent receives a notice under clause 10 (Illegality, voluntary prepayment and cancellation) or an election under paragraph (g) of clause 11.3 (Application of mandatory prepayments and cancellations), 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 any Lender's participation in a Loan under a Facility is repaid or prepaid and is not available for redrawing (other than by operation of clause 4.2 (Further conditions precedent)), an amount of that Lender's Commitment (equal to the Base Currency Amount of the amount of the participation which is repaid or prepaid) in respect of that Facility will be deemed to be cancelled on the date of repayment or prepayment.

#### 13.9 **Effect of cancellation on Commitments on Alternative Commitments**

- (a) If any Senior Term Facility A Commitment is cancelled pursuant to this agreement, the Alternative Senior Term Facility A Commitments shall be reduced in an amount equal to that cancelled Senior Term Facility A Commitment (such reduction of Alternative Senior Term Facility A Commitments to be applied pro rata to the Alternative Senior Term Facility A Commitments of all the Alternative Lenders in relation to Senior Term Facility A at that time).
- (b) If any Senior Term Facility B Commitment is cancelled pursuant to this agreement, the Alternative Senior Term Facility B Commitments shall be reduced in an amount equal to that cancelled Senior Term Facility B Commitment (such reduction of Alternative Senior Term Facility B Commitments to be applied pro rata to the Alternative Senior Term Facility B Commitments of all the Alternative Lenders in relation to Senior Term Facility B at that time).

#### 13.10 **Application of prepayments**

Any prepayment of a Loan (other than a prepayment pursuant to clause 10.1 (Illegality) or clause 10.5 (Right of cancellation and repayment in relation to a single Lender)) shall be applied pro rata to each Lender's participation in that Loan.

#### 13.11 **Prepayment not required**

Prepayments of Loans shall not be required pursuant to clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds) to the extent that it would be unlawful for the recipient of the relevant payment to make or fund such prepayment or such prepayment or the funding

of such prepayment would be reasonably likely to result in the directors or other officers of that recipient incurring personal liability or a member of the Group incurring Tax liability or transmission or foreign exchange cost which exceeds an amount equal to five per cent of such prepayment. The Parent shall procure that the members of the Group shall use all reasonable endeavours to overcome such unlawfulness and/or avoid such personal liability, Tax liability or transmission or foreign exchange costs.

### 13.12 Senior Term Facility A Prepayment Fees

#### (a) Definitions

In this clause 13.12:

**"Make Whole Amount"** means, in respect of a Relevant Prepayment Amount, an amount equal to the amount of all interest which would otherwise have accrued in accordance with clause 14 (Interest) on the Relevant Prepayment Amount for the period from the date of such prepayment to and including the date that is 12 Months after the Closing Date (the **"Last Day of the Non Call Period"**), assuming:

- (i) in the case of a Term Rate Loan, the Term Reference Rate as at the date which is two Business Days prior to the date of such prepayment in respect of a period of three Months or such shorter period ending on the Last Day of the Non Call Period (such shorter period to be not less than one Month), but excluding any applicable Break Costs; or
- (ii) in the case of a Compounded Rate Loan, the Compounded Reference Rate is at the date which is five RFR Banking Days prior to the date of such prepayment;

**"Prepayment Deductible"** means, in respect of any Prepayment Period, an amount equal to ten per cent of the Total Senior Term Facility A Commitments as at the Closing Date provided that, to the extent that a Prepayment Deductible is not used in full during the first Prepayment Period, the unused amount may be carried forward and increase the Prepayment Deductible in the immediately following Prepayment Period;

**"Prepayment Period"** shall have the meaning given to it in paragraph (b)(i) or (b)(ii) of this clause 13.12, as the context requires;

**"Relevant Prepayment"** means a prepayment of all or any part of a Senior Term Facility A Loan (including, for the avoidance of doubt, but subject to paragraphs (A) and (B) below, any Senior Term Facility B Loan which is reclassified as a Senior Term Facility A Loan in accordance with clause 2.6 (Optional Reclassification of Senior Term Facility B) or clause 2.7 (Mandatory Reclassification of Senior Term Facility B)):

- (i) pursuant to clause 10.3 (Voluntary prepayment of Term Loans);
- (ii) which is required to be prepaid following the occurrence of a Change of Control or a sale of all or substantially all of the assets of the Group (whether in a single transaction or a series of related transactions), in each case, in accordance with the provisions of clause 11.1 (Exit); or
- (iii) which is required to be prepaid following the occurrence of a Listing in accordance with the provisions of paragraph (b)(iv) of clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds),

provided that, notwithstanding any other provision of this definition:

- (A) any prepayment (a "**Converted Facility B Prepayment**") on or prior to the date falling 18 months after the Closing Date of all or any part of a Senior Term Facility B Loan which has been reclassified as a Senior Term Facility A Loan in accordance with paragraph (a) of clause 2.7 (Mandatory Reclassification of Senior Term Facility B) (the "**Converted Facility B Amount**") shall be expressly excluded from this definition (and no prepayment fee shall be paid with respect to such prepayment); and
- (B) for the purposes of this definition only, any Converted Facility B Prepayment shall be deemed to be applied in prepayment of the Converted Facility B Amount until that Converted Facility B Amount has been prepaid in full, rather than being applied across all Senior Term Facility A Loans (including the Converted Facility B Amount) pro rata;

**"Relevant Prepayment Amount"** shall have the meaning given to it in paragraph (b)(i) or (b)(ii) of this clause 13.12, as the context requires;

(b) **Calculation of Senior Term Facility A Prepayment Fees**

- (i) If, between the Closing Date and the Last Day of the Non Call Period (such period constituting a "**Prepayment Period**") there is a Relevant Prepayment, the principal amount of which, when aggregated with the principal amount of all other Relevant Prepayments previously made in that Prepayment Period exceeds an aggregate amount equal to the Prepayment Deductible (the amount of such Relevant Prepayment which is in excess of the amount of the Prepayment Deductible for that Prepayment Period being the "**Relevant Prepayment Amount**"), that Relevant Prepayment may only be made if, in addition to all other sums required to be paid under this agreement in connection with such Relevant Prepayment, the Parent (or another Obligor) pays to the Facility Agent (for the account of the Senior Term Facility A Lenders) a prepayment fee in an amount equal to the greater of (i) the Make Whole Amount; and (ii) two per cent of the Relevant Prepayment Amount.
- (ii) If, between the period from (and excluding) the Last Day of the Non Call Period to (and including) the date falling 24 Months after the Closing Date (such period constituting a "**Prepayment Period**") there is a Relevant Prepayment, the principal amount of which, when aggregated with the principal amount of all other Relevant Prepayments previously made in that Prepayment Period exceeds an aggregate amount equal to the Prepayment Deductible (the amount of such Relevant Prepayment which is in excess of the amount of the Prepayment Deductible for that Prepayment Period being the "**Relevant Prepayment Amount**"), that Relevant Prepayment may only be made if, in addition to all other sums required to be paid under this agreement in connection with such Relevant Prepayment, the Parent (or another Obligor) pays to the Facility Agent (for the account of the Senior Term Facility A Lenders) a prepayment fee of two per cent of the Relevant Prepayment Amount.
- (iii) For the avoidance of doubt, no premium or fee shall be payable under paragraphs (i) or (ii) above in relation to any prepayment made pursuant to:
  - (A) clause 10.1 (Illegality);
  - (B) clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds), other than pursuant to paragraph (b)(iv) of that clause 11.2;

- (C) clause 10.5 (Right of cancellation and repayment in relation to a single Lender);
  - (D) clause 10.6 (Right of cancellation in relation to a Defaulting Lender);  
or
  - (E) clause 41.12 (Replacement of Lender);
- (iv) For the further avoidance of doubt, no prepayment fee shall be payable to a Lender under this clause 13.12 in respect of:
- (A) any prepayment made for the purpose of refinancing Senior Term Facility A where such Senior Term Facility A Lender's participation in that refinancing (including any participation in that refinancing of its Affiliates or Related Funds) is at least equal to the aggregate Commitments under Senior Term Facility A of such Senior Term Facility A Lender and its Affiliates and Related Funds as at the date of such refinancing. If, following the refinancing of Senior Term Facility A, the aggregate Commitments of a Senior Term Facility A Lender and its Affiliates and Related Funds is less than the aggregate Commitments of that Senior Term Facility A Lender and its Affiliates and Related Funds under Senior Term Facility A as at the date of such refinancing (such difference being the "**Commitments Shortfall**"), then that Senior Term Facility A Lender and its Affiliates and Related Funds shall receive (pro rata to their Commitments under Senior Term Facility A) a prepayment fee calculated in accordance with paragraph (b) above and where the amount prepaid shall be treated for these purposes as the Commitments Shortfall; or
  - (B) any prepayment which constitutes a Converted Facility B Prepayment which is made on or prior to the date falling 18 months after the Closing Date.

## 14. **INTEREST**

### 14.1 **Calculation of interest – Term Rate Loans**

The rate of interest on each Term Rate Loan for an Interest Period is the percentage rate per annum which is the aggregate of the applicable:

- (a) Margin; and
- (b) Term Reference Rate.

### 14.2 **Calculation of interest – Compounded Rate Loans**

- (a) The rate of interest on each Compounded Rate Loan for any day during the Interest Period is the percentage rate per annum which is the aggregate of the applicable:
  - (i) Margin; and
  - (ii) Compounded Reference Rate for that day.
- (b) If any day during an Interest Period for a Compounded Rate Loan is not an RFR Banking Day, the rate of interest on that Compounded Rate Loan for that day will be the rate applicable to the immediately preceding RFR Banking Day.

### 14.3 **Margin adjustment**

- (a) Subject to the other provisions in this clause 14.3 and to clause 41.8 (ESG amendments), provided that the Facility Agent has received the ESG Compliance Certificate for the most recently ended Ratings Period in accordance with clause 25.5 (ESG Information) and provided further that no Event of Default has occurred, the applicable Margin for a Senior Term Facility A Loan will be subject to an adjustment determined by reference to the Group's ESG performance as set out in the table below, as confirmed in the most recently delivered ESG Compliance Certificate (the amount of any increase to the Margin being the "**ESG Premium**" and the amount of any reduction to the Margin being the "**ESG Discount**"):

<b>ESG performance for the most recently ended Ratings Period</b>	<b>Senior Term Facility A Loan Margin adjustment</b>
Group Rating is 5 per cent or more above the National Benchmark	The applicable Margin shall be reduced by 0.05 per cent per annum
Group Rating is less than 5 per cent above (but 5 per cent or less below) the National Benchmark	The applicable Margin shall not be adjusted
Group Rating is more than 5 per cent below the National Benchmark	The applicable Margin shall be increased by 0.05 per cent per annum

- (b) Any change in the Margin for a Senior Term Facility A Loan pursuant to this clause 14.3 will apply from the date which is five Business Days after the date of receipt by the Lender of the relevant ESG Compliance Certificate delivered pursuant to clause 25.5 (ESG Information).
- (c) Any amount payable by the Group in respect of an ESG Premium shall be payable in accordance with clause 14.4 (Payment of Interest).
- (d) Any ESG Discount shall not be effective for any period during which an Event of Default is continuing, provided that any applicable ESG Discount shall apply from the date such Event of Default ceased to be continuing.
- (e) A failure by the Parent to deliver an ESG Compliance Certificate in accordance with clause 25.5 (ESG Information) shall result in there being no adjustment to the Margin under paragraph (a) above for any Interest Period which ends between the date on which such ESG Compliance Certificate should have been delivered in accordance with clause 25.5 (ESG Information) and the date on which the next ESG Compliance Certificate is delivered in accordance with clause 25.5 (ESG Information).
- (f) If an ESG Discount is applicable, the Parent shall arrange for an amount equal to 50 per cent of such ESG Discount to be applied in payment to an ESG Project over the course of the following twelve month period, and shall confirm that such payment has been made in the ESG Compliance Certificate.
- (g) For the avoidance of doubt, at no time shall the increase or reduction to the Margin applicable pursuant to paragraph (a) above exceed 0.05 per cent per annum and, accordingly, the relevant ESG Premium or ESG Discount will never be more than 0.05 per cent per annum as a consequence of the operation of this clause 14.3.

#### 14.4 **Payment of interest**

- (a) The Borrower to which a Loan has been made shall pay accrued interest on that Loan on the last day of each Interest Period (and, if the Interest Period is longer than six

Months, on the dates falling at six Monthly intervals after the first day of the Interest Period).

- (b) If the Annual Financial Statements and related Compliance Certificate received by the Facility Agent show that a higher or lower Margin should have applied during a certain period, then, where a higher Margin should have applied, the Parent shall (or shall ensure the relevant Borrower shall) within five Business Days of demand pay to the Facility Agent any amounts necessary to put the Facility Agent and the Lenders in the position they would have been in had the appropriate rate of the Margin applied during such period and, where a lower Margin should have applied, the next interest payment(s) in respect of any Facility to which a lower Margin should have applied shall be reduced by the aggregate of the amount received by Lenders under that Facility which were in excess of the amount they should have received had the Margin been calculated correctly, provided that the amount of such reduction in respect of each Lender will be capped at the amount of excess interest that that Lender received during the period in which the lower Margin should have applied.

#### 14.5 **PIK toggle**

- (a) The Parent may elect, by written notice to the Facility Agent no later than 10 Business Days prior to the end of an Interest Period in respect of a Senior Term Facility A Loan (which Interest Period was no longer than three months), to reduce the Margin in relation to that Loan by up to two per cent per annum (in minimum integral amounts of one per cent per annum), provided that any such reduction in the Margin shall not result in the Margin that is payable in cash in relation to that Loan being less than five per cent per annum (the "**PIK Toggle Option**"). If the PIK Toggle Option is exercised, then, subject to paragraph (e) below, the accrued interest on that Loan shall be the aggregate of:
  - (i) the applicable Margin reduced by the applicable percentage per annum which the Parent has elected to make subject to the PIK Toggle Option (such percentage the "**PIK Percentage**"), which shall be paid in cash;
  - (ii) the PIK Percentage plus 0.25 per cent for each 1.00 per cent of PIK Percentage, which shall be capitalised and treated as increasing the principal amount of the relevant Loan on which it accrues; and
  - (iii) the applicable Term Reference Rate or Compounded Reference Rate for that Loan, which shall be paid in cash,

in each case, on the last day of such Interest Period (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of the Interest Period).

- (b) Any valid election made pursuant to paragraph (a) above shall apply to the Interest Period to which it relates but not for any subsequent Interest Period unless another valid election is made for a subsequent Interest Period.
- (c) The PIK Toggle Option may not be exercised in more than three consecutive Interest Periods.
- (d) All amounts of interest capitalised pursuant to paragraph (a)(ii) above, must be repaid in full (in cash) on the Termination Date applicable to that Facility.
- (e) If, on the date on which interest which would have been payable in cash in the absence of the any valid election made pursuant to paragraph (a) above an Event of Default has occurred and is continuing, the PIK Toggle Option shall not be deemed a valid election and the applicable Margin shall be paid in full in cash on the last day of the relevant Interest Period.

#### 14.6 **Default interest**

- (a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is one per cent per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan of the same type as the Loan in respect of which the overdue amount has arisen or, if the unpaid amount did not arise in respect of a particular Loan, a Senior Term Facility A Loan, in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Facility Agent (acting reasonably). Any interest accruing under this clause 14.6 shall be immediately payable by the Obligor on demand by the Facility Agent.
- (b) If any overdue amount consists of all or part of a Term Rate Loan and which became due on a day which was not the last day of an Interest Period relating to that Loan:
  - (i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
  - (ii) the rate of interest applying to the overdue amount during that first Interest Period shall be one per cent per annum higher than the rate which would have applied if the overdue amount had not become due.
- (c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

#### 14.7 **Notification of rates of interest**

- (a) The Facility Agent shall promptly notify the relevant Lenders and the relevant Borrower (or the Parent) of the determination of a rate of interest relating to a Term Rate Loan.
- (b) The Facility Agent shall promptly upon a Compounded Rate Interest Payment being determinable notify:
  - (i) the relevant Borrower (or the Parent) of that Compounded Rate Interest Payment;
  - (ii) each relevant Lender of the proportion of that Compounded Rate Interest Payment which relates to that Lender's participation in the relevant Compounded Rate Loan; and
  - (iii) the relevant Lenders and the relevant Borrower (or the Parent) of:
    - (A) each applicable rate of interest relating to the determination of that Compounded Rate Interest Payment; and
    - (B) to the extent it is then determinable, the Market Disruption Rate (if any) relating to the relevant Compounded Rate Loan.

This paragraph (b) shall not apply to any Compounded Rate Interest Payment determined pursuant to clause 16.5 (Cost of funds).
- (c) The Facility Agent shall promptly notify the relevant Borrower (or the Parent) of each Funding Rate relating to a Loan.

- (d) The Facility Agent shall promptly notify the relevant Lenders and the relevant Borrower (or the Parent) of the determination of a rate of interest relating to a Compounded Rate Loan to which clause 16.5 (Cost of funds) applies.
- (e) This clause 14.7 shall not require the Facility Agent to make any notification to any Party on a day which is not a Business Day.

## 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 Facility 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 Facility Agent in accordance with paragraph (b) above, the relevant Interest Period will, subject to clause 15.2 (Changes to Interest Periods), be three Months, or, if the Loan is a Compounded Rate Loan, the period specified in respect of that currency in the applicable Compounded Rate Terms.
- (d) Subject to this clause 15, a Borrower (or the Parent) may select an Interest Period of:
  - (i) if the Loan is Term Rate Loan, one, three or six Months in relation to a Term Facility or one, three or six Months in relation to the Revolving Facility;
  - (ii) if the Loan is a Compounded Rate Loan, any period specified in the applicable Compounded Rate Terms; or
  - (iii) in either case, of any other period agreed between the Parent, the Facility Agent and all the Lenders in relation to the relevant Loan.
- (e) An Interest Period for a Loan shall not extend beyond the Termination Date applicable to its Facility.
- (f) Each Interest Period for a Term Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.
- (g) A Revolving Facility Loan has one Interest Period only.
- (h) No Interest Period for a Compounded Rate Loan shall be longer than six Months.

### 15.2 **Changes to Interest Periods**

If the Facility Agent makes any of the changes to an Interest Period referred to in this clause 15.2, it shall promptly notify the Parent and the Lenders.

### 15.3 **Non-Business Days**

- (a) Other than where paragraph (b) applies, 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).



- (b) If the Loan or Unpaid Sum is a Compounded Rate Loan and there are rules specified as "**Business Day Conventions**" in the applicable Compounded Rate Terms, those rules shall apply to each Interest Period for that Loan or Unpaid Sum.

## 16. **CHANGES TO THE CALCULATION OF INTEREST**

### 16.1 **Unavailability of Screen Rate prior to Rate Switch Date**

#### (a) **Interpolated Screen Rate**

If no Screen Rate is available for LIBOR or, if applicable, EURIBOR for the Interest Period of a Loan, the applicable LIBOR or EURIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.

#### (b) **Reference Bank Rate**

If no Screen Rate is available for LIBOR or, if applicable, EURIBOR for:

- (i) the currency of a Loan; or
- (ii) the Interest Period of a Loan and it is not possible to calculate the Interpolated Screen Rate,

the applicable LIBOR or EURIBOR shall be the Reference Bank Rate as of the Specified Time for the currency of that Loan and for a period equal in length to the Interest Period of that Loan.

#### (c) **Cost of funds**

If paragraph (b) above applies but no Reference Bank Rate is available for the relevant currency or Interest Period there shall be no LIBOR or EURIBOR for that Loan and clause 16.5 (Cost of funds) shall apply to that Loan for that Interest Period.

### 16.2 **Calculation of Reference Bank Rate**

- (a) Subject to paragraph (b) below, if LIBOR or EURIBOR is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.
- (b) If at or about noon on the Quotation Day, none or (unless there is only one Reference Bank) only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period.

### 16.3 **Interest calculation if no RFR or Central Bank Rate**

If:

- (a) there is no applicable RFR or Central Bank Rate for the purposes of calculating the Daily Non-Cumulative Compounded RFR Rate for an RFR Banking Day during an Interest Period for a Compounded Rate Loan; and
- (b) "**Cost of funds will apply as a fallback**" is specified in respect of that Loan in the Compounded Rate Terms for that Loan,

clause 16.5 (Cost of funds) shall apply to that Loan for that Interest Period.

### 16.4 **Market disruption**

- (a) In the case of a Term Rate Loan, if before close of business in London on the Quotation Day for the relevant Interest Period the Facility Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 35 per cent of that Loan) that by reason of circumstances affecting the interbank market generally the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of LIBOR or, if applicable, EURIBOR then clause 16.5 (Cost of funds) shall apply to that Loan for the relevant Interest Period.
- (b) In the case of a Compounded Rate Loan, if
  - (i) a Market Disruption Rate is specified in the Compounded Rate Terms for that Loan; and
  - (ii) before the Reporting Time for that Loan, the Facility Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 35 per cent of that Loan) that its cost of funds relating to its participation in that Loan would be in excess of that Market Disruption Rate,
 then clause 16.5 (Cost of funds) shall apply to that Loan for the relevant Interest Period.

#### 16.5 **Cost of funds**

- (a) If this clause 16.5 applies to a Loan for an Interest Period neither clause 14.1 (Calculation of interest – Term Rate Loans) nor clause 14.2 (Calculation of interest – Compounded Rate Loans) shall apply to that Loan for that Interest Period and the rate of interest on each Lender's share of the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
  - (i) the applicable Margin; and
  - (ii) the rate notified to the Facility Agent by that Lender as soon as practicable and in any event:
    - (A) in relation to a Term Rate Loan, by close of business on the date falling two Business Days after the Quotation Day (or, if earlier, on the date falling two Business Days before the date on which interest is due to be paid in respect of that Interest Period); or
    - (B) in relation to a Compounded Rate Loan, by the Reporting Time for that Loan,
 to be that which expresses as a percentage rate per annum its cost of funds relating to its participation in that Loan.
- (b) If this clause 16.5 applies and the Facility Agent or the Parent so requires, the Facility Agent and the Parent shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.
- (c) Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Parent, be binding on all Parties.
- (d) If this clause 16.5 applies pursuant to clause 16.4 (Market disruption) and:
  - (i) In relation to a Term Rate Loan:
    - (A) a Lender's Funding Rate is less than LIBOR or, in relation to a Loan in euro, EURIBOR; or

- (B) a Lender does not supply a quotation by the time specified in paragraph (a)(ii) above,

the cost to that Lender of funding its participation in that Loan for that Interest Period shall be deemed, for the purposes of paragraph (a) above, to be LIBOR or, in relation to a Loan in euro, EURIBOR; or

- (ii) in relation to a Compounded Rate Loan:

- (A) a Lender's Funding Rate is less than the relevant Market Disruption Rate; or

- (B) a Lender does not notify a rate to the Facility Agent by the time specified in paragraph (a)(ii) above,

that Lender's cost of funds relating to its participation in that Loan for that Interest Period shall be deemed, for the purposes of paragraph (a) above, to be the Market Disruption Rate for that Loan.

- (e) Subject to paragraph (d) above, if this clause 16.5 applies but any Lender does not supply a quotation by the time specified in paragraph (a)(ii) above the rate of interest shall be calculated on the basis of the quotations of the remaining Lenders.

## 16.6 **Notification to Parent**

If clause 16.5 (Cost of funds) applies the Facility Agent shall, as soon as is practicable, notify the Parent.

## 16.7 **Break Costs**

- (a) Subject to paragraph (b) below, each Borrower shall, within three 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) Paragraph (a) above shall apply in respect of a Compounded Rate Loan if an amount is specified as Break Costs in the applicable Compounded Rate Terms.
- (c) Each Lender shall, as soon as reasonably practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue and setting out in reasonable detail the method by which such Break Costs were calculated.

## 17. **FEES**

### 17.1 **Commitment fee**

- (a) The Parent shall (or shall procure that a Borrower will) pay to the Facility Agent (for the account of each Lender) a fee in the Base Currency computed at the rate of:
  - (i) 35 per cent of the Margin applicable to the Revolving Facility on that Lender's Available Commitment under the Revolving Facility for the Availability Period applicable to the Revolving Facility; and
  - (ii) in relation to an Incremental Term Facility, the percentage rate per annum specified in the Incremental Term Facility Notice relating to that Incremental Term Facility on that Lender's Available Commitment under that Incremental Term Facility for the Availability Period applicable to that Incremental Term Facility.

- (b) The accrued commitment fee is payable on the last day of the first Interest Period after the Closing Date and thereafter the last day of each successive period of three Months which ends during the relevant Availability Period, on the last day of the relevant Availability Period and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.
- (c) No commitment fee is payable to the Facility Agent (for the account of a Lender) on any Available Commitment of that Lender:
  - (i) for any day on which that Lender is a Defaulting Lender; or
  - (ii) if the Closing Date does not occur.
- (d) For the avoidance of doubt no commitment fee shall be payable in respect of an Incremental Term Facility until such time as there is an Incremental Term Facility Commitment.

#### 17.2 **Arrangement fee**

The Parent shall (or shall procure that a Borrower will) pay to the Arranger an arrangement fee in the amount and at the times agreed in a Fee Letter.

#### 17.3 **Agency fee**

The Parent shall (or shall procure that a Borrower will) pay to the Facility Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

#### 17.4 **Security agency fee**

The Parent shall (or shall procure that a Borrower will) pay to the Security Agent (for its own account) a security agency fee in the amount and at the times agreed in a Fee Letter.

#### 17.5 **Interest, commission and fees on Ancillary Facilities**

The rate and time of payment of interest, commission, fees and any other remuneration in respect of each Ancillary Facility shall be determined by agreement between the relevant Ancillary Lender and the Borrower of that Ancillary Facility based upon normal market rates and terms.

#### 17.6 **Non-completion**

Notwithstanding the other provisions of this clause 17 or any Fee Letter, if initial Certain Funds Utilisation does not occur then none of the fees referred to in this clause 17 shall be payable.

### 18. **TAX GROSS UP AND INDEMNITIES**

#### 18.1 **Definitions**

In this agreement:

**"Borrower DTTP Filing"** means an HM Revenue & Customs' Form DTTP2 duly completed and filed by the relevant Borrower, which:

- (a) where it relates to a Treaty Lender that is an Original Lender, contains the scheme reference number and jurisdiction of tax residence stated opposite that Lender's name in part 2 or part 3 of schedule 1 (The Original Parties), and

- (i) where the Borrower is the Company, is filed with HM Revenue & Customs within 30 days of the date of this agreement; or
  - (ii) where the Borrower is an Additional Borrower, is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower; or
- (b) where it relates to a Treaty Lender that is not an Original Lender, contains the scheme reference number and jurisdiction of tax residence stated in respect of that Lender in the documentation which it executes on becoming a Party as a Lender; and
- (i) where the Borrower is a Borrower as at the date on which that Treaty Lender becomes a Party as a Lender, is filed with HM Revenue & Customs within 30 days of that date; or
  - (ii) where the Borrower is not a Borrower as at the date on which that Treaty Lender becomes a Party as a Lender, is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower;

**"Protected Party"** means a Finance Party which is or will be subject to any liability or required to make any payment for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document;

**"Qualifying Lender"** means:

- (a) a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:
  - (i) a Lender:
    - (A) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a Finance Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payments apart from section 18A of the CTA; or
    - (B) in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made and within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or
  - (ii) a Lender which is:
    - (A) a company resident in the United Kingdom for United Kingdom tax purposes;
    - (B) a partnership each member of which is:
      - (aa) a company so resident in the United Kingdom; or
      - (bb) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA)

the whole of any share of interest payable in respect of that advance that falls to it by reason of part 17 of the CTA;

- (C) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company; or
- (iii) a Treaty Lender; or
- (b) a Lender which is a building society (as defined for the purposes of section 880 of the ITA) making an advance under a Finance Document; or
- (c) a Lender which fulfils all of the conditions which must be fulfilled to obtain sovereign immunity and full exemption from United Kingdom tax on interest, subject to the completion of any necessary procedural formalities (an **"Exempt Lender"**);

**"Tax Confirmation"** means a confirmation by a Lender that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
- (b) a partnership each member of which is:
  - (i) a company so resident in the United Kingdom; or
  - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of part 17 of the CTA; or
- (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company;

**"Tax Credit"** means a credit against, relief or remission for, or repayment of, any Tax;

**"Tax Deduction"** means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction;

**"Tax Payment"** means either the increase in a payment made by an Obligor to a Finance Party under clause 18.2 (Tax gross-up) or a payment under clause 18.3 (Tax indemnity);

**"Treaty Lender"** means a Lender which:

- (a) is treated as a resident of a Treaty State for the purposes of the Treaty;
- (b) does not carry on a business in the United Kingdom through a permanent establishment with which that Lender's participation in the Loan is effectively connected; and
- (c) meets all other conditions which are required to be met by that Lender under the relevant Treaty for residents of the relevant Treaty State to benefit from full exemption from Tax imposed by the United Kingdom on interest except that for this purpose it shall be assumed that any necessary procedural formalities are satisfied;

**"Treaty State"** means a jurisdiction having a double taxation agreement (a **"Treaty"**) with the United Kingdom which makes provision for full exemption from tax imposed by the United Kingdom on interest; and

**"UK Non-Bank Lender"** means (i) an Original Lender which confirms it is a UK Non-Bank Lender in schedule 1 and (ii) a Lender which is not an Original Lender and which gives a Tax Confirmation in the documentation which it executes on becoming a Party as a Lender.

Unless a contrary indication appears, in this clause 18 (a) a reference to **"determines"** or **"determined"** means a determination made in the absolute discretion of the person making the determination acting reasonably; and (b) a reference to a **"Lender"** includes any Ancillary Lender.

## 18.2 Tax gross-up

- (a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Parent shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Lender shall promptly notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall promptly notify the Parent and that Obligor.
- (c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) A payment shall not be increased under paragraph (c) above by reason of a Tax Deduction on account of Tax imposed by the United Kingdom, if on the date on which the payment falls due:
  - (i) the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this agreement in (or in the interpretation, administration, or application of) any law or Treaty or any published practice or published concession of any relevant taxing authority; or
  - (ii) the relevant Lender is a Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of "Qualifying Lender" and:
    - (A) an officer of HM Revenue & Customs has given (and not revoked) a direction (a **"Direction"**) under section 931 of the ITA which relates to the payment and that Lender has received from the Obligor making the payment or from the Parent a certified copy of that Direction; and
    - (B) the payment could have been made to the Lender without any Tax Deduction if that Direction had not been made; or
  - (iii) the relevant Lender is a Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of "Qualifying Lender" and:
    - (A) the relevant Lender has not given a Tax Confirmation to the Parent; and

- (B) the payment could have been made to the Lender without any Tax Deduction if the Lender had given a Tax Confirmation to the Parent, on the basis that the Tax Confirmation would have enabled the Parent to have formed a reasonable belief that the payment was an "excepted payment" for the purpose of section 930 of the ITA; or
  - (iv) the relevant Lender is a Treaty Lender and the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under paragraph (g) or (h) (as applicable) below; or
  - (v) the relevant Lender is a Qualifying Lender solely by virtue of paragraph (c) of the definition of "Qualifying Lender" and the Obligor making the payment has not received authorisation from HM Revenue & Customs allowing it to make payments to that Lender without a Tax Deduction on account of Tax imposed by the United Kingdom (an "**Exempt Lender Confirmation**").
- (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 Facility Agent for the Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
- (g)
  - (i) Subject to paragraph (g)(ii) below, a Treaty Lender and each Obligor which makes a payment to which that Treaty 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 Lender which is an Original Lender and that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this agreement, shall confirm its scheme reference number and its jurisdiction of tax residence opposite its name in part 2 or part 3 of schedule 1 (The Original Parties); and
    - (B) a Treaty Lender which is not an Original Lender and 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 documentation which it executes on becoming a Party as a Lender,

and, having done so, that Lender shall be treated as having complied with its obligations under paragraph (g)(i) above.
- (h) If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with paragraph (g)(ii) above and:
  - (i) a Borrower making a payment to that Lender has not made a Borrower DTTP Filing in respect of that Lender; or
  - (ii) a Borrower making a payment to that Lender has made a Borrower DTTP Filing in respect of that Lender but:



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

(B) HM Revenue & Customs has not given the Borrower authority to make payments to that Lender without a Tax Deduction within 60 days of the date of the Borrower DTTP Filing,

and in each case, the Borrower has notified that Lender in writing, that Lender and the Borrower shall co-operate in completing any additional procedural formalities necessary for that Borrower to obtain authorisation to make that payment without a Tax Deduction.

- (i) If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (g)(ii) above, no Obligor shall make a Borrower DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Lender's Commitment(s) or its participation in any Loan unless the Lender otherwise agrees.
- (j) A Borrower shall, promptly on making a Borrower DTTP Filing, deliver a copy of that Borrower DTTP Filing to the Facility Agent for delivery to the relevant Lender.
- (k) A UK Non-Bank Lender shall promptly notify the Parent and the Facility Agent if there is any change in the position from that set out in the Tax Confirmation.
- (l) Each Original Lender confirms to the Obligors that as at the date of this agreement it is a Qualifying Lender.
- (m) An Obligor which receives an Exempt Lender Confirmation issued by HMRC shall promptly deliver a copy to the Facility Agent. If the Facility Agent receives such Exempt Lender Confirmation, it shall promptly deliver a copy to the relevant Lender.

### 18.3 Tax indemnity

- (a) The Parent shall (or shall procure that another Obligor will) (within three Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the loss, liability or cost which has been 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 law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
    - (B) under the law of the jurisdiction in which that Finance Party's Facility Office is located, or in which that Finance Party is otherwise taxed by reason of a permanent establishment, branch or agency, in respect of amounts received or receivable in that jurisdiction,  
  
to the extent that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or
  - (ii) to the extent a loss, liability or cost:
    - (A) is compensated for by an increased payment under clause 18.2 (Tax gross-up); or

- (B) would have been compensated for by an increased payment under clause 18.2 (Tax gross-up) but was not so compensated solely because one of the exclusions in paragraph (d) of clause 18.2 (Tax gross-up) applied; or
  - (C) relates to a FATCA Deduction required to be made by a Party;
  - (D) is a liability to stamp duty or stamp duty reserve tax which is dealt with pursuant to clause 18.6 (Stamp taxes); or
  - (E) relates to a VAT liability which is dealt with pursuant to clause 18.7 (VAT).
- (c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall promptly notify the Parent.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this clause 18.3, notify the Facility Agent.

#### 18.4 **Tax Credit**

- (a) If an Obligor makes a Tax Payment and the relevant Finance Party (acting reasonably) determines that 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 the relevant Finance Party shall use reasonable endeavours to obtain and utilise that Tax Credit, provided that the relevant Finance Party shall not be required to utilise the Tax Credit 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 in priority to using any other Tax Credit available to the Finance Party to the extent that to do so would jeopardise or delay the availability of any other such Tax Credit.
- (b) If and when that Finance Party has obtained and utilised the Tax Credit that was 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, the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

#### 18.5 **Lender status confirmation**

Each Lender which is not an Original Lender shall confirm, in the documentation which it executes on becoming a Party, and for the benefit of the Facility Agent and without liability to any Obligors, which of the following categories it falls in:

- (a) not a Qualifying Lender;
- (b) a Qualifying Lender (other than a Treaty Lender or an Exempt Lender); or
- (c) an Exempt Lender; or
- (d) a Treaty Lender.

If such a Lender fails to confirm its status in accordance with this clause 18.5 then that Lender shall be treated for the purposes of this agreement (including by each Obligor) as if it is not a Qualifying Lender until such time as it notifies the Facility Agent which category applies (and the Facility Agent, upon receipt of such notification, shall inform the Parent).

For the avoidance of doubt, the documentation which a Lender executes on becoming a Party as a Lender shall not be invalidated by any failure of a Lender to comply with this clause 18.5.

#### 18.6 **Stamp taxes**

The Parent shall pay and, within three Business Days of demand, indemnify (or shall procure that a Borrower shall pay and indemnify) each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document (save for any such Taxes payable in respect of an assignment or transfer of a Lender's interests in respect of any Finance Document (other than an assignment or transfer made pursuant to clause 21 (Mitigation by the Lenders))).

#### 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 any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such 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 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 cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

- (d) Any reference in this clause 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 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 a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

#### 18.8 **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 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.

#### 18.9 **FATCA Deduction**

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall

be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.

- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Parent and the Facility Agent and the Facility Agent shall notify the other Finance Parties.

## 19. **INCREASED COSTS**

### 19.1 **Increased costs**

- (a) Subject to clause 19.3 (Exceptions) the Parent shall (or shall procure that another Obligor will), within three Business Days of a demand by the Facility 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 after the date of this agreement;
  - (ii) compliance with any law or regulation made after the date of 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 (whether such implementation, application or compliance is by a government, regulator, that Finance Party or any of its Affiliates).
- (b) In this agreement:

**"Basel III"** means:

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

**"CRD IV"** means EU CRD IV and UK CRD IV;

**"EU 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 the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms;

**"Increased Costs"** means:

- (i) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital;
- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or an Ancillary Commitment or funding or performing its obligations under any Finance Document; and

**"UK 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 as it forms part of domestic law of the United Kingdom by virtue of the European Union (Withdrawal) Act 2018 (the **"Withdrawal Act"**);
- (ii) the law of the United Kingdom or any part of it, which immediately before IP completion day (as defined in the European Union (Withdrawal Agreement) Act 2020) implemented 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 and its implementing measures; and
- (iii) direct EU legislation (as defined in the Withdrawal Act), which immediately before IP completion day (as defined in the European Union (Withdrawal Agreement) Act 2020) implemented EU CRD IV as it forms part of domestic law of the United Kingdom by virtue of the Withdrawal Act.

## 19.2 **Increased cost claims**

- (a) A Finance Party intending to make a claim pursuant to clause 19.1 (Increased costs) shall notify the Facility Agent of the event giving rise to the claim, following which the Facility Agent shall promptly notify the Parent.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent (which the Facility Agent shall make as soon as practicable after the Parent's request), provide a certificate confirming the amount and the method of calculation of its Increased Costs.

## 19.3 **Exceptions**

- (a) Clause 19.1 (Increased costs) does not apply to the extent any Increased Cost is:
  - (i) attributable to a Tax Deduction required 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 18.3 (Tax indemnity) (or would have been compensated for under clause 18.3 (Tax indemnity) but was not so compensated solely because any of the exclusions in paragraph (b) of clause 18.3 (Tax indemnity) applied);
  - (iv) in respect of an amount of:
    - (A) stamp duty, registration or other similar Tax (dealt with in accordance with clause 18.6 (Stamp taxes)); or
    - (B) VAT (dealt with in accordance with clause 18.7 (VAT));
  - (v) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation;
  - (vi) attributable to the implementation or application of or compliance with the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this agreement ("**Basel II**") or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates), which for the avoidance of doubt shall not include any changes pursuant to Basel III; or
  - (vii) arising as a result of any transfer, assignment or sub-participation pursuant to clause 29 (Changes to the Lenders).
- (b) In this clause 19.3 reference to a "**Tax Deduction**" has the same meaning given to the term in clause 18.1 (Definitions).

## 20. OTHER INDEMNITIES

### 20.1 Currency indemnity

- (a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:
  - (i) making or filing a claim or proof against that Obligor; or
  - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the 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), within three Business Days of demand, indemnify the 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 or any Material Event of Default;
  - (ii) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of clause 34 (Sharing among the Finance Parties);
  - (iii) funding, or making arrangements to fund, its participation in a Loan requested by the Parent or 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); or
  - (iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by a Borrower or the Parent.
- (b) The Parent shall (or shall procure that an Obligor will) promptly after demand indemnify each Finance Party, each Affiliate of a Finance Party and each officer or employee of a Finance Party or its Affiliate, against any third party cost, loss or liability reasonably 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), unless such loss or liability is caused by the gross negligence or wilful misconduct of, or wilful breach of contract by of that Finance Party or its Affiliate (or employee or officer of that Finance Party or Affiliate). Any Affiliate or any officer or employee of a Finance Party or its Affiliate may rely on this clause 20.2 subject to clause 1.4 (Third party rights) and the provisions of the Third Parties Act.

### 20.3 Indemnity to the Facility Agent

The Parent shall (or shall procure that an Obligor will) promptly after demand indemnify the Facility Agent against:

- (a) any cost, loss or liability incurred by the Facility Agent (acting reasonably) as a result of:
  - (i) (after the Facility Agent has given prior notice to the Parent) investigating any event which it reasonably believes is a Default;
  - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
  - (iii) subject to prior consultation with the Parent (to the extent reasonably practicable), instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this agreement (other than pursuant to paragraph (c) of clause 32.7 (Rights and discretions)); and
- (b) any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct or wilful breach of contract) (or, in the case of any cost, loss or liability pursuant to clause 35.11 (Disruption to payment systems etc.) notwithstanding the Facility Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) in acting as Facility Agent under the Finance Documents.



## 20.4 **Indemnity to the Security Agent**

- (a) Each Obligor jointly and severally shall promptly after demand indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:
  - (i) subject to prior consultation with the Parent (to the extent reasonably practicable), instructing lawyers, accountants, tax advisers, surveyors, a financial adviser or other professional advisers or experts as permitted under this agreement;
  - (ii) any failure by the Parent to comply with its obligations under clause 22 (Costs and expenses);
  - (iii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
  - (iv) the taking, holding, protection or enforcement of the Transaction Security;
  - (v) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;
  - (vi) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or
  - (vii) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Charged Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct or wilful breach of contract).
- (b) Each Obligor expressly acknowledges and agrees that the continuation of its indemnity obligations under this clause 20.4 will not be prejudiced by any release or disposal under clause 14 (Distressed Disposals and Appropriation) of the Intercreditor Agreement taking into account the operation of that clause.
- (c) The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause 20.4 and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it.

## 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 Facility ceasing to be available or any amount becoming payable under or pursuant to, or cancelled pursuant to, any of clause 10.1 (Illegality), clause 18 (Tax gross up and indemnities) 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 any Obligor under the Finance Documents.

### 21.2 **Limitation of liability**

- (a) The Parent shall (or shall procure that another Obligor will) promptly after demand indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under clause 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

- (a) The Parent shall (or shall procure that another Obligor will), promptly after demand, pay the Facility Agent, the Arranger, each Lender and the Security Agent the amount of all reasonable costs and expenses (including, subject to any agreed cap, legal fees) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution and perfection of:
  - (i) this agreement and any other documents referred to in this agreement and the Transaction Security; and
  - (ii) any other Finance Documents executed after the date of this agreement.
- (b) No costs or expenses shall be payable under this agreement, other than agreed legal fees, until the Closing Date.
- (c) The Facility Agent and the Security Agent shall in relation to the granting and perfecting of any security, consult with the Parent before incurring material legal fees, costs and expenses (taking into account the requirements of schedule 11 (Agreed Security Principles)).

### 22.2 Amendment costs

If:

- (a) an Obligor requests an amendment, waiver or consent; or
- (b) an amendment is required pursuant to clause 35.10 (Change of currency),

the Parent shall (or shall procure that another Obligor will), within three Business Days after demand, reimburse each Finance Party for the amount of all reasonable costs and expenses (including, subject to any agreed cap, legal fees) reasonably incurred by that Finance Party (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

### 22.3 Security Agent's additional remuneration

In the event of:

- (a) a Default which is continuing;
- (b) the Security Agent being requested by an Obligor or the Majority Lenders to undertake duties which the Security Agent and the Parent agree to be of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Finance Documents; or
- (c) the Security Agent and the Parent agreeing that it is otherwise appropriate in the circumstances,

the Parent shall pay to the Security Agent any additional remuneration that may be agreed between them.

#### 22.4 **Enforcement and preservation costs**

The Parent shall (or shall procure that another Obligor will), within three Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under any 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 save for any proceedings arising from the Security Agent's gross negligence or wilful misconduct.

### 23. **GUARANTEE AND INDEMNITY**

#### 23.1 **Guarantee and indemnity**

Each Guarantor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents;
- (b) undertakes with each Finance Party that whenever another Obligor does not pay any amount when due and payable under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due and payable. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this clause 23 if the amount claimed had been recoverable on the basis of a guarantee.

#### 23.2 **Continuing guarantee**

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

#### 23.3 **Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a 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, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor (other than an express release of the relevant Guarantor itself) or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

#### 23.5 **Guarantor intent**

Without prejudice to the generality of clause 23.4 (Waiver of defences), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the 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.

#### 23.6 **Immediate recourse**

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this clause 23. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

#### 23.7 **Appropriations**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

- (b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this clause 23.

### 23.8 **Deferral of Guarantors' rights**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the 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 Finance Documents or by reason of any amount being payable, or liability arising, under this clause 23:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under clause 23.1 (Guarantee and indemnity);
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Finance Party.

If a Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and shall promptly pay or transfer the same to the Facility Agent or as the Facility Agent may direct for application in accordance with clause 35 (Payment mechanics).

### 23.9 **Release of Guarantors' right of contribution**

If any Guarantor (a "**Retiring Guarantor**") ceases to be a Guarantor in accordance with the terms of the Finance Documents then on the date such Retiring Guarantor ceases to be a Guarantor:

- (a) that Retiring Guarantor is released by each other Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Guarantor arising by reason of the performance by any other Guarantor of its obligations under the Finance Documents; and
- (b) any 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**

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

## 24. **REPRESENTATIONS**

### 24.1 **General**

Each Obligor makes the representations and warranties set out in this clause 24 to each Finance Party.

### 24.2 **Status**

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

### 24.3 **Binding obligations**

Subject to the Legal Reservations and the Perfection Requirements:

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

### 24.4 **Non-conflict with other obligations**

Save as disclosed in writing to the Lenders prior to the date of this agreement, the entry into and performance by it of, and the transactions contemplated by, the Transaction Documents to which it is a party and the granting of the Transaction Security pursuant to the Agreed Security Principles do not conflict with:

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

### 24.5 **Power and authority**

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

**24.6 Validity and admissibility in evidence**

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

have been obtained or effected and are in full force and effect except any Authorisation referred to in clause 24.9 (No filing or stamp taxes), which Authorisation will be promptly obtained or effected after the later of the date of this agreement and, in the case of any Additional Obligor, the date on which such Additional Obligor accedes to this agreement as an Obligor or, subject to the Agreed Security Principles and the Perfection Requirements, will have been obtained or effected or will be in full force and effect when required.

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

**24.7 Governing law and enforcement**

Subject to the Legal Reservations and the Perfection Requirements:

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

**24.8 Insolvency**

No:

- (a) corporate action, legal proceeding or other formal procedure or step described in paragraph (a) of clause 28.7 (Insolvency proceedings); or
- (b) creditors' process described in clause 28.8 (Creditors' process),

has been taken or, to the knowledge of the Parent, been taken or threatened in writing (and is, in each case, outstanding) in relation to any Material Company; and none of the circumstances described in clause 28.6 (Insolvency) applies to any Material Company.

**24.9 No filing or stamp taxes**

Under the laws of its Relevant Jurisdiction it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar Taxes be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except for:

- (a) the Perfection Requirements and payment of associated fees;
- (b) any stamp duty payable on the transfer of any shares in respect of the Acquisition or as contemplated by any Transaction Security Document; and
- (c) any Taxes payable in connection with entering into a Transfer Certificate or an Assignment Agreement or pursuant to any other transfer by a Lender of any of its rights or obligations under any Finance Document,

which will, in the case of the Perfection Requirements (other than any Perfection Requirements which the Lenders or their counsel have agreed are not required to be effected) and related fees, be made and paid promptly after the date of the relevant Finance Document.

#### 24.10 **Deduction of Tax**

It is not required to make any deduction for or on account of Tax payable in the United Kingdom from any payment it may make under any Finance Document to a Lender which is:

- (a) a Qualifying Lender:
  - (i) falling within paragraph (a)(i) of the definition of "Qualifying Lender";
  - (ii) except where a Direction has been given under section 931 of the ITA in relation to the payment concerned, falling within paragraph (a)(ii) of the definition of "Qualifying Lender"; or
  - (iii) falling within paragraph (b) of the definition of "Qualifying Lender"; or
- (b) a Treaty Lender and the payment is one specified in a direction given by the Commissioners of Revenue & Customs under Regulation 2 of the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 (SI 1970/488).

#### 24.11 **No default**

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

#### 24.12 **No misleading information**

Save as disclosed in writing to the Facility Agent and the Arranger prior to the date of this agreement, to the best of the knowledge and belief of the Senior Management (having made due and careful enquiry):



- (a) any material factual information contained in the Information Package was true and accurate in all material respects as at the date of the relevant report or document containing the information or (as the case may be) as at the date the information is expressed to be given;
- (b) the Base Case Model has been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements and has been approved by the board of directors of the Parent;
- (c) any financial projection or forecast contained in the Information Package has been prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair (in each case as at the date of the relevant report or document containing the projection or forecast) and arrived at after careful consideration;
- (d) the expressions of opinion or intention provided in writing by or on behalf of an Obligor for the purposes of the Information Package were made after careful consideration and (in each case as at the date of the relevant report or document containing the expression of opinion or intention) were fair and based on reasonable grounds;
- (e) no event or circumstance has occurred or arisen and no information has been omitted from the Information Package and no information has been given or withheld that results in the material information, opinions, intentions, forecasts or projections contained in the Information Package being untrue or misleading in any material respect;
- (f) all material written information provided to a Finance Party by or on behalf of the Parent or the Company in connection with the Acquisition and/or the Target Group on or before the date of this agreement and not superseded before that date is accurate and not misleading in any material respect; and
- (g) all other material written information provided under or in connection with the Finance Documents by any member of the Group to a Finance Party or the provider of any Report was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any material respect as at such date.

#### 24.13 **Original Financial Statements**

- (a) The Original Financial Statements were prepared in accordance with the Accounting Principles applicable at the date as of which such statements were prepared consistently applied unless expressly disclosed to the Facility Agent in writing to the contrary. However, in the case of monthly statements, normal year end adjustments were not made.
- (b) In the case of each Additional Obligor, its Original Financial Statements referred to in paragraph (b) of the definition of Original Financial Statements in clause 1.1 (Definitions) fairly present its financial condition and its results of operations during the relevant financial year unless expressly disclosed to the Facility Agent in writing to the contrary prior to the date of this agreement.
- (c) The Parent's most recent financial statements delivered pursuant to clause 25.1 (Financial statements) (taking into account any reconciliation delivered together with such statements in accordance with such clause):
  - (i) have, save where such financial statements can be prepared on the basis of different Accounting Principles in accordance with clause 25.3 (Requirements as to financial statements), been prepared in accordance with the Accounting Principles as applied to the Base Case Model or are accompanied by a

reconciliation to reflect the Accounting Principles upon which the Base Case Model was prepared; or

- (ii) have, where it has been agreed that such financial statements can be prepared on the basis of different Accounting Principles in accordance with clause 25.3 (Requirements as to financial statements), been prepared in accordance with the Accounting Principles which prompted such change; and
  - (iii) fairly present its consolidated (or unconsolidated, as applicable) financial condition as at the end of, and its consolidated (or unconsolidated, as applicable) results of operations for, the period to which they relate.
- (d) The budgets and forecasts supplied under this agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied.

#### 24.14 **No proceedings**

- (a) No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which are reasonably likely to be adversely determined and, if adversely determined, are reasonably likely to have a Material Adverse Effect (taking, into account reserves made or the benefit of warranties, indemnities or insurance cover in respect thereof) have (to the best of its knowledge and belief (having made due and careful enquiry)) been started and are ongoing or threatened in writing against it or any Obligor.
- (b) No judgment or order of a court, arbitral body or agency or sanction of any government or other regulatory body which is reasonably likely to have a Material Adverse Effect has (to the best of its knowledge and belief (having made due and careful enquiry)) been made against it or any of its Subsidiaries.

#### 24.15 **No breach of laws**

- (a) It has not (and none of its Subsidiaries has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.
- (b) No labour disputes are current or, to the best of its knowledge and belief (having made due and careful enquiry), threatened in writing against any member of the Group which have or are reasonably likely to have a Material Adverse Effect (taking into account reserves made or the benefit of warranties, indemnities or insurance cover in respect thereof).

#### 24.16 **Environmental laws**

- (a) Each member of the Group is in compliance with clause 27.3 (Environmental compliance) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.
- (b) No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened in writing against any member of the Group where that claim is reasonably likely to be determined against a member of the Group and, if determined against that member of the Group, has or is reasonably likely to have a Material Adverse Effect (taking into account reserves made or the benefit of warranties, indemnities or insurance cover in respect thereof).

#### 24.17 **Taxation**

- (a) It is not (and none of its Subsidiaries is) materially overdue in the filing of any Tax returns and it is not (and none of its Subsidiaries is) overdue in the payment of any amount in respect of Tax of £500,000 (or its equivalent in any other currency) or more unless such non-payment would not constitute a breach of clause 27.6 (Taxation).
- (b) No claims or investigations are being, or, so far as the Parent is aware, are reasonably likely to be, made or conducted against it (or any of its Subsidiaries) with respect to Taxes such that a liability of, or claim against, any member of the Group of £500,000 (or its equivalent in any other currency) or more is reasonably likely to arise unless such non-payment would not constitute a breach of clause 27.6 (Taxation).
- (c) It is resident for Tax purposes only in its Original Jurisdiction.

#### 24.18 **Anti-corruption law**

- (a) To the best of the knowledge and belief of Senior Management having made due and careful enquiry, each member of the Group is conducting its businesses in compliance with applicable Anti-Corruption Laws.
- (b) The Group has instituted and maintained policies and procedures designed to promote compliance with such laws.

#### 24.19 **Security and Financial Indebtedness**

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

#### 24.20 **Ranking**

Subject to the Legal Reservations and the Perfection Requirements, the Transaction Security has or will have the ranking in priority which it is expressed to have in the Transaction Security Documents or the Intercreditor Agreement and it is not subject to any prior ranking or pari passu ranking Security which is not Permitted Security.

#### 24.21 **Good title to assets**

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

#### 24.22 **Legal and beneficial ownership**

- (a) Subject to any Permitted Security, it and each of its Subsidiaries is the legal and/or beneficial owner of the respective assets over which it purports to grant Security.
- (b) Subject to paragraph (c) below, all the Target Shares are or will be on the Closing Date owned by the Company.
- (c) The Target Shares are beneficially but not legally owned by the purchaser until those shares are registered in the register of shareholders of Target, which registration will be made as soon as reasonably practicable after the Closing Date.

#### 24.23 **Shares**

The shares of any Obligor which are subject to the Transaction Security are fully paid and not subject to any option to purchase or similar rights. The constitutional documents of the Obligors whose shares are subject to the Transaction Security do not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security. Except as provided in the relevant constitutional documents, any shareholders' agreement, any put and call option agreement referred to in the Structure Memorandum or employee share option scheme relating to any member of the Group which is not wholly-owned, there are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any member of the Group (including any option or right of pre-emption or conversion).

#### 24.24 **Intellectual Property**

Each Obligor:

- (a) is the sole legal and beneficial owner of or has licensed to it, or it is otherwise entitled to use, all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business as it is being conducted and as contemplated in the Base Case Model, in each case save where failure to be such a legal and beneficial owner or be entitled to use any Intellectual Property does not have and is not reasonably likely to have a Material Adverse Effect;
- (b) does not, in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which has or is reasonably likely to have a Material Adverse Effect; and
- (c) has to the extent commercially appropriate taken all formal or procedural actions (including payment of fees) required to maintain any material Intellectual Property owned by it save where the failure to maintain such Intellectual Property does not and is not reasonably likely to have a Material Adverse Effect.

#### 24.25 **Group Structure Chart**

Assuming initial Certain Funds Utilisation has occurred, the Group Structure Chart delivered to the Facility Agent pursuant to part 1A of schedule 2 (Conditions precedent) is true, complete and accurate in all material respects.

#### 24.26 **Not used**

#### 24.27 **Centre of main interests**

Each Obligor's "centre of main interest" is situated in England and Wales or its Original Jurisdiction, or in the case of an Additional Obligor, such other jurisdiction notified to the Facility Agent on or before its accession as an Additional Obligor, and it has no "establishment" in any other jurisdiction. The terms "**centre of main interest**" and "**establishment**" have the meanings given to them:

- (a) in article 3(1) and article 2(10) respectively of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the Regulation); and
- (b) in the Regulation as it forms part of English law by virtue of the European Union (Withdrawal) Act 2018.

#### 24.28 **Pensions**

Neither it nor any of its Subsidiaries as at the date or dates on which this representation is made or repeated is or, to the best of the Parent's knowledge (after due and careful enquiry) has at any time after 27 April 2004 been:

- (a) an employer (for the purposes of sections 38 to 47 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pensions Schemes Act 1993); or
- (b) "connected" with or an "associate" (as those terms are used in sections 38 and 43 of the Pensions Act 2004) of such an employer unless there is no reasonable prospect of a Contribution Notice or Financial Support Direction being served on it or any of its Subsidiaries on account of it or any of its Subsidiaries being such an associate or so connected.

#### 24.29 **Acquisition**

- (a) Where the Acquisition is being effected by way of a Scheme:
  - (i) the Scheme Press Announcement and the Scheme Circular:
    - (A) do not (or will not) contain any untrue statement by the Company or omit any information which makes any statement for which the Company or its directors are responsible misleading in any material respect;
    - (B) all expressions of expectation, intention, belief and opinion of the Company and/or its directors contained in the Scheme Circular have been honestly made on reasonable grounds after due and careful consideration by the Company and the Parent; and
    - (C) taken as a whole, contain all the material terms of the Scheme; and
  - (ii) the Scheme Documents comply in all material respects with the Companies Act, the Takeover Code and all other relevant laws and the requirements, rules and regulations of the Court and all applicable regulatory authorities and bodies.
- (b) Where the Acquisition is being effected by way of an Offer:
  - (i) the Offer Document:
    - (A) does not (or will not) contain any untrue statement by the Company or omit any information which makes any statement for which the Company or its directors are responsible misleading in any material respect;
    - (B) all expressions of expectation, intention, belief and opinion of the Company and/or its directors contained in the Offer Document have been honestly made on reasonable grounds after due and careful consideration by the Company and the Parent; and
    - (C) taken as a whole, contain all the material terms of the Offer; and
  - (ii) the Offer Press Announcement and the offer Document comply in all material respects with the Companies Act, the Takeover Code and all other relevant laws and the requirements, rules and regulations of the Court and all applicable regulatory authorities and bodies.

#### 24.30 **Holding Companies**

Except as may arise under the Transaction Documents and for Acquisition Costs and other de minimis liabilities, before the Closing Date neither the Parent nor the Company has

traded or incurred any liabilities or commitments (actual or contingent, present or future), except for:

- (a) in relation to the Parent, the provision of management and administrative services to the Company of a type customarily provided by a holding company to its Subsidiaries;
- (b)
  - (i) in relation to the Parent, ownership of shares in the Company; and
  - (ii) in relation to the Parent and the Company, intra-Group debit balances, intra-Group credit balances and other credit balances in bank accounts, cash and Cash Equivalent Investments;
- (c) professional fees and administration costs and any Tax incurred in the ordinary course of business as a holding company;
- (d) any rights or liabilities under any service contract or consultancy agreement for any other director, executive or consultant or employee;
- (e) any Permitted Guarantee;
- (f) any Permitted Surrender;
- (g) any rights or liabilities in relation to Subordinated Debt or New Shareholder Injections;
- (h) any rights or liabilities in connection with incurring, issuing or receiving indebtedness under, or in connection with, the Preferred Debt Documents;
- (i) any arrangement in respect of a Permitted Payment or a Permitted Transaction;
- (j) any rights or liabilities in relation to any litigation or court or other similar proceedings that are being contested in good faith;
- (k) any rights or liabilities in relation to a Management Equity Transaction;
- (l) any rights or liabilities expressly contemplated as being acquired or incurred by the Parent in the Structure Memorandum; and
- (m) any other assets or liabilities owned or incurred in the ordinary course of business as a holding company (including liabilities in respect of Taxes, customary insurance policies and liabilities arising by operation of law).

#### 24.31 **Sanctions**

- (a) No member of the Group nor any of its directors, employees or officers is a Restricted Person.
- (b) No member of the Group is owned or controlled (directly or indirectly) by a Restricted Person.
- (c) No member of the Group is a governmental agency, authority or body or state-owned enterprise of any country which is the subject of Sanctions.
- (d) Each member of the Group conducts its businesses in compliance with Sanctions.

- (e) Each member of the Group has not knowingly (having made due and careful enquiry) engaged in, and is not to its knowledge (having made due and careful enquiry) engaged in:
  - (i) any dealings or transactions with any person that at the time of the dealing or transaction is or was the target of Sanctions; or
  - (ii) any dealings or transactions that evade or avoid or have the purpose of evading or avoiding or breaching or attempting to breach, directly or indirectly, any Sanctions applicable to it.
- (f) No member of the Group is located, organised or domiciled in a country which is the subject of Sanctions by any Sanctions Authority if such location, organisation or domicile causes, or is reasonably likely to cause, any member of the Group or any Finance Party to be in breach of Sanctions.
- (g) No member of the Group is subject to any formal claim or proceeding with respect to Sanctions.
- (h) No member of the Group has received notice or is otherwise aware of any claim, proceeding or investigation involving it with respect to a breach of applicable Sanctions.
- (i) No Loan, nor the proceeds from any Loan, has been used, directly or indirectly, to lend, contribute, provide or has otherwise been made available to fund any activity or business in any Sanctions Authority or to fund any activity of or business with any Restricted Person, or in any other manner that resulted in any violation by any person of Sanctions.

**24.32 Times when representations made**

- (a) All the representations and warranties in this clause 24 are made by each Original Obligor on the date of this agreement except the representations and warranties set out in clause 24.29 (Acquisition).
- (b) All the representations and warranties in this clause 24 are deemed to be made by each Obligor on the Closing Date.
- (c)
  - (i) If and to the extent that they relate to the Scheme, the representations and warranties set out in clause 24.29 (Acquisition) are deemed to be made by each Obligor on the date of the Scheme Press Announcement (if and to the extent that they relate to the Scheme Press Announcement) and on the date the Scheme Circular is published (if and to the extent that they relate to the Scheme Circular).
  - (ii) If and to the extent that they relate to an Offer, the representations and warranties set out in clause 24.29 (Acquisition), if and to the extent that they relate to the Offer, are deemed to be made by each Obligor on the date of the Offer Press Announcement (if and to the extent that they relate to the Offer Press Announcement) and on the date the Offer Document is published (if and to the extent that they relate to the Takeover Offer Documents).
- (d) The Repeating Representations are deemed to be made by each Obligor:
  - (i) on the date of each Utilisation Request;
  - (ii) on each Utilisation Date;

- (iii) on the first day of each Interest Period;
  - (iv) on the date of each Incremental Term Facility Notice; and
  - (v) on each Establishment Date.
- (e) All the representations and warranties in this clause 24 except clause 24.9 (No filing or stamp taxes), clause 24.10 (Deduction of Tax), clause 24.12 (No misleading information), paragraphs (a) and (d) of clause 24.13 (Original Financial Statements), clause 24.25 (Group Structure Chart) and clause 24.30 (Holding Companies) are deemed to be made by each Additional Obligor on the day on which it becomes (or it is proposed that it becomes) an Additional Obligor provided that:
- (i) any such representation and warranty shall be deemed to refer solely to such Additional Obligor and any of its Subsidiaries;
  - (ii) there shall be no misrepresentation under any such representation and warranty on account of any matter which a member of the Group has disclosed to the Facility Agent on or before the date on which such Additional Obligor becomes (or on which it is proposed to become) an Additional Obligor; and
  - (iii) there shall be no misrepresentation under clause 24.11 (No default) on account of any Event of Default or Material Event of Default which will be remedied by the accession of the Additional Obligor(s).
- (f) Each representation or warranty deemed to be made after the date of this agreement shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

## 25. **INFORMATION UNDERTAKINGS**

The undertakings in this clause 25 remain in force from the date of this agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

In this clause 25:

**"Annual Financial Statements"** means the financial statements for a Financial Year delivered pursuant to paragraph (a)(i) of clause 25.1 (Financial statements) (together, if relevant, with any reconciliation delivered pursuant to that paragraph);

**"Monthly Financial Statements"** means the financial statements delivered pursuant to paragraph (c) of clause 25.1 (Financial statements); and

**"Quarterly Financial Statements"** means the Monthly Financial Statements for a management accounting period ending on a Quarter Date.

### 25.1 **Financial statements**

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

- (a)
  - (i) as soon as they are available, but in any event within 180 days after the end of the first Financial Year to end after the Closing Date and 120 days after the end of each subsequent Financial Years, either its audited consolidated financial statements for that Financial Year; and



- (ii) if requested by the Facility Agent and if available, within any statutory time period allowed for the preparation thereof, the annual financial statements (consolidated if appropriate and audited, if required by the jurisdiction of incorporation of that Obligor) of each Obligor for that Financial Year;
- (b) as soon as they are available, but in any event within 60 days after the end of each of the first two complete Financial Quarters after the Closing Date and 45 days after the end of each subsequent Financial Quarter, its Quarterly Financial Statements for that Financial Quarter; and
- (c) commencing with respect to the third complete monthly management accounting period ending after the Closing Date (unless such period ends on a Quarter Date, in which case the obligations pursuant to this paragraph will commence with respect to the next monthly management accounting period), as soon as they are available, but in any event within 30 days after the end of each monthly management accounting period (other than any management accounting period ending on or around a Quarter Date), its financial statements on a consolidated basis for that management accounting period (to include cumulative management accounts for the Financial Year to date).

## 25.2 **Provision and contents of Compliance Certificate**

- (a) The Parent shall supply a Compliance Certificate to the Facility Agent with each set of its Annual Financial Statements and each set of its Quarterly Financial Statements deliverable on and after the Financial Quarter ending on 30 September 2022.
- (b) The Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to Margin and compliance with clause 26 (Financial covenants).
- (c) Each Compliance Certificate required to be delivered with each set of Quarterly Financial Statements shall confirm the amount of any Equity Cure Amount applied during the relevant Financial Quarter in connection with Permitted Bolt-on Acquisitions.
- (d) Each Compliance Certificate required to be delivered with each set of Annual Financial Statements shall (with supporting calculations in reasonable detail):
  - (i) confirm which members of the Group are Material Companies;
  - (ii) confirm compliance or otherwise with clause 27.34 (Guarantors);
  - (iii) confirm the computation of Retained Cash for that Financial Year;
  - (iv) confirm the balance of Cash Overfunding;
  - (v) confirm the amount of any net cash proceeds of Disposals, Recovery Claims or insurance claims for that Financial Year not required to be applied in prepayment of the Facilities;
  - (vi) confirm the amount of any net cash proceeds of New Shareholder Injections (other than any New Shareholder Injection contributed for the purpose of an equity cure pursuant to clause 26.4 (Equity Cure)) for that Financial Year; and
  - (vii) confirm the amount of any unused Basket Carry Forward Amount.
- (e) Each Compliance Certificate shall be signed by two directors of the Parent, one of whom shall be the chief financial officer, and, if required to be delivered with the Annual Financial Statements of the Parent, shall be reported on by the Parent's

Auditors in the form agreed by the Parent and the Majority Lenders and the Majority Super Senior Facility Lenders.

### 25.3 Requirements as to financial statements

- (a) The Parent shall procure that each set of Annual Financial Statements, Quarterly Financial Statements and Monthly Financial Statements includes a balance sheet, profit and loss account and a cashflow statement (provided that no cashflow statement need be included in the Annual Financial Statements for a Subsidiary of the Parent, where a cashflow statement is not required to be included in such statements by law in the jurisdiction of incorporation of that Subsidiary) in each case both for the Relevant Period and, to the extent that such information is provided to the Sponsor for such Relevant Period, for the Financial Year to date. In addition, the Parent shall procure that:
- (i) each set of its Annual Financial Statements shall be audited by the Parent's Auditors;
  - (ii) each set of Monthly Financial Statements and Quarterly Financial Statements is accompanied by a statement by the directors of the Parent commenting on the performance of the Group for the management accounting period to which the financial statements relate and the Financial Year to date and any material developments or proposals affecting the Group or its business;
  - (iii) each set of Monthly Financial Statements delivered from the date falling six Months after the Closing Date shall include the aggregate amount of Capital Expenditure spend in that Month and any other key performance indicators included in the regular monthly reporting delivered by the Group to the Sponsor for that month; and
  - (iv) on the date of delivery of its Annual Financial Statements following the third anniversary of the Closing Date and on the date of delivery of its Annual Financial Statements on each subsequent three years thereafter, such Annual Financial Statements shall be accompanied by a Valuation that is dated within the Financial Year to which those Annual Financial Statements relate (the "**Mandatory Valuation**").
- (b) Each set of financial statements delivered pursuant to clause 25.1 (Financial statements) (together, if relevant, with any reconciliation delivered pursuant to that clause):
- (i) shall be certified by a director of the relevant company as fairly representing, or giving a true and fair view of, its (or if appropriate, its consolidated) financial condition and operations as at the date as at which those financial statements were drawn up (provided that if such financial statements contain such a statement no such additional certification is required to be made) and, in the case of the Annual Financial Statements, shall be accompanied by any letter addressed to the management of the relevant company by the auditors of those Annual Financial Statements and accompanying those Annual Financial Statements;
  - (ii) shall be accompanied by a statement by the directors of the Parent comparing actual performance for the period to which the financial statements relate to:
    - (A) the projected performance for that period set out in the Budget; and
    - (B) the actual performance for the corresponding period in the preceding Financial Year of the Group (or the Target Group before the first Financial Year of the Group has ended); and

- (iii) shall, in the case of the Parent, be prepared using the Accounting Principles and financial reference periods consistent with those applied in the preparation of the Base Case Model (provided that there shall be no breach of this requirement on account of any differences between Annual Financial Statements and Quarterly Financial Statements and Monthly Financial Statements attributable to customary year-end adjustments), unless, in relation to any set of financial statements, the Parent notifies the Facility Agent that there has been a change in the Accounting Principles and the Parent, the Majority Lenders and the Majority Super Senior Facility Lenders agree to the change applying for the purpose of the Finance Documents.
- (c) If an Event of Default or a Material Event of Default has occurred and is continuing and the Facility Agent wishes to discuss the financial position of any member of the Group with the auditors of that member of the Group, the Facility Agent may notify the Parent, stating the questions or issues which the Facility Agent wishes to discuss with those auditors. In this event, the Parent must ensure that those auditors are authorised (at the expense of the Parent):
  - (i) to discuss the financial position of the relevant member of the Group with the Facility Agent on request from the Facility Agent; and
  - (ii) to disclose to the Facility Agent for the Finance Parties any information which the Facility Agent may reasonably request regarding the financial condition and operations of the Group.
- (d) Notwithstanding any other term of this agreement no Default shall occur, or be deemed to occur, as a result of any restriction on the identity of the Parent's Auditors contained in this agreement being prohibited, unlawful, ineffective, invalid or unenforceable pursuant to the Audit Laws.

#### 25.4 **Budget**

- (a) The Parent shall supply to the Facility Agent in sufficient copies for all the Lenders, as soon as the same become available but in any event no later than 30 days after the start of each of its Financial Years beginning with the Financial Year starting on 1 October 2023, an annual Budget for that financial year.
- (b) The Parent shall ensure that each Budget for a financial year:
  - (i) is in a format reasonably acceptable to the Facility Agent and includes:
    - (A) a projected consolidated profit and loss, balance sheet and cashflow statement for the Group; and
    - (B) projections as to whether clause 26.2 (Financial condition) will be complied with in each Relevant Period ending in that Financial Year, for that financial year and for each Financial Quarter of that financial year;
  - (ii) is prepared in accordance with the Accounting Principles and the accounting practices and financial reference periods applied to its financial statements under clause 25.1 (Financial statements); and
  - (iii) has been approved by the board of directors of the Parent.
- (c) If the Parent or the Company (as applicable) updates or changes the Budget to any material extent, it shall promptly deliver to the Facility Agent, in sufficient copies for each of the Lenders, such updated or changed Budget together with a written explanation of the main changes in that Budget.

- (d) The Facility Agent and the Lenders shall have no right of approval over the form or substance of any Budget.

#### 25.5 **ESG Information**

- (a) The Parent shall supply an ESG Compliance Certificate to the Facility Agent with each set of its Annual Financial Statements deliverable on and after the Financial Quarter ending on 30 September 2022, provided that there shall be no Default or Event of Default as a result the Parent failing to deliver an ESG Compliance Certificate in accordance with this clause.
- (b) The ESG Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to Margin.
- (c) Each ESG Compliance Certificate shall (with supporting calculations in reasonable detail) confirm, for the most recently ended Ratings Period:
  - (i) the number of Group Registered Services which received a Rating Outcome;
  - (ii) the number of Group Registered Services which received a Positive Rating; and
  - (iii) the National Benchmark.
- (d) Each ESG Compliance Certificate shall be signed by two directors of the Parent, one of whom shall be the chief financial officer.
- (e) The Parent shall, promptly upon request by the Facility Agent, supply the Facility Agent with copies of the Ratings Reports referred to in any ESG Compliance Certificate, as the Facility Agent may reasonably request from time to time.

#### 25.6 **Group companies**

The Parent shall, if there is any dispute between the Parent and the Facility Agent in respect of the identity of the Material Companies or as to whether the Parent is in breach of clause 27.34 (Guarantors), at the request of the Facility Agent, supply to the Facility Agent a report issued by the Parent's Auditors stating which of its Subsidiaries are Material Companies and confirming whether or not the Parent is complying with clause 27.34 (Guarantors).

#### 25.7 **Presentations**

Once in every Financial Year (commencing with the Financial Year beginning 1 October 2022), or more frequently if requested to do so by the Facility Agent if an Event of Default or a Material Event of Default is continuing, on not less than ten Business Days' notice by the Facility Agent to the Parent, at least two senior representatives of the Group (one of whom shall be the finance director) must give a presentation (within three Months of delivery of the Budget for that Financial Year) to the Finance Parties at a time and venue agreed by the Parent and the Facility Agent (each acting reasonably) about the on-going business and financial performance of the Group.

#### 25.8 **Year-end**

The Parent shall not change its Accounting Reference Date save so as to match the accounting reference date of the Target, if different.

#### 25.9 **Information: miscellaneous**

The Parent shall supply to the Facility Agent (in sufficient copies for all the Lenders, if the Facility Agent so requests):

- (a) promptly after they are dispatched, copies of all documents dispatched by the Parent or any Obligors to its creditors generally (or any class of them), other than the Subordinated Creditors (as defined in the Intercreditor Agreement);
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened in writing or pending against any member of the Group, and which are reasonably likely to be adversely determined and if adversely determined are reasonably likely to result in a liability of £20,000,000 or more;
- (c) promptly upon becoming aware of them, the details of any judgement or order of a court, arbitral tribunal or other tribunal or any order or sanction of any government or other regulatory body which is made against any member of the Group and which the Parent believes is reasonably likely to have a Material Adverse Effect;
- (d) promptly upon becoming aware that a prepayment will be required, details of any Disposal, insurance claim or Recovery Claim which will give rise to an obligation to apply Disposal Proceeds, Insurance Proceeds or Acquisition Proceeds in prepayment under clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds);
- (e) promptly, such information as the Security Agent may reasonably require about the Charged Property and compliance of the Obligors with the terms of any Transaction Security Documents; and
- (f) promptly on request, such further information regarding the financial condition, assets and operations of the Group and/or any member of the Group (including any requested amplification or explanation of any item in the financial statements, budgets or other material provided by any Obligor under this agreement, any changes to Senior Management and an up to date copy of its shareholders' register (or equivalent in its Original Jurisdiction)) as any Finance Party through the Facility Agent may reasonably request provided that the Parent shall be under no obligation to provide, or procure the provision of, any information the supply of which would be contrary to any confidentiality obligation binding on any member of the Group or where the supply of such information could prejudice the retention of legal privilege in such information.

#### 25.10 **Notification of default**

- (a) Each Obligor shall notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).
- (b) Promptly upon a request by the Facility Agent, the Parent shall supply to the Facility Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

#### 25.11 **"Know your customer" checks**

- (a) If:
  - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this agreement;
  - (ii) any change in the status of an Obligor (or of a Holding Company of an Obligor) or the composition of the shareholders of an Obligor (or of a Holding Company of an Obligor) after the date of this agreement; or

- (iii) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Facility Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender) in order for the Facility Agent, such Lender or, in the case of the event described in paragraph (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself) in order for the Facility Agent to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
- (c) The Parent shall, by not less than ten Business Days' prior written notice to the Facility Agent, notify the Facility Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Obligor pursuant to clause 31 (Changes to the Obligors) provided that no such notification is required in respect of any Subsidiary which is required to become an Obligor under clause 27.37 (Conditions subsequent).
- (d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Obligor obliges the Facility Agent or any Lender to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Parent shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the Facility Agent or such Lender or any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this agreement as an Additional Obligor.

## 26. **FINANCIAL COVENANTS**

### 26.1 **Financial definitions**

In this agreement:

**"Acceptable Funding Sources"** means:

- (a) the net cash proceeds of Disposals, Recovery Claims or insurance claims not required to be applied in prepayment of the Facilities;
- (b) Retained Cash;

- (c) net cash proceeds of New Shareholder Injections (other than any New Shareholder Injection contributed for the purpose of an equity cure pursuant to clause 26.4 (Equity Cure));
  - (d) any Cash Overfunding; and
  - (e) any Incremental Term Facility and any other Permitted Financial Indebtedness,
- save to the extent otherwise applied or allocated;

**"Acceptable Funding Sources (Excluding Debt)"** means Acceptable Funding Sources excluding items described in paragraph (e) of the definition of that term in this clause 26.1;

**"Acceptable Funding Sources (Excluding Debt and Retained Cash)"** means Acceptable Funding Sources excluding items described in paragraphs (b) and (e) of the definition of that term in this clause 26.1;

**"Acceptable Funding Sources (Excluding Retained Cash)"** means Acceptable Funding Sources excluding items described in paragraph (b) of the definition of that term in this clause 26.1;

**"Acquisition Costs"** means all fees, costs and expenses, stamp, registration and other Taxes incurred by any member of the Group in connection with the Acquisition or the Transaction Documents or any other actual or aborted Permitted Bolt-on Acquisition or their financing;

**"Adjusted EBITDA"** means, in relation to a Relevant Period, EBITDA for that Relevant Period adjusted by:

- (a) including the operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of a member of the Group (or attributable to a business) acquired during the Relevant Period for that part of the Relevant Period prior to it becoming a member of the Group or (as the case may be) prior to the acquisition of the business;
- (b) including the annualised impact of Permitted Synergies in relation to any Permitted Bolt-on Acquisition, Permitted Disposal, Permitted Joint Venture, Group Initiative, new contract won (and any lost contract) or any redundancies (net of implementation costs) by any member of the Group which is implemented, won or lost during the Relevant Period;
- (c) adding back losses incurred, and expenses committed to be incurred, in respect of each new site opened for the period of 12 months from the opening of the relevant site;
- (d) including the annualised impact of positive operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) for the applicable Relevant Period to date in relation to each site opened within 18 months of the last day of that Relevant Period;
- (e) including the run rate operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) ("**run-rate EBITDA**") in relation to each site which was acquired by the Group as a property acquisition (and not as a going concern or business acquisition) for the applicable Relevant Period in which such acquisition completed and each successive Relevant Period thereafter, ending with the first Relevant Period which ends later than the date which is the earlier of (i) the date falling 18 months after the opening of that relevant site and (y) the first day on which 80 per cent or more occupancy of that site is achieved, provided that run-rate EBITDA shall be calculated:

- (A) with respect to occupancy rates, by reference to the average occupancy rates for mature sites within the relevant division and service type and size (such sites being "**Comparable Sites**") for a period of 12 months prior to the date of calculation; and
  - (B) by reference to the mature operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of Comparable Sites determined by reference to a period no longer than 24 months from the opening date of such Comparable Sites
- (f) excluding the operating profit before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) attributable to any member of the Group (or to any business) disposed of during the Relevant Period for the part of the Relevant Period before such disposal,

provided that:

- (i) no adjustments in respect of revenue related adjustments or add-backs (in respect of revenue that has not been generated or otherwise) shall be permitted as a result of any Exceptional Items or Permitted Synergies;
- (ii) any losses added back pursuant to paragraph (c) above and any annualised impact of positive operating profit included pursuant to paragraph (d) above and any run rate operating profit included pursuant to paragraph (e) above shall only be taken into account to the extent certified by the finance director or chief executive officer of the Parent (including calculations/explanations in reasonable detail);
- (iii) no adjustments may be made pursuant to paragraph (e) above at any time prior to the earlier of:
  - (A) the first Quarter Date on which that Adjusted Leverage for the applicable Relevant Period (prior to including any adjustments pursuant to paragraph (e) above) is equal to or less than 5.75:1 (and for the avoidance of doubt if Adjusted Leverage is equal to or less than 5.75:1 as required pursuant to this paragraph such adjustments may be included with respect to that applicable Relevant Period); and
  - (B) the date on which the aggregate Senior Term Facility B Commitments are zero,

provided that after the date on which either (A) or (B) occurs adjustments may be made pursuant to paragraph (e) for all Relevant Periods thereafter (notwithstanding that Adjusted Leverage may subsequently be higher than 5.75:1)

- (iv) adjustments may not be made pursuant to both paragraph (d) and (e) with respect to the same site in the same Relevant Period; and
- (v) the aggregate amount of pro forma adjustments which may be taken into account in any Relevant Period pursuant to paragraphs (c), (d) and (e) above, when aggregated with Permitted Synergies taken into account in that Relevant Period pursuant to paragraph (b) above, shall not exceed 20 per cent of EBITDA for that Relevant Period;

**"Adjusted Leverage"** means, in respect of any Relevant Period, the ratio of Total Net Debt on the last day of that Relevant Period to Adjusted EBITDA in respect of that Relevant Period;



**"Borrowings"** means, at any time, the aggregate outstanding principal, capital or nominal amount of any indebtedness of members of the Group for or in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any acceptances under any acceptance credit or bill discount facility (or dematerialised equivalent);
- (c) any note purchase facility or the issue of bonds (but not Trade Instruments), notes, debentures, loan stock or any similar instrument;
- (d) any Finance Lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument (but not, in any case, Trade Instruments) issued by a bank or financial institution in respect of an underlying liability of an entity which is not a member of the Group which liability would fall within one of the other paragraphs of this definition;
- (g) any amount raised by the issue of shares to a person who is not a member of the Group which are redeemable (other than at the option of the issuer) before the Termination Date for Senior Term Facility A or are otherwise classified as borrowings under the Accounting Principles;
- (h) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind the entry into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 120 days after the date of supply;
- (i) any amount raised under any other transaction (including any forward sale or purchase agreement, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing (other than any amount which is expressly excluded under any other paragraph of this definition of Borrowings, any Treasury Transactions or any trade credit given to any member of the Group in the ordinary course of trade);
- (j) deferred consideration (excluding any contingent deferred consideration or any contingent earn-out payment) in relation to a Permitted Bolt-on Acquisition to the extent such deferred consideration constitutes Covenant Deferred Consideration; and
- (k) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above,

and excluding any liability under any lease which is a real estate or operating lease (as determined in accordance with Accounting Principles in effect on 31 December 2018) and any lease arising as a result of any Permitted Real Estate Transaction and Project Amalfi Real Estate Transaction;

**"Business Acquisition"** means the acquisition of a company or any shares or securities or a business or undertaking (and including any existing care facilities) (or, in each case, any interest in any of them) or the incorporation of a company;

**"Capital Expenditure"** means any expenditure or obligation in respect of expenditure (other than expenditure or obligations in respect of Business Acquisitions) which, in

accordance with the applicable Accounting Principles as applied under the Original Financial Statements, is treated as capital expenditure (and (except for the purposes of paragraph (e) of the definition of "Cashflow" where it shall not be included) including the capital element of any expenditure or obligation incurred in connection with a Finance Lease);

**"Cash Overfunding"** means an amount equal to:

- (a) cash on balance sheet of members of the Target Group as at the Closing Date (as certified by the Parent to the Facility Agent within five Business Days after the Closing Date and identified as "Cash Overfunding" in the Sources and Uses Statement, plus any VAT recovered in respect of Acquisition Costs); and
- (b) cash on balance sheet of an Acquisition Target in an amount no greater than the aggregate Acceptable Funding Sources (Excluding Debt) and cash on balance sheet of the Group used to fund the relevant Permitted Bolt-on Acquisition (as certified by the Parent to the Facility Agent within five Business Days after the closing date of the relevant Permitted Bolt-on Acquisition plus any VAT recovered in respect of Acquisition Costs),

with the balance (including reasonable details of any allocation thereof in the Relevant Period) being reported in each Compliance Certificate delivered to the Facility Agent with each set of its Quarterly Financial Statements (and which has not been applied, allocated and spent);

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

- (a) adding the amount of any decrease (and deducting the amount of any increase) in Working Capital for that Relevant Period, other than where resulting from the one-off non-cash consolidation effect of a Permitted Bolt-on Acquisition or a Permitted Disposal;
- (b) adding the amount of any cash receipts (and deducting the amount of any cash payments) during that Relevant Period in respect of any Exceptional Items not already taken account of in calculating EBITDA or in any other paragraph of this definition for any Relevant Period;
- (c) adding the amount of any cash receipts received during that Relevant Period in respect of any Tax rebates or credits and (save to the extent financed or refinanced by Acceptable Funding Sources (Excluding Debt) during that Relevant Period) deducting the amount actually paid in respect of Taxes during that Relevant Period by any member of the Group;
- (d) adding (to the extent not already taken into account in determining EBITDA) the amount of any dividends or other profit distributions received in cash by any member of the Group during that Relevant Period from any Non-Group Entity and deducting (to the extent not already deducted in determining EBITDA) the amount of any dividends paid in cash during the Relevant Period to minority shareholders in members of the Group;
- (e) deducting the amount of any Capital Expenditure actually made in cash during that Relevant Period by any member of the Group and the aggregate of any cash consideration paid for any Business Acquisitions (other than the Acquisition) and the amount of any investments in Joint Ventures except (in each case) to the extent funded from Acceptable Funding Sources;
- (f) adding the amount of any increase in provisions, other non-cash debits and other non-cash charges (which are not Current Assets or Current Liabilities) and deducting

the amount of any non-cash credits (which are not Current Assets or Current Liabilities) in each case to the extent taken into account in establishing EBITDA;

- (g) deducting the amount of any cash costs of Pension Items during that Relevant Period to the extent not taken into account in establishing EBITDA;
- (h) plus realised exchange gains and minus realised exchange losses to the extent not taken into account in EBITDA to the extent of their cash impact on the Group; and
- (i) adding back items pre-funded on the Closing Date as identified in the Sources and Uses Statement in respect of any Relevant Period which includes any period between the Closing Date to the date falling 12 Months after the Closing Date,

and so that no amount shall be added (or deducted) more than once and there shall be excluded the effect of all cash movements associated with the Acquisition and the Acquisition Costs;

**"Covenant Deferred Consideration"** means deferred consideration (excluding any contingent deferred consideration or any contingent earn-out payment) in relation to a Permitted Bolt-on Acquisition to the extent that such deferred consideration constitutes more than 30 per cent of the Total Purchase Price of that Permitted Bolt-on Acquisition;

**"Current Assets"** means the aggregate (on a consolidated basis) of all inventory, work in progress, trade and other receivables of each member of the Group including prepayments in relation to operating items and sundry debtors (but excluding Cash and Cash Equivalent Investments) expected to be realised within 12 months from the date of computation but excluding amounts in respect of:

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

**"Current Liabilities"** means the aggregate (on a consolidated basis) of all liabilities (including trade creditors, accruals and provisions) of each member of the Group expected to be settled within 12 months from the date of computation but excluding amounts in respect of:

- (a) liabilities for Borrowings and Finance Charges;
- (b) liabilities for Tax;
- (c) Exceptional Items and other non-operating items;
- (d) insurance claims; and
- (e) liabilities in relation to dividends declared but not paid by the Parent or by a member of the Group in favour of a person which is not a member of the Group;

**"Debt Service"** means, in respect of any Relevant Period, the aggregate of:

- (a) Net Finance Charges for that Relevant Period;
- (b) all scheduled repayments of Borrowings falling due during that Relevant Period (as adjusted following any voluntary or mandatory prepayment from time to time) but excluding:

- (i) any amounts falling due under any overdraft or revolving facility (including, without limitation, the Revolving Facility and any Ancillary Facility) and which were available for simultaneous redrawing according to the terms of that facility (save as a consequence of clause 4.2 (Further conditions precedent));
  - (ii) for the avoidance of doubt, any mandatory prepayment made pursuant to clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds);
  - (iii) for the avoidance of doubt, any voluntary prepayment made pursuant to clause 10.3 (Voluntary prepayment of Term Loans) or clause 10.4 (Voluntary prepayment of Revolving Facility Loans);
  - (iv) any such obligations owed to any member of the Group;
  - (v) any prepayment of Borrowings existing on the Closing Date which is required to be repaid under the terms of this agreement; and
  - (vi) any payment of contingent or non-contingent deferred consideration in respect of a Business Acquisition; and
- (c) the amount of the capital element of any payments in respect of that Relevant Period payable under any Finance Lease entered into by any member of the Group,
- and so that no amount shall be included more than once;

**"EBITDA"** means, in respect of any Relevant Period, the consolidated operating profit of the Group before taxation (excluding the results from discontinued operations):

- (a) before deducting any interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments whether paid, payable or capitalised by any member of the Group (calculated on a consolidated basis) in respect of that Relevant Period;
- (b) not including any accrued interest owing to any member of the Group;
- (c) after adding back any amount attributable to the amortisation, depreciation or impairment of assets of members of the Group (and taking no account of the reversal of any previous impairment charge made in that Relevant Period);
- (d) before taking into account any Exceptional Items;
- (e) before deducting any Acquisition Costs;
- (f) before deducting any chairman, Sponsor director fees or Sponsor costs and expenses;
- (g) including the amount of any profit (and any loss) of any member of the Group which is attributable to minority interests provided that the maximum amount of profit which may be taken into account pursuant to this paragraph (g) which is attributable to minority interests shall not exceed 12.50 per cent of EBITDA for that Relevant Period, and to the extent that any further amounts are attributable to minority interests, these shall be deducted as applicable;
- (h) plus or minus the Group's share of the profits or losses (after finance costs and tax) of Non-Group Entities;
- (i) before taking into account any unrealised gains or losses on any financial instrument (other than any derivative instrument which is accounted for on a hedge accounting basis);

- (j) before taking into account any gain or loss arising from an upward or downward revaluation of any asset;
- (k) before taking into account any Pension Items;
- (l) excluding the charge to profit represented by the expensing of stock options; and
- (m) after deducting any Rent paid or payable in respect of the Project Amalfi Real Estate Transaction or any lease entered into in connection with any Permitted Real Estate Transaction in respect of the Relevant Period (provided that where such Rent paid or payable relates to only part of a Relevant Period then the Rent paid or payable shall be annualised for the purpose of this definition as if it was paid or payable for the whole of such Relevant Period);

in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining operating profits of the Group before taxation and adding proceeds received pursuant to any business interruption or discontinuation insurance (or its equivalent) and so that no amount shall be included or excluded (as applicable) more than once;

**"Exceptional Items"** means any items of an unusual or non-recurring or exceptional nature which represent gains or losses, in each case without double counting, including but not limited to those arising on:

- (a) the restructuring of the activities of an entity and reversals of any provisions for the cost of restructuring;
- (b) disposals, revaluations, write downs or impairment of non-current assets or any reversal of any write down or impairment;
- (c) redundancy costs (provided that there shall be no double counting with any Permitted Synergies arising in connection with such costs); and
- (d) disposals of assets associated with discontinued operations;

**"Excess Cashflow"** means, for any period for which it is being calculated, Cashflow for that period less (except to the extent already deducted in calculating Cashflow):

- (a) Debt Service for that period;
- (b) the amount of any mandatory prepayments made under the Finance Documents during that period to the extent made by reference to any amount included in Cashflow; and
- (c) to the extent included in Cashflow, the amount of any Acceptable Funding Sources allocated as Cashflow during that period;

**"Finance Charges"** means, for any Relevant Period, the aggregate amount of the accrued cash pay interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments in respect of Borrowings accruing as payable by any member of the Group (calculated on a consolidated basis) in cash in respect of that Relevant Period:

- (a) excluding any upfront fees or costs;
- (b) including the interest (but not the capital) element of payments in respect of Finance Leases;
- (c) including any commission, fees, discounts and other finance payments (other than any upfront fees or costs and, for the avoidance of doubt, any close-out or

termination payments) accruing as payable by (and deducting any such amounts accruing as payable to) any member of the Group under any interest rate hedging arrangement;

- (d) excluding any Acquisition Costs;
- (e) taking no account of any unrealised gains or losses on any financial instruments other than any derivative instruments which are accounted for on a hedge accounting basis; and
- (f) excluding interest (capitalised or otherwise) in respect of Subordinated Debt,

and so that no amount shall be added (or deducted) more than once;

**"Finance Lease"** means any lease or hire purchase contract, a liability under which would, in accordance with the Accounting Principles, be treated as a balance sheet liability (other than a lease or hire purchase contract which would, in accordance with the Accounting Principles in force prior to 1 January 2019 have been treated as an operating lease) (and which, for the avoidance of doubt, excludes the Project Amalfi Leases and any lease entered into in connection with any Permitted Real Estate Transaction);

**"Financial Quarter"** means the period commencing on the day after one Quarter Date and ending on the next Quarter Date;

**"Financial Year"** means the annual accounting period of the Group ending on or about 30 September in each year;

**"Group Initiative"** means for any Relevant Period, any restructuring, reorganisation or other cost saving initiative, net of the cost of implementation, undertaken by a member of the Group and which is intended to increase EBITDA on a sustainable basis;

**"Net Finance Charges"** means, for any Relevant Period, the Finance Charges for that Relevant Period after deducting any interest accruing as payable in that Relevant Period to any member of the Group (other than by another member of the Group) on any Cash or Cash Equivalent Investment;

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

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

**"Permitted Synergies"** means any cost savings or cost synergies (without double counting) as a result of:

- (a) any Permitted Bolt-on Acquisition;
- (b) any Permitted Disposal;
- (c) any Permitted Joint Venture;
- (d) any Group Initiative;
- (e) any new contract (and any lost contract); and
- (f) the implementation of any redundancies by any member of the Group;

in each case reasonably anticipated to be achieved with 18 months of such event, save that such cost savings and cost synergies shall only be taken into account to the extent certified by the finance director or chief executive officer of the Parent as being reasonably likely to be obtained (including calculations/explanations in reasonable detail and taking into account the estimated cost of achieving them), save that:

- (i) if exceeding 15 per cent of EBITDA (as at the end of the immediately preceding Relevant Period before the relevant event) such cost savings and cost synergies shall only be taken into account to the extent such cost savings and cost synergies are reported on, or commented on, by an independent third party report provider being a reputable accounting firm; and
- (ii) the aggregate amount of all cost savings and cost synergies in any Relevant Period may not exceed 20 per cent of EBITDA;

**"Quarter Date"** means each of 31 December, 31 March, 30 June and 30 September;

**"Relevant Period"** means each period of twelve months ending on each Quarter Date;

**"Rent"** means the aggregate of all amounts payable to or for the benefit or account of any landlord or superior landlord or any other third party by the Parent or any member of the Group in connection with any letting or licensing of any property or any part of it, including (without limitation):

- (a) rent and/or licence fees (or any amount equivalent to it) payable whether variable or not and however or whenever described, reserved or made payable;
- (b) sums paid or payable as tenant from any deposit security in respect of any performance obligations;
- (c) any other moneys payable in respect of occupation and/or usage of any property and every fixture and fitting in it; and
- (d) any sum payable by any guarantor of any tenant or licensee under any lease;

**"Retained Cash"** means Excess Cashflow calculated on a cumulative basis from the Closing Date to the extent such amount has not previously been applied, spent or allocated for a purpose expressly contemplated by this agreement;

**"Subordinated Debt"** means Financial Indebtedness incurred by the Parent or members of the Group which is subordinated pursuant to the Intercreditor Agreement (or otherwise on terms satisfactory to the Majority Lenders);

**"Total Net Debt"** means, at any time, the aggregate amount of Borrowings at that time but:

- (a) excluding any Borrowings owed to any other member of the Group;
- (b) excluding Subordinated Debt and to the extent they constitute Borrowings, any New Shareholder Injections;
- (c) including, in the case of Finance Leases only, their capitalised value; and
- (d) deducting the aggregate amount of Cash and Cash Equivalent Investments held by any member of the Group at that time,

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

**"Working Capital"** means, on any date, Current Assets less Current Liabilities.

## 26.2 Financial condition

The Parent shall ensure that:

### (a) Adjusted Leverage

Adjusted Leverage in respect of any Relevant Period specified in column 1 below (provided such Relevant Period expires on or after the end of the second complete Financial Quarter after the Closing Date) shall not exceed the ratio set out in column 2 below opposite that Relevant Period:

<b>Column 1</b>	<b>Column 2</b>
<b>Relevant Period</b>	<b>Ratio</b>
Relevant Period expiring 31 March 2023 (if applicable)	8.25:1
Relevant Period expiring 30 June 2023 (if applicable)	8.25:1
Relevant Period expiring 30 September 2023	8.25:1
Relevant Period expiring 31 December 2023	8.25:1
Relevant Period expiring 31 March 2024	8.25:1
Relevant Period expiring 30 June 2024	8.25:1
Relevant Period expiring 30 September 2024	8.25:1
Relevant Period expiring 31 December 2024	8.25:1
Relevant Period expiring 31 March 2025	8.25:1
Relevant Period expiring 30 June 2025	8.25:1
Relevant Period expiring 30 September 2025	8.25:1
Relevant Period expiring 31 December 2025	8.25:1
Relevant Period expiring 31 March 2026	7.75:1
Relevant Period expiring 30 June 2026	7.75:1
Relevant Period expiring 30 September 2026	7.75:1
Relevant Period expiring 31 December 2026	7.75:1
Relevant Period expiring 31 March 2027	7.25:1
Relevant Period expiring 30 June 2027	7.25:1
Relevant Period expiring 30 September 2027	7.25:1
Relevant Period expiring 31 December 2027	7.25:1
Relevant Period expiring 31 March 2028	6.75:1



Relevant Period expiring 30 June 2028 and each Relevant Period thereafter	6.75:1
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(b) **Super Senior Adjusted Leverage**

Adjusted Leverage in respect of any Relevant Period specified in column 1 below (provided such Relevant Period expires on or after the end of the second complete Financial Quarter after the Closing Date) shall not exceed the ratio set out in column 2 below opposite that Relevant Period:

<b>Column 1</b>	<b>Column 2</b>
<b>Relevant Period</b>	<b>Ratio</b>
Relevant Period expiring 31 March 2023 (if applicable)	9.16:1
Relevant Period expiring 30 June 2023 (if applicable)	9.16:1
Relevant Period expiring 30 September 2023	9.16:1
Relevant Period expiring 31 December 2023	9.16:1
Relevant Period expiring 31 March 2024	9.16:1
Relevant Period expiring 30 June 2024	9.16:1
Relevant Period expiring 30 September 2024	9.16:1
Relevant Period expiring 31 December 2024	9.16:1
Relevant Period expiring 31 March 2025	9.16:1
Relevant Period expiring 30 June 2025	9.16:1
Relevant Period expiring 30 September 2025	9.16:1
Relevant Period expiring 31 December 2025	9.16:1
Relevant Period expiring 31 March 2026	8.61:1
Relevant Period expiring 30 June 2026	8.61:1
Relevant Period expiring 30 September 2026	8.61:1
Relevant Period expiring 31 December 2026	8.61:1
Relevant Period expiring 31 March 2027	8:06:1
Relevant Period expiring 30 June 2027	8.06:1
Relevant Period expiring 30 September 2027	8.06:1
Relevant Period expiring 31 December 2027	8.06:1
Relevant Period expiring 31 March 2028	7.50:1

Relevant Period expiring 30 June 2028 and each Relevant Period thereafter	7.50:1
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### 26.3 Financial testing

- (a) Subject to paragraph (b) below, the financial covenants set out in clause 26.2 (Financial condition) shall be calculated in accordance with the Accounting Principles used in the Base Case Model (with such amendments as are agreed with the Majority Lenders and the Majority Super Senior Facility Lenders) and tested by reference to each of the financial statements delivered pursuant to paragraphs (a)(i) and (b) of clause 25.1 (Financial statements) and/or each Compliance Certificate delivered pursuant to clause 25.2 (Provision and contents of Compliance Certificate).
- (b) So long as any cost savings or cost synergies included as Permitted Synergies are projected as being realisable at any time during the Relevant Period, it may be assumed that such cost savings or cost synergies will be realisable during the entire such period, provided that any such pro forma increase to EBITDA shall be without duplication for cost savings or cost synergies actually realised during such period and already included in EBITDA.
- (c) Any component of EBITDA denominated in a currency other than the Base Currency shall be converted into the Base Currency for the purpose of calculating EBITDA on the basis of the exchange rate used in the relevant financial statements (consistently applied) and any Borrowings denominated in a currency other than the Base Currency shall be converted into the Base Currency for the purpose of calculating Total Net Debt on the basis of:
  - (i) where a member of the Group has entered into a foreign exchange rate hedging arrangement in respect of any Financial Indebtedness, the relevant fixed exchange rate under such hedging arrangement to the extent of the amount of Financial Indebtedness which is so hedged; or
  - (ii) in respect of other Financial Indebtedness, the weighted average exchange rates used in determining EBITDA for the Relevant Period in the relevant financial statements (consistently applied).
- (d) For the purpose of the financial covenants set out in paragraphs (a) and (b) of clause 26.2 (Financial condition) (and any other calculation of Adjusted Leverage under this agreement) for each of the Relevant Periods ending on a date which is less than 12 months after the Closing Date, EBITDA shall be calculated by reference to the period of 12 months ending on the last day of such Relevant Period (and, where such 12 month period includes a period before the Closing Date, EBITDA shall be determined by reference to the Target Group before such date).

### 26.4 Equity Cure

- (a) Subject to paragraphs (b) to (e) below, if an Event of Default or Material Event of Default occurs or the Parent is concerned that it would otherwise occur under clause 28.2 (Financial covenants and other obligations) in respect of a breach of paragraphs (a) and/or (b) of clause 26.2 (Financial condition) (each a "**Curable Default**"), no Event of Default or Material Event of Default will occur if:
  - (i) by no later than the date falling ten Business Days after the earlier of the date of the Compliance Certificate evidencing the Curable Default and the date upon which such Compliance Certificate should have been delivered under clause 25 (Information undertakings), the Parent has notified the Facility Agent that it intends to effect a cure pursuant to this clause; and

- (ii) by no later than the date falling 25 Business Days after the earlier of the date of the Compliance Certificate evidencing the Curable Default and the date upon which such Compliance Certificate should have been delivered under clause 25 (Information undertakings), the Company has received the proceeds of a New Shareholder Injection to be applied under this clause 26.4 which are of a sufficient amount to remedy the Curable Default (the amount of such received funds being the "**Equity Cure Amount**") in accordance with paragraph (b) below.
- (b) Once the Equity Cure Amount has been received by the Company the financial covenants set out in paragraphs (a) and (b) of clause 26.2 (Financial condition) shall be retested, at the Parent's election by either:
  - (i) deeming Borrowings under the Facilities to be decreased by such Equity Cure Amount (pro rata across the Facilities) as of the first day of the Relevant Period in which the Curable Default occurred, or the Parent anticipated it would have occurred if this clause was not invoked, and, if and only to the extent that the Equity Cure Amount remains on the Group's balance sheet as Cash or is invested as a Cash Equivalent Investment, the next three Relevant Periods; or
  - (ii) subject to paragraph (e)(viii) below, once during the life of the Facilities only, deeming EBITDA to be increased by an amount equal to (but, for the avoidance of doubt, no greater than) the amount required to cure the Curable Default (such amount being, the "**Minimum Equity Cure Amount**") as of the first day of the Relevant Period in which the Curable Default occurred, or the Parent anticipated it would have occurred if this clause was not invoked, and the next three Relevant Periods.
- (c) If, after Borrowings are deemed decreased, or (as applicable) EBITDA is increased under paragraph (b) above, the financial covenants are complied with, the Parent shall be deemed to have satisfied the requirements of the financial covenants as of the relevant testing dates with the same effect as if there had been no breach of those financial covenants and, if applicable, that Curable Default shall be deemed remedied for all purposes under the Finance Documents.
- (d) The Group may only exercise its rights under paragraph (a) above:
  - (i) four times before the Termination Date of the Super Senior Term Facility; and
  - (ii) (without prejudice to the deemed application of an Equity Cure Amount in respect of three further Relevant Periods referred to in paragraph (b) above in respect of any Curable Default pursuant to paragraphs (a) and/or (b) of clause 26.2 (Financial condition)) not in respect of two consecutive Relevant Periods.
- (e) For the avoidance of doubt:
  - (i) if within 25 Business Days of the earlier of the date of the Compliance Certificate evidencing the Curable Default or the date upon which such Compliance Certificate should have been delivered under clause 25 (Information undertakings), the Company has not received sufficient of the funds referred to in paragraph (a) above to remedy the relevant Curable Default in accordance with this clause 26.4, the Finance Parties will be permitted to take any action available to them specified in clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration), as applicable, immediately upon the expiry of that period;

- (ii) this clause 26.4 shall not restrict the ability of any Finance Party to take action under clause 28.18 (Acceleration) in respect of any other Event of Default, or under clause 28.19 (Super Senior Acceleration) in respect of any other Material Event of Default, in each case which is not a Curable Default being remedied in accordance with paragraph (a) above;
- (iii) any Equity Cure Amount shall be applied as contemplated by paragraph (b) above even if the Parent may have complied with one or more of the financial covenants in clause 26.2 (Financial condition) in the absence of such application, provided that:
  - (A) such Equity Cure Amount applied in respect of any Curable Default pursuant to paragraph (a) of clause 26.2 (Financial condition) shall be applied in the same way in respect of paragraph (b) of clause 26.2 (Financial condition);
  - (B) its application in respect of paragraphs (a) and (b) of clause 26.2 (Financial condition) shall count only as one exercise of its rights under paragraph (a) above; and
  - (C) where the Parent has elected to apply the Minimum Equity Cure Amount as contemplated by paragraph (b)(ii) above, its application in respect of paragraphs (a) and (b) of clause 26.2 (Financial condition) shall count only as one exercise of its rights under paragraph (b)(ii) above;
- (iv) save as contemplated in paragraph (vi) below, no part of the Equity Cure Amount shall be required to be applied in prepayment of the Facilities;
- (v) where the Parent has elected to apply the Equity Cure Amount as contemplated by paragraph (b)(i) above, there shall be no limit on the amount of the Equity Cure Amount;
- (vi) where the Parent has elected to apply the Minimum Equity Cure Amount as contemplated by paragraph (b)(ii) above but the relevant Equity Cure Amount is greater than the Minimum Equity Cure Amount, EBITDA shall only be increased by an amount equal to the Minimum Equity Cure Amount, and the difference between the Equity Cure Amount and the Minimum Equity Cure Amount shall be deemed to reduce Borrowings in accordance with paragraph (b)(i) above;
- (vii) any recalculation of the financial covenants in paragraphs (a) or (b) of clause 26.2 (Financial condition) made under this clause 26.4 will be solely for the purpose of curing a relevant breach of that paragraph and not for any other purpose, including (without limitation) the calculation of Margin, in the definitions of Permitted Payment or Permitted Acquisition, the calculation of the Listing Proceeds to be applied in mandatory prepayment of the Facility in clause 11 (Mandatory prepayment and cancellation), any Utilisation of the Incremental Term Facility;
- (viii) there shall be no double counting under this clause 26.4 in respect of any Equity Cure Amount received by the Group (including, without limitation, in respect of any voluntary prepayment of some or all of the Equity Cure Amount or any Equity Cure Amount that remains on balance sheet as Cash or which has been invested as a Cash Equivalent Investment); and
- (ix) no Default or Material Event of Default shall arise in relation to the financial covenants in paragraphs (a) and (b) of clause 26.2 (Financial condition)

between the date of delivery of the relevant Compliance Certificate and the end of the period referred to in paragraph (a) above.

## 26.5 **Deemed Remedy**

- (a) If the Parent is in breach of any of its obligations under clause 26.2 (Financial condition) in respect of a Relevant Period (the "**First Period**") but the Parent is in compliance with all its obligations under clause 26.2 (Financial condition) in respect of the next Relevant Period (the "**Second Period**") (ignoring for this purpose any applications of clause 26.4 (Equity Cure) to that Second Period) and the Facility Agent (acting on behalf of the Lenders or the Super Senior Facility Lenders, as applicable) has not exercised any of the rights set out in clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration), then the breach of such obligations in respect of the First Period shall be deemed remedied for the purposes of clause 26.2 (Financial condition).
- (b) For the avoidance of doubt, subject to clause 26.4 (Equity Cure), any breach referred to in paragraph (a) above shall be a breach of clause 26.2 (Financial condition) until the date the Compliance Certificate in respect of the Second Period is delivered to the Facility Agent and nothing in this clause shall prohibit any exercise by the Facility Agent (acting on behalf of the Lenders) of the rights set out in clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration), in respect of such breach prior to that date.
- (c) An exercise by the Parent of its rights under this clause 26.5 shall, for the avoidance of doubt not count as an exercise of its rights under paragraph (a) of clause 26.4 (Equity Cure).

## 27. **GENERAL UNDERTAKINGS**

The undertakings in this clause 27 remain in force from the date of this agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

### ***Authorisations and compliance with laws***

#### 27.1 **Authorisations**

Each Obligor shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) after the Facility Agent's request, supply certified copies to the Facility Agent of, any Authorisation required under any law or regulation of a Relevant Jurisdiction to:
  - (i) enable it to perform its obligations under the Finance Documents, the Scheme Documents or the Takeover Offer Documents;
  - (ii) ensure (subject to the Legal Reservations and the Perfection Requirements) the legality, validity, enforceability or admissibility in evidence of any Finance Document; and
  - (iii) enable it to carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

#### 27.2 **Compliance with laws**

Each Obligor shall (and the Parent shall ensure that each member of the Group will) comply in all respects with all laws to which it is subject, if failure so to comply has or is reasonably likely to have a Material Adverse Effect.

### 27.3 **Environmental compliance**

Each Obligor shall (and the Parent shall ensure that each member of the Group will):

- (a) comply with all Environmental Law;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Permits, where failure to do so has or is reasonably likely to have a Material Adverse Effect.

### 27.4 **Environmental Claims**

Each Obligor shall (through the Parent), promptly upon becoming aware of the same, inform the Facility Agent in writing of any Environmental Claim against any member of the Group which is current, pending or threatened where the claim has or is reasonably likely to have a Material Adverse Effect.

### 27.5 **Anti-corruption law**

- (a) No Obligor shall (and the Parent shall ensure that no other member of the Group will) directly or indirectly use the proceeds of the Facilities for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) Each Obligor shall (and the Parent shall ensure that each other member of the Group will):
  - (i) conduct its businesses in compliance with applicable anti-corruption laws; and
  - (ii) maintain policies and procedures designed to promote and achieve compliance with such laws.

### 27.6 **Taxation**

- (a) Each Obligor shall (and the Parent shall ensure that each member of the Group will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:
  - (i) such payment is being contested in good faith;
  - (ii) either adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Facility Agent under clause 25.1 (Financial statements) or will be, and are, disclosed in the financial statements to be delivered under clause 25.1 (Financial statements) immediately following the non-payment of such Taxes; and
  - (iii) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.
- (b) No member of the Group may change its jurisdiction of residence for Tax purposes.

### ***Restrictions on business focus***

### 27.7 **Merger**

No Obligor shall (and the Parent shall ensure that no other member of the Group will) enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction other than a Permitted Disposal, Permitted Acquisition or Permitted Transaction.

#### 27.8 **Change of business**

The Parent shall procure that no substantial change is made to the general nature of the business of the Parent, the Obligors or the Group taken as a whole from that carried on by the Target Group at the Closing Date.

#### 27.9 **Acquisitions**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will):
  - (i) acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or
  - (ii) incorporate a company.
- (b) Paragraph (a) above does not apply to an acquisition of a company, of shares, securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company which is:
  - (i) a Permitted Acquisition;
  - (ii) a Permitted Joint Venture; or
  - (iii) a Permitted Transaction.

#### 27.10 **Joint ventures**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will):
  - (i) enter into, invest in or acquire any shares, stocks, securities or other interest in any Joint Venture; or
  - (ii) transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture.
- (b) Paragraph (a) above does not apply to any acquisition of any interest in a Joint Venture or transfer of assets to a Joint Venture or loan made to or guarantee, indemnity or Security given in respect of the obligations of a Joint Venture if such transaction is a Permitted Acquisition, a Permitted Disposal, a Permitted Guarantee, a Permitted Loan, Permitted Security or a Permitted Joint Venture.

#### 27.11 **Holding Companies**

Neither the Parent nor the Company shall trade, carry on any business (other than as a holding company), own any assets or incur any liabilities except for:

- (a) the provision of management and administrative services to other members of the Group of a type customarily provided by a holding company to its Subsidiaries;
- (b) ownership of shares in its Subsidiaries, intra-Group debit balances, intra-Group credit balances and other credit balances in bank accounts, cash and Cash Equivalent

Investments but only if those shares, credit balances, cash and Cash Equivalent Investments are subject to the Transaction Security;

- (c) any rights or liabilities under the Transaction Documents to which it is a party and professional fees and administration costs and any Tax incurred in the ordinary course of business as a holding company;
- (d) any rights or liabilities under any hedging transaction permitted under clause 27.33 (Treasury Transactions);
- (e) any rights or liabilities under any service contract or consultancy agreement for any other director, executive or consultant or employee;
- (f) any Permitted Guarantee;
- (g) any rights or liabilities in relation to Subordinated Debt or New Shareholder Injections;
- (h) any rights or liabilities in connection with incurring, issuing or receiving indebtedness under, or in connection with, the Preferred Debt Documents;
- (i) any rights or liabilities in relation to any employee incentive scheme operated by any member of the Group;
- (j) any arrangement in respect of a Permitted Payment, Permitted Surrender or a Permitted Transaction;
- (k) any rights or liabilities in relation to any litigation or court or other similar proceedings that are being contested in good faith;
- (l) the payment of any Acquisition Costs;
- (m) any rights or liabilities in relation to a Management Equity Transaction;
- (n) any rights or liabilities expressly contemplated as being acquired or incurred by the Parent or the Company in the Structure Memorandum; and
- (o) any other assets or liabilities owned or incurred in the ordinary course of business as a holding company (including liabilities in respect of Taxes, customary insurance policies and liabilities arising by operation of law).

### ***Restrictions on dealing with assets and Security***

#### **27.12 Preservation of assets**

Each Obligor shall (and the Parent shall ensure that each other member of the Group will) maintain in good working order and condition (ordinary wear and tear excepted) all of its assets necessary or desirable in the conduct of its business where the failure to maintain such assets to such standard has or is reasonably likely to have a Material Adverse Effect.

#### **27.13 Pari passu ranking**

Each Obligor shall ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it under the Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

#### **27.14 Negative pledge**



In this clause 27.14, "**Quasi-Security**" means an arrangement or transaction described in paragraph (b) below.

Except as permitted under paragraph (c) below:

- (a) No Obligor shall (and the Parent shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets.
- (b) No Obligor shall (and the Parent shall ensure that no other member of the Group will):
  - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
  - (iv) enter into any other preferential arrangement having a similar effect,  
  
in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.
- (c) Paragraphs (a) and (b) above do not apply to any Security or (as the case may be) Quasi-Security, which is:
  - (i) Permitted Security; or
  - (ii) a Permitted Transaction.

**27.15 Disposals**

- (a) Except as permitted under paragraphs (b) or (c) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal which is:
  - (i) a Permitted Disposal; or
  - (ii) a Permitted Transaction.
- (c) Paragraph (a) above does not apply to any agreement for a sale, lease, transfer or other disposal which will when completed be a Permitted Disposal or a Permitted Transaction.

**27.16 Arm's length basis**

- (a) Except as permitted by paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will) enter into any transaction with any person except on arm's length terms or better than arm's length terms from the perspective of the relevant Obligor or other Group member.
- (b) The following transactions shall not be a breach of this clause 27.16:

- (i) intra-Group transactions permitted under this agreement;
- (ii) fees, costs and expenses payable under the Transaction Documents in the amounts set out in the Transaction Documents delivered to the Facility Agent under clause 4.1 (Initial conditions precedent) (or as amended in accordance with this agreement) or agreed by the Facility Agent;
- (iii) any Permitted Transaction, Permitted Payment, Permitted Surrender or New Shareholder Injection;
- (iv) any transaction expressly contemplated by the Transaction Documents delivered to the Facility Agent under clause 4.1 (Initial conditions precedent) (or as amended in accordance with this agreement);
- (v) any bona fide charitable or pro bono activities where the beneficiary of such activities is not a member of the Group, an Affiliate of a member of the Group, a director of a member of the Group, any member of Senior Management or a Sponsor Affiliate; and
- (vi) transactions with employees, directors or consultants of members of the Group in relation to staff discounts, loans, bonuses, incentive schemes, accommodation or the payment of reasonable costs and expenses.

***Restrictions on movement of cash – cash out***

**27.17 Loans or credit**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will) be a creditor in respect of any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
  - (i) a Permitted Loan; or
  - (ii) a Permitted Transaction.

**27.18 No guarantees or indemnities**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will) incur or allow to remain outstanding any guarantee in respect of any obligation of any person.
- (b) Paragraph (a) does not apply to a guarantee which is:
  - (i) a Permitted Guarantee; or
  - (ii) a Permitted Transaction.

**27.19 Dividends and share redemption**

- (a) Except as permitted under paragraph (b) below, the Parent shall not (and will ensure that no other member of the Group will):
  - (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);

- (ii) repay or distribute any dividend or share premium reserve;
  - (iii) pay or allow any member of the Group to pay any management, advisory or other fee to or to the order of any of the shareholders of the Parent in their capacity as such; or
  - (iv) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.
- (b) Paragraph (a) above does not apply to:
- (i) a Permitted Distribution;
  - (ii) a Permitted Transaction (other than one referred to in paragraph (c) of the definition of that term); or
  - (iii) a Permitted Payment.

#### 27.20 **Subordinated Debt**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will):
- (i) repay or prepay any principal amount (or capitalised interest) outstanding under the Subordinated Debt;
  - (ii) pay any interest or any other amounts payable in connection with the Subordinated Debt; or
  - (iii) purchase, redeem, defease or discharge any amount outstanding with respect to the Subordinated Debt.
- (b) Paragraph (a) does not apply to a payment, repayment, prepayment, purchase, redemption, defeasance or discharge which is:
- (i) a Permitted Payment; or
  - (ii) a repayment, prepayment or payment in order to enable the recipient of such payment to make a Permitted Payment; or
  - (iii) otherwise permitted under the Intercreditor Agreement; or
  - (iv) a defeasement or discharge which does not involve the payment of money.

#### ***Restrictions on movement of cash – cash in***

#### 27.21 **Financial Indebtedness**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to Financial Indebtedness which is:
- (i) Permitted Financial Indebtedness; or
  - (ii) a Permitted Transaction.

#### 27.22 **Share capital**

No Obligor shall (and the Parent shall ensure that no other member of the Group will) issue any shares except pursuant to:

- (a) a Permitted Share Issue; or
- (b) a Permitted Transaction.

***Acquisition undertakings***

**27.23 Scheme undertakings**

The undertakings in this clause 27.23 shall apply only where the Acquisition is being effected by way of a Scheme.

**(a) Issue of Scheme Press Announcement**

The Company will procure the issue of the initial Scheme Press Announcement within five Business Days of the date of this agreement.

**(b) Scheme Press Announcement**

The Company will use reasonable endeavours to procure that the form and terms of the Scheme Press Announcement is not materially inconsistent with the terms and conditions of the Scheme as contained in the form and terms of the draft Scheme Press Announcement delivered as a condition precedent under part 1A of schedule 2 (Conditions Precedent) unless any changes, waiver, amendments or other variations or modifications:

- (i) are permitted pursuant to paragraph (e)(iii) of this clause 27.23 below;
- (ii) do not materially and adversely affect the interests of the Lenders; or
- (iii) are required by the Takeover Code, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority.

**(c) Scheme Circular**

The Company will use reasonable endeavours to procure that the form and terms of the Scheme Circular do not vary in any respect which is material to the interests of the Lenders from the form and terms of the draft Scheme Press Announcement delivered as a condition precedent under part 1A of schedule 2 (Conditions Precedent) unless:

- (i) the Facility Agent has consented in writing to such change in advance (such consent not to be unreasonably withheld or delayed), it being acknowledged that such consent shall not be withheld or delayed in respect solely of an increase in the aggregate amount of cash payable for the Target Shares from that stated in the draft Scheme Press Announcement delivered as a condition precedent under part 1A of schedule 2 (Conditions Precedent) where it is demonstrated that such increase will be funded entirely (directly or indirectly) by New Shareholder Injections; or
- (ii) the variation is required by the Takeover Code, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority.

**(d) Progress of the Scheme**

The Company shall keep the Facility Agent informed as to any material developments in relation to the progress of the Scheme (including any information which is material to any decision about whether to waive any conditions that the Company reasonably believes it is able to invoke under Rule 13.5(a) of the Code so as to lapse the Scheme) and will notify the Facility Agent promptly following it becoming aware that the Court Order has been issued.

(e) **Terms of the Scheme**

The Company shall:

- (i) not take any action (and procure, so far as they are legally able to do so, that no person acting in concert with it takes any action) which would compel it (or any person acting in concert with it) to make a mandatory offer to shareholders in the Target under Rule 9 of the Takeover Code;
- (ii) not increase, and ensure there is no increase in, the aggregate amount of cash payable for the Target Shares pursuant to the Scheme, except to the extent that such increase is funded entirely (directly or indirectly) by New Shareholder Injections to the Parent by the Investors;
- (iii) not waive or amend (and use reasonable endeavours to ensure there is no waiver or amendment to) or declare or treat as satisfied any condition of the Scheme where such waiver or consent would be materially prejudicial to the interests of the Finance Parties, except:
  - (A) where the Facility Agent has given its consent (such consent not to be unreasonably withheld or delayed);
  - (B) that relates to a condition which the Company reasonably considers that it would not be entitled, in accordance with Rule 13.5(a) of the Takeover Code, to invoke so as to cause the Scheme not to proceed; or
  - (C) to the extent required by the Takeover Code, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority or the Court; and
- (iv) comply in all material respects with its obligations under the Companies Act and the Takeover Code as each applies to the Scheme, subject to any applicable waivers by the Takeover Panel or the requirements of the Court, save where non-compliance would not be materially prejudicial to the interests of the Lenders (taken as a whole) under this agreement.

27.24 **Offer undertakings**

The undertakings in this clause 27.24 shall apply only where the Acquisition is being effected by way of an Offer.

(a) **Issue of Offer Document**

The Company shall despatch the Offer Document as soon as practicable and in any event within 28 days (or such longer period permitted by the Takeover Panel) of the date of issuing the Offer Press Announcement.

(b) **Offer Document**

The Company will use reasonable endeavours to procure that the form and terms of the Offer Document do not vary in any respect which is material to the interests of the Lenders from the form and terms of the draft Scheme Press Announcement delivered as a condition precedent under part 1A of schedule 2 (Conditions Precedent) except for the acceptance condition (which shall be in the usual form for an Offer and which shall facilitate the completion of the Squeeze Out Procedures), unless:

- (i) any changes, waiver, amendments or other variations or modifications reflect any change in the structure or form of the Acquisition as contemplated by clause 3.3 (Conversion between a Scheme and Offer);
- (ii) any changes, waiver, amendments or other variations or modifications are permitted pursuant to paragraph (d)(i)(D) of this clause 27.24;
- (iii) the Facility Agent has consented in writing to such change in advance (such consent not to be unreasonably withheld or delayed), it being acknowledged that such consent shall not be withheld or delayed in respect solely of an increase in the aggregate amount of cash payable for the Target Shares from that stated in the draft Scheme Press Announcement delivered as a condition precedent under part 1A of schedule 2 (Conditions Precedent) where it is demonstrated that such increase will be funded entirely (directly or indirectly) by New Shareholder Injections; or
- (iv) the variation is required by the Takeover Code, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority.

(c) **Progress of Offer**

The Company shall keep the Facility Agent informed as to any material developments in relation to the progress of the Offer (including any information which is material to any decision about whether to waive any conditions that the Company reasonably believes it is able to invoke under Rule 13.5(a) of the Code so as to lapse the Offer) and any market purchases of Target Shares made and provide the Facility Agent with such information received in respect of the Offer as the Facility Agent may reasonably request.

(d) **Terms of the Offer**

- (i) Without the prior written consent of the Facility Agent, the Company shall not:
  - (A) take any action (and procure, so far as they are legally able to do so, that no person acting in concert with it takes any action) which would compel it (or any person acting in concert with it) to make a mandatory offer to shareholders in the Target under Rule 9 of the Takeover Code;
  - (B) declare the Offer unconditional unless (i) it has achieved an acceptance level of at least 90 per cent of each class of Target Shares to which the Offer relates and (ii) the Company has become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice;
  - (C) without prejudice to paragraph (b) above, not increase, and ensure there is no increase in, the aggregate amount of cash payable for the Target Shares pursuant to the Offer, except to the extent that such increase is funded entirely (directly or indirectly) by New Shareholder Injections to the Parent by the Investors; or
  - (D) waive or amend (and use reasonable endeavours to ensure there is no waiver or amendment to) or declare or treat as satisfied any condition

of the Offer where such waiver or consent would be materially prejudicial to the interests of the Finance Parties, except:

- (aa) where the Facility Agent has given its consent (such consent not to be unreasonably withheld or delayed);
- (bb) that relates to a condition which the Company reasonably considers that it would not be entitled, in accordance with Rule 13.5(a) of the Takeover Code, to invoke so as to cause the Offer not to proceed; or
- (cc) to the extent required by the Takeover Code, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority or the Court.

- (ii) The Company shall comply in all material respects with its obligations under the Companies Act and the Takeover Code as each applies to the Offer, subject to any applicable waivers by the Takeover Panel and save where non-compliance would not be materially prejudicial to the interests of the Lenders (taken as a whole) under this agreement.

(e) **Completion of purchase of remaining shares in the Target**

Within five Business Days of the date on which the Company has (i) by virtue of the Offer acquired, or unconditionally contracted to acquire, not less than 90 per cent in value of the Target Shares and (in a case where the shares of any class of the Target Shares are voting shares) not less than 90 per cent of the voting rights carried by those shares and (ii) become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice, the Company shall:

- (i) give notice to all the remaining Target Shareholders that it intends to acquire their shares pursuant to the Squeeze Out Procedures;
- (ii) subsequently purchase such shares as soon as legally possible; and
- (iii) comply with the provisions of the Squeeze Out Procedures.

**27.25 General Acquisition Undertakings**

(a) **Announcements**

The Obligors agree that:

- (i) they will deliver to the Facility Agent copies of all publicity material, press releases and announcements intended to be published in relation to the Acquisition or the Facilities as soon as practicable prior to their publication; and
- (ii) where any publicity material, press releases and announcements intended to be published in relation to the Acquisition or the Facilities refers to any Finance Party, it must be approved in writing by such party prior to its publication. No such approval shall be necessary where such announcement is required in order to comply with any relevant Authorisation, law or regulation or the requirements, rules and regulations of any court, applicable regulatory authority or body relating to the Acquisition, or (for the avoidance of doubt), the Scheme, the Scheme Documents, the Offer or the Takeover Offer Documents.

(b) **Regulatory clearances and authorisations**

Except to the extent necessary to comply with any obligations of confidentiality to any regulatory authority, the Obligors shall keep the Facility Agent reasonably informed as to:

- (i) the terms and conditions of any assurance or undertaking proposed to be given by or on behalf of any member of the Group (or, so far as the Company is aware, any member of the Target Group) to any person for the purpose of obtaining any authorisation or clearance necessary in connection with the Acquisition; and
- (ii) any terms or conditions proposed in connection with any Authorisation necessary in connection with the Acquisition.

(c) **Take Private Procedure**

The Obligors shall submit all required documents to the Registrar of Companies to procure the re-registration of the Target as a private company pursuant to part 7 of the Companies Act by no later than the date falling:

- (i) where the Acquisition has been effected by way of a Scheme, 30 days after the Closing Date; and
- (ii) where the Acquisition has been effected by way of an Offer, 55 days after the Closing Date.

(d) **Security over Target Shares**

The Obligors shall procure that as soon as reasonably practicable and in any event within 30 days of the re-registration of the Target as a private company in accordance with paragraph (c) above, share certificates and stock transfer forms executed in blank in respect of the shares of Target acquired by the Company, are delivered to the Security Agent.

**Miscellaneous**

27.26 **Insurance**

- (a) Each Obligor shall (and the Parent shall ensure that each other member of the Group (other than any non-trading member of the Group) will) maintain insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.
- (b) All insurances must be with reputable independent insurance companies or underwriters.

27.27 **Pensions**

The Parent shall ensure that no member of the Group is:

- (a) an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993); or
- (b) "connected" with or an "associate" of (as those terms are used in sections 38 or 43 of the Pensions Act 2004) such an employer unless there is no reasonable prospect of a Contribution Notice or Financial Support Direction being served on it or any of



its Subsidiaries on account of it or any of its Subsidiaries being such an associate or so connected.

**27.28 People with Significant Control regime**

Each Obligor shall (and the Parent shall ensure that each other member of the Group will):

- (a) within the relevant timeframe, comply with any notice it receives pursuant to part 21A of the Companies Act 2006 from any company incorporated in the United Kingdom whose shares are the subject of the Transaction Security; and
- (b) promptly provide the Security Agent with a copy of that notice.

**27.29 Access**

- (a) If an Event of Default or a Material Event of Default is continuing, each Obligor shall, and the Parent shall ensure that each member of the Group will, permit the Facility Agent and/or the Security Agent and/or accountants or other professional advisers and contractors of the Facility Agent or Security Agent free access at all reasonable times and on reasonable notice at the risk and cost of the Obligor or Company to (a) the premises, assets, books, accounts and records of each member of the Group and (b) meet and discuss matters with Senior Management or their successors.
- (b) The Obligors and the Parent will only be required to comply with the requirements of paragraph (a) above if, where reasonable and practicable:
  - (i) the Facility Agent or the Security Agent (as the case may be) has first communicated its concerns and its request for information or explanation to the Parent;
  - (ii) the Parent and the Facility Agent or the Security Agent (as the case may be) have discussed in good faith the issues arising and the Parent has supplied such further information and explanation as it is reasonably able to; and
  - (iii) having taken the steps in paragraphs (i) and (ii) above, the Facility Agent or the Security Agent (as the case may be) acting reasonably is not satisfied with the information and/or explanations provided.
- (c) If the Facility Agent or the Security Agent exercise its rights under paragraph (a) above, it will use reasonable endeavours to minimise the scope and nature of the enquiry undertaken and the costs to the Group of that enquiry.

**27.30 Intellectual Property**

- (a) Each Obligor shall (and the Parent shall procure that each other member of the Group will):
  - (i) preserve and maintain the subsistence and validity of the Intellectual Property necessary for the business of the relevant Group member;
  - (ii) use reasonable endeavours to prevent any infringement in any material respect of the Intellectual Property;
  - (iii) make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property in full force and effect and record its interest in that Intellectual Property;
  - (iv) not use or permit the Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Intellectual Property which

may materially and adversely affect the existence or value of the Intellectual Property or imperil the right of any member of the Group to use such property; and

(v) not discontinue the use of the Intellectual Property,

where failure to do so, in the case of paragraphs (i) to (iii) above, or, in the case of paragraphs (iv) and (v) above, such use, permission to use, omission or discontinuation, is reasonably likely to have a Material Adverse Effect.

(b) Failure to comply with any part of paragraph (a) above shall not be a breach of this clause 27.30 to the extent that any dealing with Intellectual Property which would otherwise be a breach of paragraph (a) above is contemplated by the definition of Permitted Transaction.

#### 27.31 **Amendments**

(a) No Obligor shall (and the Parent shall ensure that no other member of the Group will) amend, vary, novate, supplement, supersede, waive or terminate any term of a Finance Document except in writing:

(i) in accordance with the provisions of Clause 41 (*Amendments and Waivers*);

(ii) to the extent that that amendment, variation, novation, supplement, superseding, waiver or termination is permitted by the Intercreditor Agreement; or

(iii) in a way which could not be reasonably expected materially and adversely to affect the interests of the Finance Parties.

(b) The Parent shall promptly on request supply to the Facility Agent a copy of any document relating to any of the matters referred to in paragraphs (a)(i) to (a)(iii) above.

#### 27.32 **Financial assistance**

Each Obligor shall (and the Parent shall procure each other member of the Group will) comply in all respects with sections 678 and 679 of the Companies Act 2006 (to the extent applicable to it) and any equivalent legislation in other jurisdictions including in relation to the execution of the Transaction Security Documents and payment of amounts due under this agreement.

#### 27.33 **Treasury Transactions**

No Obligor shall (and the Parent will procure that no other member of the Group will) enter into any Treasury Transaction, other than:

(a) any hedging transaction, entered into for the purpose of hedging interest rate or exchange rate risks in relation to the Facilities;

(b) spot and forward delivery foreign exchange contracts entered into in the ordinary course of business and not for speculative purposes; and

(c) any Treasury Transaction entered into for the hedging of actual or projected real exposures arising in the ordinary course of trading activities of a member of the Group and not for speculative purposes.

#### 27.34 **Guarantors**

- (a) Subject to the Agreed Security Principles, the Parent shall ensure that at all times referred to in paragraph (c) below, the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of the Guarantors (calculated on an unconsolidated basis and excluding goodwill, intragroup items and investments in Subsidiaries of any member of the Group) represents not less than 80 per cent of the EBITDA. Any member of the Group generating negative earnings before interest, tax, depreciation and amortisation shall be treated as having earnings before interest, tax, depreciation and amortisation of zero for the purposes of determining compliance with this paragraph (a),
- (b) The Parent shall not be in breach of paragraph (a) above if, within 30 days (or 60 days in relation to any acceding entity not incorporated in England and Wales) of becoming aware that it would be in breach of paragraph (a) above in the absence of this paragraph (b), it procures that one or more members of the Group accede as Guarantors under clause 31.4 (Additional Guarantors) and after such accession it complies with paragraph (a) above.
- (c) The Guarantor coverage requirement in paragraph (a) above will be tested on the date falling 120 days after the Closing Date, on each date on which a Compliance Certificate is delivered with the Annual Financial Statements under clause 25.2 (Provision and contents of Compliance Certificate) and on the date of any Permitted Bolt-on Acquisition.

**27.35 Further assurance**

- (a) Subject to the Agreed Security Principles, each Obligor shall 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 and which are exercisable in accordance with their terms;
  - (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) (after the Transaction Security has become enforceable) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.
- (b) Subject to the Agreed Security Principles, each Obligor 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, 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) The Parent shall use all reasonable endeavours to procure that, within 60 days after the delivery of a Mandatory Valuation, legal mortgages or standard securities in favour of the Security Agent are perfected by registration at HM Land Registry or

Registers of Scotland (as applicable) over Sites to the extent required to comply with the Minimum Secured Property Condition (as determined in accordance with that Mandatory Valuation), provided that no Event of Default will occur if at the relevant time:

- (i) legal mortgages or standard securities in favour of the Security Agent have been perfected by registration at HM Land Registry or Registers of Scotland (as applicable) over all Sites where no third party consents are required to be obtained to perfect such legal mortgages; and
- (ii) in relation to Sites where third party consents are required to be obtained to perfect legal mortgages in order to comply with the Minimum Secured Property Condition, the Parent has used all reasonable endeavours to obtain such consents.

### 27.36 **Sanctions**

No Obligor shall (and the Parent shall ensure that no member of the Group will):

- (a) contribute or otherwise make available (directly or indirectly) all or any part of the Facilities to, or (to the best of its knowledge and belief) for the benefit of any person or entity (whether or not related to any member of the Group) for the purpose of financing the activities of, or business or transactions with, any Restricted Person (or any person or entity owned or controlled, directly or indirectly, by any Restricted Person), to the extent such action is prohibited by, or would itself cause any Finance Party or a member of the Group to be in breach of, any applicable Sanctions;
- (b) directly or (to the best of its knowledge and belief) indirectly fund all or part of any repayment or prepayment of the Facilities out of proceeds derived from any action or status which is prohibited by, or would itself cause any Finance Party or a member of the Group to be in breach of, any Sanctions;
- (c) permit any Restricted Person to have (to the best of its knowledge and belief) any direct or indirect interest in any Obligor where such interest would itself cause any Finance Party or a member of the Group to be in breach of any Sanctions;
- (d) to fund any activities or business of or with any person or in any Sanctioned Country or any country or territory that, at the time of such funding, is or whose government is, the subject to country-wide Sanctions by a Sanctions Authority and listed on a Sanctions List;
- (e) engage in any conduct which might reasonably be expected to cause it to become a subject of Sanctions;
- (f) engage in any transaction that evades or avoids, directly or indirectly, any Sanctions; or
- (g) make any payment under the Finance Documents with funds or assets obtained directly from transactions with, or that are the property of, or are beneficially owned by, any Restricted Person or any person located in or operating from a Sanctioned Country, or knowingly obtained in any other manner that could reasonably be expected to result in a violation of applicable Sanctions by any person participating in the transactions contemplated in the Finance Documents (including, without limitation, the other parties to this agreement and the other Finance Documents),

provided that no Obligor (or the Parent) will be required to comply with this clause 27.36 to the extent that if to do so would breach English law.

### 27.37 **Conditions subsequent**

- (a) The Parent shall procure that:
  - (i) no later than one Business Day after the Closing Date, any Financial Indebtedness incurred under the Existing Facilities Agreement is prepaid in full and all commitments thereunder cancelled and any guarantee or indemnity given under the Existing Facilities Agreement is released in full; and
  - (ii) no later than three Business Days after the Closing Date, any Security or Quasi-Security given under the Existing Facilities Agreement is released in full.
- (b) The Parent shall procure that the Target accedes as an Additional Guarantor and, subject to the Agreed Security Principles, grants Transaction Security as soon as reasonably practicable following the Closing Date but:
  - (i) where the Acquisition has been effected by way of a Scheme, in any event within 60 days after the Closing Date; and
  - (ii) where the Acquisition has been effected by way of an Offer, in any event within 90 days after the Closing Date.
- (c) Each Obligor must use, and must procure that any other member of the Group that is a potential provider of Transaction Security uses, all reasonable endeavours lawfully available to avoid or mitigate the constraints on the provision of Security provided for in the Agreed Security Principles.
- (d) No later than five Business Days after the Closing Date the Parent shall deliver a certificate (signed by the finance director or chief executive officer) to the Facility Agent confirming the quantum of Cash Overfunding.
- (e) The Parent shall procure that, within 30 days after the date that the Target accedes as an Additional Guarantor, legal mortgages or standard securities in favour of the Security Agent are perfected by registration at HM Land Registry or Registers of Scotland (as applicable) over Sites taken as a whole that have an aggregate value that is at least equal to the Minimum Secured Property Value (the "**Minimum Secured Property Condition**"), as determined in accordance with the Initial Valuation, provided that no Event of Default will occur if at the relevant time:
  - (i) legal mortgages or standard securities in favour of the Security Agent have been perfected by registration at HM Land Registry or Registers of Scotland (as applicable) over all Sites where no third party consents are required to be obtained to perfect such legal mortgages; and
  - (ii) in relation to Sites where third party consents are required to be obtained to perfect legal mortgages in order to comply with the Minimum Secured Property Condition, the Parent has used all reasonable endeavours to obtain such consents.

## 28. EVENTS OF DEFAULT

Each of the events or circumstances set out in this clause 28 is an Event of Default (save for clause 28.18 (Acceleration), clause 28.19 (Super Senior Acceleration) and clause 28.20 (Clean-Up Period)).

### 28.1 Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by:
  - (i) administrative or technical error; or
  - (ii) a Disruption Event,and payment is made within three Business Days of its due date; or
- (b) payment is made within five Business Days of its due date.

#### 28.2 **Financial covenants and other obligations**

- (a) For the benefit of the Super Senior Facility Lenders only, any requirement of paragraph (b) of clause 26.2 (Financial condition) is not satisfied (subject to the expiry of the cure period referred to in clause 26.4 (Equity Cure)).
- (b) Any requirement of clause 26 (Financial covenants) (other than paragraph (b) of clause 26.2 (Financial condition)) is not satisfied (subject to the expiry of the cure period referred to in clause 26.4 (Equity Cure)).
- (c) An Obligor does not comply with the provisions of clause 25 (Information undertakings) (other than clause 25.6 (Group companies), clause 25.9 (Information: miscellaneous), clause 25.10 (Notification of default) or clause 25.11 ("Know your customer" checks)).
- (d) No Event of Default under paragraph (c) above will occur in respect of a failure to comply with paragraph (a) of clause 25.2 (Provision and contents of Compliance Certificate) or clause 25.4 (Budget) if such failure is remedied within five Business Days of the earlier of:
  - (i) the Facility Agent giving notice to the Parent or the relevant Obligor; and
  - (ii) the Parent or an Obligor becoming aware of the failure to comply.

#### 28.3 **Other obligations**

- (a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in clause 28.1 (Non-payment) and clause 28.2 (Financial covenants and other obligations)).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 20 Business Days of the earlier of (i) the Facility Agent giving notice to the Parent or relevant Obligor and (ii) the Parent or an Obligor becoming aware of the failure to comply.

#### 28.4 **Misrepresentation**

- (a) Any representation or statement made or deemed to be made by an Obligor in the Finance Documents is or proves to have been incorrect or misleading in any material respect when made or deemed to be made by reference to the facts and circumstances then existing.
- (b) No Event of Default under paragraph (a) above will occur if the circumstances giving rise to the misrepresentation are capable of remedy and are remedied within 20 Business Days of the earlier of (i) the Facility Agent giving notice to the Parent or relevant Obligor and (ii) the Parent or an Obligor becoming aware of such circumstances.

#### 28.5 **Cross default**

- (a) Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- (d) Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) The Majority Super Senior Facility Lenders deliver a Super Senior Enforcement Notice.
- (f) No Event of Default will occur under this clause 28.5 if:
  - (i) the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above (excluding ground rent leases) is less than £2,500,000 (or its equivalent in any other currency); or
  - (ii) any event falling within paragraphs (a) to (d) above is in respect of Financial Indebtedness:
    - (A) the payment of which is prohibited under the terms of the Intercreditor Agreement;
    - (B) incurred under an Ancillary Facility where, if Financial Indebtedness is outstanding under such Ancillary Facility, a Revolving Facility Loan is available and is borrowed to refinance such Financial Indebtedness in accordance with the terms of this agreement;
    - (C) owed by one member of the Group to another member of the Group;
    - (D) of any member of the Target Group where such event is caused by the execution, delivery or performance of any Transaction Document and which is to be repaid no later than one Business Day after the Closing Date;
    - (E) of any member of the Group which has become a member of the Group after the Closing Date as a result of a Permitted Acquisition and such Financial Indebtedness is Permitted Financial Indebtedness under paragraph (g) of the definition of that term; or
    - (F) under a Finance Lease if the only event falling within paragraphs (a) to (d) above in respect of such Finance Lease has occurred under paragraph (d) and there is no reasonable prospect of the Financial Indebtedness under such Finance Lease being prematurely declared due and payable; or
    - (G) any negotiations with landlords in respect of leases relating to Project Amalfi Leases, Permitted Real Estate Transactions or a Permitted Rent Arrangement.

## 28.6 **Insolvency**

- (a) A Material Company:
  - (i) is unable or admits inability to pay its debts as they fall due;
  - (ii) is declared to, be unable to pay its debts under applicable law other than as a result of a legal proceeding which does not constitute an Event of Default under clause 28.7 (Insolvency proceedings) or as a result of the value of its assets being less than its liabilities;
  - (iii) suspends or threatens to suspend making payments on any of its debts (as part of a general suspension of debts); or
  - (iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party or any Hedge Counterparty in each case in its capacity as such and any negotiations with landlords in respect of leases relating to Project Amalfi Leases, Permitted Real Estate Transactions or a Permitted Rent Arrangement) with a view to rescheduling any of its indebtedness in an amount of at least £2,500,000 (or its equivalent in any other currency).
- (b) A moratorium is declared in respect of any indebtedness of any Material Company. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

#### 28.7 **Insolvency proceedings**

- (a) Any corporate action, legal proceedings or other formal legal procedure or step is taken in relation to:
  - (i) the suspension of payments generally, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Material Company;
  - (ii) a composition, compromise, assignment or similar arrangement with any creditor of any Material Company by reason of actual or anticipated financial difficulties;
  - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Material Company or any of its assets having an aggregate value in excess of £2,500,000 (or its equivalent in any other currency); or
  - (iv) enforcement of any Security over any assets of any Material Company where such assets have an aggregate value in excess of £2,500,000 (or its equivalent in any other currency),

or any analogous procedure or step is taken in any jurisdiction.
- (b) Paragraph (a) above shall not apply to:
  - (i) any legal proceeding or other formal procedure or step which is frivolous or vexatious or is discharged, stayed or dismissed within 14 days of commencement;
  - (ii) any step or procedure contemplated by paragraph (b) or (f) of the definition of "Permitted Transaction"; or
  - (iii) any negotiations with landlords in respect of leases relating to Project Amalfi Leases, Permitted Real Estate Transactions or a Permitted Rent Arrangement.



## 28.8 **Creditors' process**

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a Material Company having an aggregate value exceeding £2,500,000 (or its equivalent in any other currency) and is not discharged within 14 days.

## 28.9 **Unlawfulness and invalidity**

- (a) Subject to the Legal Reservations, it is or becomes unlawful for an Obligor or any other member of the Group that is a party to the Intercreditor Agreement to perform any of its material obligations under the Finance Documents or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective.
- (b) Any obligation or obligations of any Obligor under any Finance Documents or any other member of the Group under the Intercreditor Agreement are not (subject to the Legal Reservations and the Perfection Requirements) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents taken as a whole.
- (c) Any subordination created under the Intercreditor Agreement ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party or a Hedge Counterparty) to be ineffective, and in each case the cessation or alleged ineffectiveness individually or cumulatively materially and adversely affects the interests of the Finance Parties under the Finance Documents taken as a whole.

## 28.10 **Intercreditor Agreement**

- (a) Any party to the Intercreditor Agreement (other than a Finance Party, a Hedge Counterparty or an Obligor) fails to comply with the provisions of, or does not perform its obligations under, the Intercreditor Agreement; or
- (b) a representation or warranty given by that party in the Intercreditor Agreement is incorrect in any material respect,

and, if the non-compliance, non-performance or circumstances giving rise to the misrepresentation are capable of remedy, it is not remedied within 20 Business Days of the earlier of the Facility Agent giving notice to that party or that party becoming aware of the non-compliance, non-performance or misrepresentation.

## 28.11 **Cessation of business**

Any Material Company suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business except as a result of a Permitted Disposal or a Permitted Transaction.

## 28.12 **Change of ownership**

After the Closing Date, an Obligor (other than the Parent) ceases to be a wholly-owned Subsidiary of the Parent except as a result of a disposal which is a Permitted Disposal or a Permitted Transaction.

## 28.13 **Audit qualification**

The Parent's Auditors qualify the Parent's Annual Financial Statements and such qualification relates to the accuracy of material information, access to information or the

Parent's status as a going concern or is otherwise materially adverse to the interests of the Finance Parties under the Finance Documents taken as a whole.

**28.14 Expropriation**

The authority or ability of any member of the Group to conduct its business is substantially limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any member of the Group or any of its assets.

**28.15 Repudiation and rescission of agreements**

- (a) An Obligor rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Finance Document or any Transaction Security.
- (b) Any member of the Group or Unrestricted Holdco that is party to the Intercreditor Agreement rescinds or purports to rescind or repudiates or purports to repudiate that agreement in whole or in part where to do so has or is reasonably likely to have a material adverse effect on the interests of the Lenders under the Finance Documents taken as a whole.

**28.16 Litigation**

Any litigation, arbitration or administrative proceedings, governmental or regulatory proceedings or investigations of, or before, any court, arbitral body or agency are started, or any judgment or order of a court, arbitral body or agency or any order or sanction of any governmental or regulatory body is made, in relation to the Transaction Documents or the transactions contemplated in the Transaction Documents or against any member of the Group or its assets which have, or has, or are, or is, reasonably likely to have a Material Adverse Effect.

**28.17 Material adverse change**

Any event or circumstance occurs which has or is reasonably likely to have a Material Adverse Effect.

**28.18 Acceleration**

Subject to clause 4.4 (Loans during the Certain Funds Period), on and at any time after the occurrence of an Event of Default which is continuing the Facility Agent may, and shall if so directed by the Majority Lenders:

- (a) by notice to the Parent:
  - (i) cancel the Total Commitments and/or Ancillary Commitments at which time they shall immediately be cancelled;
  - (ii) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable;
  - (iii) declare that all or part of the Loans be payable on demand, at which time they shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Lenders;
  - (iv) declare all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities to be immediately due and

payable, at which time they shall become immediately due and payable; and/or

- (v) declare that all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities be payable on demand, at which time they shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Lenders; and/or
- (b) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

#### 28.19 **Super Senior Acceleration**

Subject to the terms of the Intercreditor Agreement, on and at any time after the occurrence of a Material Event of Default which is continuing, the Facility Agent may, and shall, if so directed by the Majority Super Senior Facility Lenders:

- (a) deliver a Super Senior Enforcement Notice to the Security Agent in accordance with the terms of the Intercreditor Agreement (a copy of which the Facility Agent shall also deliver to each Lender);
- (b) by notice to the Parent:
  - (i) cancel all or part of the Super Senior Facility Commitments and/or Ancillary Commitments at which time they shall immediately be cancelled;
  - (ii) declare that all or part of the Super Senior Facility Loans (if any), together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents in respect of each Super Senior Facility be immediately due and payable, at which time they shall become immediately due and payable;
  - (iii) declare that all or part of the Super Senior Facility Loans (if any) be payable on demand, at which time they shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Super Senior Facility Lenders;
  - (iv) declare all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities to be immediately due and payable at which time they shall become immediately due and payable; and/or
  - (v) declare that all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities be payable on demand, at which time they shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Revolving Facility Lenders; and/or
- (c) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

#### 28.20 **Clean-Up Period**

Notwithstanding any other provision of any Finance Document:

- (a) any breach of a representation under clause 24 (Representations) or an undertaking under clause 27 (General undertakings); or
- (b) any Default,

which occurs during a Clean-Up Period, other than a Non Clean-Up Default, will be deemed not to be a breach of representation or warranty, a breach of undertaking or a Default (as the case may be) if:

- (i) it would have been (if it were not for this clause 28.20) a breach of representation or warranty, a breach of undertaking or a Default only by reason of circumstances relating exclusively to:
  - (A) in the case of such a breach or Default which occurs during the Initial Clean-Up Period, any member of the Target Group (or any obligation to procure or ensure in relation to a member of the Target Group); or
  - (B) in the case of such a breach or Default which occurs during a Permitted Acquisition Clean-Up Period, the company (or any of its Subsidiaries) or the business or undertaking which is the subject of the relevant acquisition (or any obligation to procure or ensure in relation to that company, Subsidiary, business or undertaking);
- (ii) it is capable of remedy and reasonable steps are being taken to remedy it;
- (iii) the circumstances giving rise to it have not been procured by or approved by the Parent or any other member of the Group other than any member of the Group which was the subject of the relevant acquisition; and
- (iv) it does not have and is not reasonably likely to have a Material Adverse Effect.

If the relevant circumstances are continuing on or after the end of that Clean-Up Period, there shall be a breach of representation or warranty, breach of undertaking or Default, as the case may be notwithstanding the above (and without prejudice to the rights and remedies of the Finance Parties).

## 29. CHANGES TO THE LENDERS

### 29.1 Assignments and transfers by the Lenders

- (a) Subject to this clause 29 and to clause 30 (Debt Purchase Transactions), a Lender (the "**Existing Lender**") may:
  - (i) assign any of its rights; or
  - (ii) transfer by novation any of its rights and obligations,  
  
under any Finance Document to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the "**New Lender**").
- (b) Subject to this clause 29, prior to any assignment, transfer or sub-participation:
  - (i) the Parent and the Investors shall be given five Business Days' notice of such assignment, transfer or sub-participation; and
  - (ii) in respect of any assignment, transfer or sub-participation of a Term Facility:
    - (A) to any entity identified on the Pre-Approved New Lender List; or
    - (B) made at a time when a Relevant Event of Default is continuing,

the Parent and the Investors shall have the right to match the terms and economics of such assignment, transfer or sub-participation (such right, a "**Right to Match**") provided that the Parent or the Investors advise the relevant lender of their intention to exercise the Right to Match no later than two Business Days prior to the proposed date of the relevant assignment, transfer or sub-participation.

- (c) If the Parent or Investors exercises the Right to Match, the relevant Lender shall only be permitted to:
  - (i) assign the applicable rights; or
  - (ii) transfer by novation the applicable rights and obligations,in each case to the Parent or the Investors.

## 29.2 **Parent consent**

- (a) Subject to paragraphs (b) to (c) (inclusive) below (and, in accordance with the syndication process, the Syndication Letter), the prior written consent of the Parent is required for an assignment or transfer by an Existing Lender, unless the assignment or transfer is:
  - (i) to any entity identified on the Pre-Approved New Lender List;
  - (ii) to another Lender or an Affiliate of any Lender;
  - (iii) to a fund which is a Related Fund of that Existing Lender; or
  - (iv) made at a time when a Relevant Event of Default is continuing,provided that any assignment or transfer to be made on or prior to the end of the Certain Funds Period shall in all circumstances require the prior written consent of the Parent (which may be given or refused in its absolute discretion and, for the avoidance of doubt, never deemed given) unless such assignment or transfer is:
  - (A) to another Original Committed Lender; or
  - (B) made at a time when a Major Default is continuing.

Notwithstanding the above, no assignment or transfer may be made by any Lender to a Loan to Own Investor, Competitor, competitor of the Sponsor or Defaulting Lender at any time save that a transfer may be made to a Loan to Own Investor if a Relevant Event of Default continuing.

- (b) Other than in respect of an assignment or transfer prior to the end of the Certain Funds Period:
  - (i) the consent of the Parent to an assignment or transfer must not be unreasonably withheld or delayed; and
  - (ii) the Parent will be deemed to have given its consent ten Business Days after the Existing Lender has requested it unless consent is expressly refused by the Parent within that time. It shall be reasonable for the Parent to withhold consent to an assignment or transfer if it is to a Loan to Own Investor, competitor of the Sponsor or Defaulting Lender.
- (c) A request to the Parent for consent pursuant to paragraph (a) above shall simultaneously be sent to the Investors. For the avoidance of doubt, there shall be

no requirement to consult with, or obtain the consent of, the Investors to any assignment or transfer by an Existing Lender.

### 29.3 **Pre-Approved New Lender List**

- (a) Subject to paragraph (b) below, the Pre-Approved New Lender List may be amended with the prior written consent of the Facility Agent (acting on the instruction of the Majority Lenders) and the Parent provided that the total number of banks and financial institutions on the Pre-Approved New Lender List is not reduced at any time.
- (b) The Parent may, subject to giving five Business Days' prior notice to the Facility Agent, in its sole discretion:
  - (i) add up to two new persons to the Pre-Approved New Lender List per Financial Year;
  - (ii) remove up to five persons from the Pre-Approved New Lender List per Financial Year provided that the Parent shall simultaneously add a new person that is of the same type as the person removed, be that a bank or financial institution or 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 (as agreed with the Facility Agent, each acting in good faith) to the Pre-Approved New Lender List in place of each person removed; and
  - (iii) remove an entity (a "**Potential Transferee**") from the Pre-Approved New Lender List where such Potential Transferee has been acquired by, has merged with or has otherwise combined its operations with, a person who is not included in the Pre-Approved New Lender List, unless that person is administered by persons operating behind appropriate information barriers implemented or maintained as required by law, regulation or internal policy and, in any event, to the extent required to ensure that such administration is independent from that of the Potential Transferee and any information provided under the Finance Documents is not (or is not capable of being) disclosed or otherwise made available to such person.
- (c) Any entity shall immediately be deemed removed from the Pre-Approved New Lender List if such entity has become a Loan to Own Investor, Competitor, Sponsor Competitor or Defaulting Lender.
- (d) A Lender may at any time notify the Parent of the details of any entity it wishes to be added to the Pre-Approved New Lender List. The addition of any such entities will be subject to the consent (such consent not to be unreasonably withheld) of the Parent.
- (e) Any entity consented to by the Parent as a permitted transferee or assignee under clause 29.2 (Parent consent) shall be automatically added to the Pre-Approved New Lender List.
- (f) For the avoidance of doubt, an amendment to the Pre-Approved New Lender List will be without prejudice to the effect of any assignment or transfer which is made in accordance with clause 29 (Changes to the Lenders) prior to the date of such amendment.
- (g) The Facility Agent shall, within five Business Days of a reasonable request by any Party, provide a copy of the Pre-Approved New Lender List to that Party.

## 29.4 Other conditions of assignment or transfer

- (a) An assignment, transfer or sub-participation in respect of the Revolving Facility or the Revolving Facility Commitments, shall not be made without the prior consent of the Parent (which may be withheld or conditioned in the Parent's absolute discretion) unless the relevant assignee, transferee or sub-participant is a deposit taking financial institution authorised by a financial services regulator or similar regulatory body which has a long term credit rating equal to or better than BBB- or Baa2 (as applicable) according to at least two of Standard & Poor's Rating Services, Fitch Ratings Ltd. or Moody's Investors Service Limited.
- (b) An assignment or transfer of part (but not, for the avoidance of doubt, the whole) of a Lender's participation must be in an amount such that the Base Currency Amount of that Lender's remaining participation (when aggregated with its Affiliates' and Related Funds' participation) in respect of Commitments or Loans made under the Term Facilities (taken together) is in a minimum amount of £2,000,000, unless that assignment or transfer is made at a time when a Relevant Event of Default is continuing.
- (c) (Other than in the case of an assignment permitted by paragraph (b) of clause 30.1 (Permitted Debt Purchase Transactions)) an assignment will only be effective on:
  - (i) receipt by the Facility Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Facility Agent) that the New Lender will assume the same obligations to the other Finance Parties and the other Secured Parties as it would have been under if it had been an Original Lender;
  - (ii) if not already party to the Intercreditor Agreement in the relevant capacity, the New Lender entering into the documentation required for it to accede as a party to the Intercreditor Agreement; and
  - (iii) performance by the Facility Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Facility Agent shall promptly notify to the Existing Lender and the New Lender.
- (d) 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 (if not already party to the Intercreditor Agreement in the relevant capacity) and if the procedure set out in clause 29.9 (Procedure for transfer) is complied with.
- (e) If:
  - (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
  - (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under clauses 18 (Tax gross up and indemnities) or 19 (Increased Costs),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred provided that this paragraph (e) shall not apply in relation to clause 18.2 (Tax gross-up) to a Treaty Lender that has included a confirmation of its HMRC DT Treaty Passport scheme reference number and jurisdiction of tax residence in accordance with paragraph (g)(ii) of clause 18.2

(Tax gross-up) if the Borrower making the payment has not made a Borrower DTTP Filing in respect of that Treaty Lender, unless the relevant payment falls due within 10 Business Days of the transfer, assignment or change occurring.

- (f) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Facility 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.

## 29.5 Sub-participations

- (a) An Existing Lender may, subject to this clause 29.5, enter into a sub-participation (whether funded or unfunded), sub-contract or similar arrangements (each a "**Participation Agreement**") in respect of its rights and obligations under this agreement provided that the Lender remains liable under this agreement in relation to those rights and obligations or, to the extent any voting rights are transferred or are capable of being transferred by the Lender, paragraph (b) below is complied with.
- (b) Subject to paragraphs (c) and (d) below, the prior written consent of the Parent is required to any Participation Agreement pursuant to the terms of which any voting rights of a Lender are transferred or are capable of being transferred to the respective counterparty of the Participation Agreement unless:
  - (i) the counterparty to the Participation Agreement is:
    - (A) an entity identified on the Pre-Approved New Lender List;
    - (B) another Lender or an Affiliate of any Lender;
    - (C) a fund which is a Related Fund of that Existing Lender; or
  - (ii) the Participation Agreement is entered into at a time when a Relevant Event of Default is continuing,

provided that any Participation Agreement entered into on or prior to the end of the Certain Funds Period shall in all circumstances require the prior written consent of the Parent (which may be given or refused in its absolute discretion and, for the avoidance of doubt, never deemed given) unless such assignment or transfer is made pursuant to paragraph (b)(i)(B) or (b)(i)(C) above.

Notwithstanding the above, no Participation Agreement may be entered into at any time if the counterparty to that Participation Agreement is a Loan to Own Investor, Competitor, competitor of the Sponsor or Defaulting Lender at any time.

- (c) Other than in respect of a Participation Agreement to be entered prior to the end of the Certain Funds Period:
  - (i) the consent of the Parent to a Participation Agreement must not be unreasonably withheld or delayed; and
  - (ii) the Parent will be deemed to have given its consent ten Business Days after the Existing Lender has requested it unless consent is expressly refused by the Parent within that time. It shall be reasonable for the Parent to withhold consent if the counterparty to that Participation Agreement is a Loan to Own Investor, Competitor, competitor of the Sponsor or Defaulting Lender.



- (d) A request to the Parent for consent or (applicable) notice of sub-participation under paragraph (b) above shall simultaneously be sent to the Sponsor. For the avoidance of doubt, there shall be no requirement to consult with, or obtain the consent of, the Sponsor to any sub-participation by an Existing Lender.

#### 29.6 **Transfer in breach of criteria – disenfranchisement**

If a Lender transfers or assigns all or part of its Commitment (the "**Transferred Commitment**") or enters into a Participation Agreement in respect of all or part of its Commitment (the "**Sub-participated Commitment**") in breach of any requirement contained in clause 29.2 (Parent consent), clause 29.4 (Other conditions of assignment or transfer) or clause 29.5 (Sub-participations) (such transferee, assignee or counterparty to the Participation Agreement (as applicable) being, in respect of the Transferred Commitment, a "**Disqualified Transferee**"), as the case may be, then until and unless the subsequent written consent of the Parent to the relevant transfer or assignment or Participation Agreement is obtained (such consent not to be unreasonably withheld or delayed (provided that it shall be reasonable for the Parent to withhold consent in the circumstances referred to in paragraph (b) of clause 29.2 (Parent consent) or paragraph (c) of clause 29.5 (Sub-participations))) or deemed to be given:

- (a) in ascertaining:
  - (i) the Majority Lenders, the Incremental Term Facility Majority Lenders, the Majority Super Senior Facility Lenders or the Majority Revolving Facility Lenders; or
  - (ii) whether:
    - (A) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments; or
    - (B) the agreement of any specified group of Lenders,has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents the Transferred Commitment or the Sub-participated Commitment shall be deemed to be zero; and
- (b) the Disqualified Transferee shall:
  - (i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, not attend or participate in the same or be entitled to receive the agenda or any minutes of the same;
  - (ii) not be entitled to receive any report, financial information or other document delivered in accordance with this agreement or prepared at the request of, or on the instructions of, the Facility Agent or one or more of the Lenders; and
  - (iii) not be entitled to receive interest on any Loans it holds.

#### 29.7 **Assignment or transfer fee**

Unless the Facility Agent otherwise agrees and excluding an assignment or transfer (i) to an Affiliate of a Lender, (ii) to a Related Fund, the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of £3,500.

#### 29.8 **Limitation of responsibility of Existing Lenders**

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
  - (i) the legality, validity, effectiveness, adequacy or enforceability of the Transaction Documents, the Transaction Security or any other documents;
  - (ii) the financial condition of any Obligor;
  - (iii) the performance and observance by any Obligor or any other member of the Group of its obligations under the Transaction Documents or any other documents; or
  - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Transaction Document or any other document,
 and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender, the other Finance Parties and the Secured Parties that it:
  - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Transaction Document or the Transaction Security; and
  - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the 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 under this clause 29; or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Transaction Documents or otherwise.

#### 29.9 **Procedure for transfer**

- (a) Subject to the conditions set out in clause 29.2 (Parent consent) and clause 29.4 (Other conditions of assignment or transfer) a transfer is effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The 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 Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) Subject to clause 29.14 (Pro rata interest settlement), on the Transfer Date:

- (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the **"Discharged Rights and Obligations"**);
- (ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other member of the Group and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;
- (iii) the Facility Agent, the Arranger, the Security Agent, the New Lender, the other Lenders and any relevant Ancillary Lender shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Facility Agent, the Arranger, the Security Agent and any relevant Ancillary Lender and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
- (iv) the New Lender shall become a Party as a "Lender".

#### 29.10 Procedure for assignment

- (a) Subject to the conditions set out in clause 29.2 (Parent consent) and clause 29.4 (Other conditions of assignment or transfer) an assignment may be effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The 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 Facility Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) Subject to clause 29.14 (Pro rata interest settlement), on the Transfer Date:
  - (i) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
  - (ii) the Existing Lender will be released from the obligations (the **"Relevant Obligations"**) expressed to be the subject of the release in the Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security); and
  - (iii) the New Lender shall become a Party as a **"Lender"** and will be bound by obligations equivalent to the Relevant Obligations.
- (d) Lenders may utilise procedures other than those set out in this clause 29.10 to assign their rights under the Finance Documents (but not, without the consent of the

relevant Obligor or unless in accordance with clause 29.9 (Procedure for transfer), to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) provided that they comply with the conditions set out in clause 29.2 (Parent consent) and clause 29.4 (Other conditions of assignment or transfer).

**29.11 Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Parent**

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

**29.12 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 21.11 (Creditor Accession Undertaking) of the Intercreditor Agreement.

**29.13 Security over Lenders' rights**

In addition to the other rights provided to Lenders under this clause 29, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (b) 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 Security for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by an Obligor other than or in excess of, 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.

**29.14 Pro rata interest settlement**

- (a) If the Facility Agent has notified the Lenders that it is able to distribute interest payments on a "pro rata basis" to Existing Lenders and New Lenders then (in respect of any transfer pursuant to clause 29.9 (Procedure for transfer) or any assignment pursuant to clause 29.10 (Procedure for assignment) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):
  - (i) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date ("**Accrued Amounts**") and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the

current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at six Monthly intervals after the first day of that Interest Period); and

- (ii) the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts so that, for the avoidance of doubt:
  - (A) when the Accrued Amounts become payable, those Accrued Amounts will be payable for the account of the Existing Lender; and
  - (B) the amount payable to the New Lender on that date will be the amount which would, but for the application of this clause 29.14, have been payable to it on that date, but after deduction of the Accrued Amounts.
- (b) In this clause 29.14 references to "**Interest Period**" shall be construed to include a reference to any other period for accrual of fees.
- (c) An Existing Lender which retains the right to the Accrued Amounts pursuant to this clause 29.14 but which does not have a Commitment shall be deemed not to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents.

## 30. **DEBT PURCHASE TRANSACTIONS**

### 30.1 **Permitted Debt Purchase Transactions**

- (a) The Parent shall not, and shall procure that each other member of the Group shall not (i) enter into any Debt Purchase Transaction other than in accordance with the other provisions of this clause 30 or (ii) beneficially own all or any part of the share capital of a company that is a Lender or a party to a Debt Purchase Transaction of the type referred to in paragraphs (b) or (c) of the definition of "Debt Purchase Transaction".
- (b) A Borrower may purchase by way of assignment, pursuant to clause 29 (Changes to the Lenders), a participation in any Term Loan in respect of which it is the borrower and any related Commitment where:
  - (i) such purchase is made for a consideration of less than par;
  - (ii) such purchase is made using one of the processes set out at paragraphs (c) and (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 (Excluding Debt).
- (c)
  - (i) A Debt Purchase Transaction referred to in paragraph (b) above may be entered into pursuant to a solicitation process (a "**Solicitation Process**") which is carried out as follows.
  - (ii) Prior to 11.00 a.m. on a given Business Day (the "**Solicitation Day**") the Parent or a financial institution acting on its behalf (the "**Purchase Agent**") will approach at the same time each Lender which participates in the relevant Term Facilities to enable them to offer to sell to the relevant Borrower(s) an amount of their participation in one or more of the Term Facilities. Any Lender

wishing to make such an offer shall, by 11.00 a.m. on the second Business Day following such Solicitation Day, communicate to the Purchase Agent details of the amount of its participations, and in which Term Facilities, it is offering to sell and the price at which it is offering to sell such participations. Any such offer shall be irrevocable until 11.00 a.m. on the third Business Day following such Solicitation Day and shall be capable of acceptance by the Parent on behalf of the relevant Borrower(s) on or before such time by communicating its acceptance in writing to the Purchase Agent or, if it is the Purchase Agent, the relevant Lenders. The Purchase Agent (if someone other than the Parent) will communicate to the relevant Lenders which offers have been accepted by 12 noon on the third Business Day following such Solicitation Day. In any event by 5.00 p.m. on the fourth Business Day following such Solicitation Day, the Parent shall notify the Facility Agent of the amounts of the participations purchased through the relevant Solicitation Process, the identity of the Term Facilities to which they relate and the average price paid for the purchase of participations in each relevant Term Facility. The Facility Agent shall promptly disclose such information to the Lenders.

- (iii) Any purchase of participations in the Term Facilities pursuant to a Solicitation Process shall be completed and settled on or before the fifth Business Day after the relevant Solicitation Day.
- (iv) In accepting any offers made pursuant to a Solicitation Process the Parent shall be free to select which offers and in which amounts it accepts but on the basis that in relation to a participation in a particular Term Facility it accepts offers in inverse order of the price offered (with the offer or offers at the lowest price being accepted first) and that if in respect of participations in a particular Term Facility it receives two or more offers at the same price it shall only accept such offers on a pro rata basis.
- (v) A Debt Purchase Transaction referred to in paragraph (b) above may also be entered into pursuant to an open order process (an "**Open Order Process**") which is carried out as follows.
- (vi) The Parent (on behalf of the relevant Borrower(s)) may by itself or through another Purchase Agent place an open order (an "**Open Order**") to purchase participations in one or more of the Term Facilities up to a set aggregate amount at a set price by notifying at the same time all the Lenders participating in the relevant Term Facilities of the same. Any Lender wishing to sell pursuant to an Open Order will, by 11.00 a.m. on any Business Day following the date on which the Open Order is placed but no earlier than the first Business Day, and no later than the fifth Business Day, following the date on which the Open Order is placed, communicate to the Purchase Agent details of the amount of its participations, and in which Term Facilities, it is offering to sell. Any such offer to sell shall be irrevocable until 11.00 a.m. on the Business Day following the date of such offer from the Lender and shall be capable of acceptance by the Parent on behalf of the relevant Borrower(s) on or before such time by it communicating such acceptance in writing to the relevant Lender.
- (vii) Any purchase of participations in the Term Facilities pursuant to an Open Order Process shall be completed and settled by the relevant Borrower(s) on or before the fourth Business Day after the date of the relevant offer by a Lender to sell under the relevant Open Order.
- (viii) If in respect of participations in a Term Facility the Purchase Agent receives on the same Business Day two or more offers at the set price such that the

maximum amount of such Term Facility to which an Open Order relates would be exceeded, the Parent shall only accept such offers on a pro rata basis.

- (d) The Parent shall, by 5.00 p.m. on the sixth Business Day following the date on which an Open Order is placed, notify the Facility Agent of the amounts of the participations purchased through such Open Order Process and the identity of the Term Facilities to which they relate. The Facility Agent shall promptly disclose such information to the Lenders.
- (e) For the avoidance of doubt, there is no limit on the number of occasions a Solicitation Process or an Open Order Process may be implemented.
- (f) In relation to any Debt Purchase Transaction entered into pursuant to this clause 30.1, notwithstanding any other term of this agreement or the other Finance Documents:
  - (i) on completion of the relevant assignment pursuant to clause 29 (Changes to the Lenders), the portions of the Term Loans to which it relates shall be extinguished;
  - (ii) such Debt Purchase Transaction and the related extinguishment referred to in paragraph (i) above shall not constitute a prepayment of the Facilities;
  - (iii) the Borrower which is the assignee shall be deemed to be an entity which fulfils the requirements of clause 29.1 (Assignments and transfers by the Lenders) to be a New Lender;
  - (iv) no Borrower shall be deemed to be in breach of any provision of clause 27 (General undertakings) solely by reason of such Debt Purchase Transaction;
  - (v) clause 34 (Sharing among the Finance Parties) shall not be applicable to the consideration paid under such Debt Purchase Transaction; and
  - (vi) for the avoidance of doubt, any extinguishment of any part of the Term Loans shall not affect any amendment or waiver which prior to such extinguishment had been approved by or on behalf of the requisite Lender or Lenders in accordance with this agreement.

### 30.2 **Disenfranchisement of Sponsor Affiliates**

- (a) For so long as a Sponsor Affiliate:
  - (i) beneficially owns a Commitment; or
  - (ii) has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated,

in ascertaining:

- (A) the Majority Lenders, the Incremental Term Facility Majority Lenders, the Majority Super Senior Facility Lenders or the Majority Revolving Facility Lenders; or
- (B) whether:
  - (aa) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments; or

(bb) the agreement of any specified group of Lenders,

has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents such Commitment shall be deemed to be zero and 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 for the purposes of paragraphs (A) and (B) above (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) other than any vote which is an Entrenched Vote.

- (b) For the purpose of this paragraph (a), an **"Entrenched Vote"** is any vote in connection with any request for a consent, waiver, amendment or other vote under the Finance Documents which:
- (i) relates to an increase in Commitments of that Sponsor Affiliate;
  - (ii) would result in any Commitment of that Sponsor Affiliate under a particular Facility being treated in any manner which is inconsistent with the treatment proposed to be applied to any other Commitment under such Facility; or
  - (iii) would adversely affect the rights and/or obligations of that Sponsor Affiliate, solely in its capacity as a Finance Party (and for the avoidance of doubt, excluding its interests as a holder of equity in the Parent (whether directly or indirectly)) disproportionately to the other Finance Parties.
- (c) Each Lender shall, unless such Debt Purchase Transaction is an assignment or transfer, promptly notify the Facility Agent in writing if it knowingly enters into a Debt Purchase Transaction with a Sponsor Affiliate or Borrower (a **"Notifiable Debt Purchase Transaction"**), such notification to be substantially in the form set out in part 1 of schedule 13 (Forms of Notifiable Debt Purchase Transaction Notice).
- (d) A Lender shall promptly notify the Facility 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 or Borrower,
- such notification to be substantially in the form set out in part 2 of schedule 13 (Forms of Notifiable Debt Purchase Transaction Notice).
- (e) Each Sponsor Affiliate or Borrower 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 or, be entitled to receive the agenda or any minutes of the same, unless in either case, the Facility Agent otherwise agrees; and
  - (ii) in its capacity as Lender, unless the Facility Agent otherwise agrees, it shall not be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Facility Agent or one or more of the Lenders.

### 30.3 **Sponsor Affiliates' or Borrower's notification to other Lenders of Debt Purchase Transactions**

Any Sponsor Affiliate or Borrower which is or becomes a Lender and which enters into a Debt Purchase Transaction as a purchaser or a participant shall, by 5.00 p.m. on the



Business Day following the day on which it entered into that Debt Purchase Transaction, notify the Facility Agent of the extent of the Commitment(s) or amount outstanding to which that Debt Purchase Transaction relates. The Facility Agent shall promptly disclose such information to the Lenders.

### 31. **CHANGES TO THE OBLIGORS**

#### 31.1 **Assignment and transfers by Obligors**

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

#### 31.2 **Additional Borrowers**

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of clause 25.11("Know your customer" checks), the Parent may request that any of its wholly owned Subsidiaries becomes a Borrower. That Subsidiary shall become a Borrower if:
- (i)
    - (A) it is incorporated in the United Kingdom or in the same jurisdiction as an existing Borrower or, provided that that Subsidiary shall become a Borrower in respect of the Term Facilities (other than the Super Senior Term Facility) only, it is incorporated in a Permitted Jurisdiction; or
    - (B) if it is incorporated in any other jurisdiction, all the Lenders under the relevant Facility under which it is proposed that the Subsidiary becomes a Borrower approve the addition of that Subsidiary, provided that the Super Senior Facility Lenders shall not unreasonably withhold or delay their approval in respect of a Subsidiary incorporated in a Permitted Jurisdiction becoming a Borrower under a Super Senior Facility;
  - (ii) the Parent and that Subsidiary deliver to the Facility Agent a duly completed and executed Accession Deed;
  - (iii) the Subsidiary is (or becomes) a Guarantor on or prior to becoming a Borrower;
  - (iv) the Parent confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and
  - (v) the Facility Agent has received all of the documents and other evidence listed in part 2 of schedule 2 (Conditions precedent) in relation to that Additional Borrower, each in form and substance satisfactory to the Facility Agent.
- (b) The Facility Agent shall notify the Parent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in part 2 of schedule 2 (Conditions precedent).
- (c) Other than to the extent that the Majority Lenders notify the Facility Agent in writing to the contrary before the Facility Agent gives the notification described in paragraph (b) above, the Lenders authorise (but do not require) the Facility Agent to give that notification. The Facility Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

#### 31.3 **Resignation of a Borrower**

- (a) In this clause 31.3, clause 31.5 (Resignation of a Guarantor) and clause 31.7 (Resignation and release of security on disposal), **"Third Party Disposal"** means the disposal of an Obligor (including by the disposal of its Holding Company) to a person which is not a member of the Group where that disposal is permitted under clause 27.15 (Disposals) or made with the approval of the Majority Lenders and, in the case of a Significant Disposal, the Majority Super Senior Facility Lenders (and the Parent has confirmed this is the case).
- (b) If a Borrower is the subject of a Third Party Disposal or with the prior consent of all the Lenders or, if the only Facility the Borrower has outstanding borrowings under is an Ancillary Facility, with the prior consent of the Ancillary Lender which has made that Ancillary Facility available, the Parent may request that such Borrower (other than the Parent or the Company) ceases to be a Borrower by delivering to the Facility Agent a Resignation Letter.
- (c) The Facility Agent shall accept a Resignation Letter and notify the Parent and the other Finance Parties of its acceptance if:
  - (i) the Parent has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;
  - (ii) the Borrower is under no actual obligations as a Borrower under any Finance Documents;
  - (iii) where the Borrower is also a Guarantor (unless its resignation has been (or will contemporaneously with its resignation as a Borrower be) accepted in accordance with clause 31.5 (Resignation of a Guarantor)), its obligations in its capacity as Guarantor continue to be legal, valid, binding and enforceable and in full force and effect (subject to the Legal Reservations) and the amount guaranteed by it as a Guarantor is not decreased (and the Parent has confirmed this is the case); and
  - (iv) if applicable, the Parent has confirmed that it shall ensure that any relevant Disposal Proceeds will be applied in accordance with clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds).
- (d) Upon notification by the Facility Agent to the Parent of its acceptance of the resignation of a Borrower, that company shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents as a Borrower except that, where the Borrower is to be the subject of a Third Party Disposal, the resignation shall not take effect (and the Borrower will continue to have rights and obligations under the Finance Documents) until the date on which the Third Party Disposal takes effect.
- (e) The Facility Agent may, at the cost and expense of the Parent, require a legal opinion from counsel to the Facility Agent confirming the matters set out in paragraph (c)(ii) above and the Facility Agent shall be under no obligation to accept a Resignation Letter until it has obtained such opinion in form and substance satisfactory to it.

#### 31.4 **Additional Guarantors**

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of clause 25.11 ("Know your customer" checks), the Parent may request that any of its Subsidiaries become a Guarantor.
- (b) Subject to clause 27.37 (Conditions subsequent), the Parent shall procure that any member of the Group which is a Material Company shall, subject to the Agreed Security Principles, within 30 days of being acquired or becoming a Material Company (or 60 days in relation to any entity not incorporated in England and Wales) become

an Additional Guarantor and grant Transaction Security in accordance with the Agreed Security Principles and shall accede to the Intercreditor Agreement.

- (c) The Parent shall procure that any other member of the Group which is required to become a Guarantor pursuant to paragraph (a) of clause 27.34 (Guarantors) shall, within 30 days after the delivery of the relevant Compliance Certificate accompanying the Annual Financial Statements or completion of the relevant Permitted Bolt-on Acquisition (as applicable) (or, in each case, 60 days in relation to any entity not incorporated in England and Wales) and subject to the Agreed Security Principles, become an Additional Guarantor and grant the Transaction Security as the Facility Agent may reasonably require and shall accede to the Intercreditor Agreement.
- (d) A member of the Group shall become an Additional Guarantor if:
  - (i) the Parent and the proposed Additional Guarantor deliver to the Facility Agent a duly completed and executed Accession Deed; and
  - (ii) the Facility Agent has received all of the documents and other evidence listed in part 2 of schedule 2 (Conditions precedent) in relation to that Additional Guarantor, each in form and substance satisfactory to the Facility Agent.
- (e) The Facility Agent shall notify the Parent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in part 2 of schedule 2 (Conditions precedent).
- (f) Other than to the extent that the Majority Lenders notify the Facility Agent in writing to the contrary before the Facility Agent gives the notification described in paragraph (e) above, the Lenders authorise (but do not require) the Facility Agent to give that notification. The Facility Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

### 31.5 **Resignation of a Guarantor**

- (a) The Parent may request that a Guarantor (other than the Parent or the Company) ceases to be a Guarantor by delivering to the Facility Agent a Resignation Letter if:
  - (i) that Guarantor is being disposed of by way of a Third Party Disposal (as defined in clause 31.3 (Resignation of a Borrower)) and the Parent has confirmed this is the case;
  - (ii) in respect of any member of the Group which is not a Material Company, clause 27.34 (Guarantors) would still be complied with after taking such resignation into account; or
  - (iii) subject to clause 3.2 (Restriction on amendments and waivers to Facilities Agreement Guarantee: Super Senior Facility Creditors) and clause 4.2 (Restriction on amendments and waivers to Facilities Agreement Guarantee: Senior Facility Lenders) of the Intercreditor Agreement, all the Lenders have consented to the resignation of that Guarantor.
- (b) Subject to paragraph (a) of clause 21.14 (Resignation of a Debtor) of the Intercreditor Agreement, the Facility Agent shall accept a Resignation Letter and notify the Parent and the Lenders of its acceptance if:
  - (i) the Parent has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;
  - (ii) no payment is due from the Guarantor under clause 23.1 (Guarantee and indemnity);

- (iii) where the Guarantor is also a Borrower, it is under no actual or contingent obligations as a Borrower and has resigned and ceased to be a Borrower under clause 31.3 (Resignation of a Borrower) (or will do so contemporaneously with its resignation as a Guarantor); and
  - (iv) if applicable, the Parent has confirmed that it shall ensure that the Disposal Proceeds will be applied in accordance with clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds).
- (c) Upon notification by the Facility Agent to the Parent of its acceptance of the resignation of a Guarantor, that company shall cease to be a Guarantor and shall have no further rights or obligations under the Finance Documents as a Guarantor.

### **31.6 Repetition of Representations**

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in paragraph (e) of clause 24.32 (Times when representations made) are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

### **31.7 Resignation and release of security on disposal**

If a Borrower or Guarantor is or is proposed to be the subject of a Third Party Disposal or is otherwise ceasing to be a Borrower under clause 31.3 (Resignation of a Borrower) or a Guarantor under clause 31.5 (Resignation of a Guarantor) (as the case may be) then:

- (a) where that Borrower or Guarantor created Transaction Security over any of its assets or business in favour of the Security Agent, or Transaction Security in favour of the Security Agent was created over the shares (or equivalent) of that Borrower or Guarantor, the Security Agent shall, at the cost and request of the Parent, release those assets, business or shares (or equivalent) and (where requested to do so by the Parent) issue certificates of non-crystallisation; and
- (b) where the Borrower or Guarantor is or is proposed to be the subject of a Third Party Disposal, any resignation of that Borrower or Guarantor and related release of Transaction Security referred to in paragraph (a) above shall become effective only on the making of that disposal.

### **31.8 Release of security on a Permitted Disposal**

If a member of the Group makes a Non-Distressed Disposal (as defined in the Intercreditor Agreement), the Security Agent shall (at the request and cost of the Parent, on reasonable notice) release those assets from the Transaction Security and (where requested to do so by the Parent) issue certificates of non-crystallisation in respect of such asset, in each case in accordance with clause 13.2 (Facilitation of Non-Distressed Disposals) of the Intercreditor Agreement.

## **32. ROLE OF THE FACILITY AGENT, THE ARRANGER AND OTHERS**

### **32.1 Appointment of the Facility Agent**

- (a) Each of the Arranger and the Lenders appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Arranger and the Lenders authorises the Facility Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

## 32.2 Instructions

- (a) The Facility 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 Facility 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 Incremental Term Facility Majority Lenders if the relevant Finance Document stipulates the matter is an Incremental Term Facility Majority Lender decision;
    - (C) the Majority Super Senior Facility Lenders if the relevant Finance Document stipulates the matter is a Majority Super Senior Facility Lender decision;
    - (D) the Majority Revolving Facility Lenders if the relevant Finance Document stipulates the matter is a Majority Revolving Facility Lender decision; and
    - (E) 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 Facility 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 Facility 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 Facility 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 Facility 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 and/or prefunding 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 Facility Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- (f) The Facility 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.

### 32.3 **Duties of the Facility Agent**

- (a) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (c) Without prejudice to clause 29.11 (Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Parent), paragraph (b) above shall not apply to any Transfer Certificate, any Assignment Agreement or any Increase Confirmation.
- (d) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Facility Agent receives notice from a Party referring to this agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Facility Agent, the Arranger or the Security Agent) under this agreement, it shall promptly notify the other Finance Parties.
- (g) The Facility 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).

### 32.4 **Role of the Arranger**

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

### 32.5 **No fiduciary duties**

- (a) Nothing in any Finance Document constitutes the Facility Agent or the Arranger as a trustee or fiduciary of any other person.
- (b) None of the Facility Agent, the Arranger or any Ancillary Lender shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

### 32.6 **Business with the Group**

The Facility Agent, the Arranger 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.

### 32.7 **Rights and discretions**

- (a) The Facility Agent may:
  - (i) rely on any representation, communication, notice or document (including, without limitation, any notice given by a Lender pursuant to paragraphs (b) or (c) of clause 30.2 (Disenfranchisement of Sponsor Affiliates)) 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 Facility 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 28.1 (Non-payment));
  - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised;
  - (iii) any notice or request made by the Parent (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors; and
  - (iv) no Notifiable Debt Purchase Transaction:
    - (A) has been entered into;
    - (B) has been terminated; or
    - (C) has ceased to be with a Sponsor Affiliate or a Borrower.
- (c) Subject to prior consultation with the Parent, the Facility 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 Facility Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Facility Agent (and so separate from any lawyers instructed by the Lenders) if the Facility Agent in its reasonable opinion deems this to be desirable.
- (e) The Facility 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 Facility Agent or by any other Party) and shall not be liable to any Finance Party 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 Facility Agent may act in relation to the Finance Documents through its officers, employees and agents.

- (g) Unless a Finance Document expressly provides otherwise the Facility 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 Facility 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 Facility Agent or the Arranger is obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (j) Notwithstanding any provision of any Finance Document to the contrary, the Facility 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.

### 32.8 **Responsibility for documentation**

None of the Facility Agent, the Arranger or any Ancillary Lender is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Facility Agent, the Arranger, an Ancillary Lender, an Obligor or any other person in or in connection with any Finance Document or the Reports or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under 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.

### 32.9 **No duty to monitor**

The Facility 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.



### 32.10 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Facility Agent or any Ancillary Lender), the Facility Agent nor any Ancillary Lender will be liable 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 Facility Agent or an Ancillary Lender (as applicable)) may take any proceedings against any officer, employee or agent of the Facility Agent or any Ancillary Lender, in respect of any claim it might have against the Facility Agent or an Ancillary Lender or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Transaction Document and any officer, employee or agent of the Facility Agent or any Ancillary Lender may rely on this paragraph (b) subject to clause 1.4 (Third party rights) and the provisions of the Third Parties Act.
- (c) The Facility 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 Facility Agent if the Facility 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 Facility Agent for that purpose.
- (d) Nothing in this agreement shall oblige the Facility Agent or the Arranger to carry out:
- (i) any "know your customer" or other checks in relation to any person; or
  - (ii) any check on the extent to which any transaction contemplated by this agreement might be unlawful for any Lender or for any Affiliate of any Lender,

on behalf of any Lender and each Lender confirms to the Facility Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent or the Arranger.

- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Facility Agent's liability, any liability of the Facility 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 judicially determined to have been suffered (as determined by reference to the date of default of the Facility 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 Facility Agent at any time which increase the amount of that loss. In no event shall the Facility 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 Facility Agent has been advised of the possibility of such loss or damages.

### **32.11 Lenders' indemnity to the Facility Agent**

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's 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 Facility Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Parent shall immediately on demand reimburse any Lender for any payment that Lender makes to the Facility Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Facility Agent to an Obligor.

### **32.12 Resignation of the Facility Agent**

- (a) The Facility Agent may resign and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving notice to the Lenders and the Parent.
- (b) Alternatively the Facility Agent may resign by giving 30 days' notice to the Lenders and the Parent, in which case the Majority Lenders (after consultation with the Parent) may appoint a successor Facility Agent (acting through an office in the United Kingdom).
- (c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Facility Agent (after consultation with the Parent) may appoint a successor Facility Agent (acting through an office in the United Kingdom).
- (d) If the Facility Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Facility Agent is entitled to appoint a successor Facility Agent under paragraph (c) above, the Facility

Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Facility Agent to become a party to this agreement as Facility Agent) agree with the proposed successor Facility Agent amendments to this clause 32.12 and any other term of this agreement dealing with the rights or obligations of the Facility Agent consistent with then current market practice for the appointment and protection of corporate trustees and those amendments will bind the Parties.

- (e) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (f) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.
- (g) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of clause 20.3 (Indemnity to the Facility Agent) and this clause 32 (and any agency fees for the account of the retiring Facility 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 Facility Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:
  - (i) the Facility Agent fails to respond to a request under clause 18.8 (FATCA information) and the Parent or a Lender reasonably believes that the 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 Facility Agent pursuant to clause 18.8 (FATCA information) indicates that the 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 Facility Agent notifies the Parent and the Lenders that the 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 Parent or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and the Parent or that Lender, by notice to the Facility Agent, requires it to resign.

### **32.13 Replacement of the Facility Agent**

- (a) After consultation with the Parent, the Majority Lenders may, by giving 30 days' notice to the Facility Agent (or, at any time the Facility Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Lenders) replace the Facility Agent by appointing a successor Facility Agent (acting through an office in the United Kingdom).
- (b) The retiring Facility 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 Facility

Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.

- (c) The appointment of the successor Facility Agent shall take effect on the date specified in the notice from the Majority Lenders to the retiring Facility Agent. As from this date, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) above) but shall remain entitled to the benefit of clause 20.3 (Indemnity to the Facility Agent) and this clause 32 (and any agency fees for the account of the retiring Facility Agent shall cease to accrue from (and shall be payable on) that date).
- (d) Any successor Facility 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.

#### **32.14 Confidentiality**

- (a) In acting as agent for the Finance Parties, the Facility 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 Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.

#### **32.15 Relationship with the Lenders**

- (a) Subject to clause 29.14 (Pro rata interest settlement), the Facility Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Facility Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
  - (i) entitled to or liable for any payment due under any Finance Document on that day; and
  - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this agreement.

- (b) Any Lender may by notice to the Facility 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 37.6 (Electronic communication)) electronic mail address and/or any other information required to enable the transmission 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 (or such other information), department and officer by that Lender for the purposes of clause 37.2 (Addresses) and paragraph (a)(i) of clause 37.6 (Electronic communication) and the Facility 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.

### 32.16 **Credit appraisal by the Lenders and Ancillary Lenders**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender and Ancillary Lender confirms to the Facility Agent, the Arranger 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, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (c) whether that Lender or Ancillary Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (d) the adequacy, accuracy or completeness of the Reports and any other information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

### 32.17 **Deduction from amounts payable by the Facility Agent**

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party on or after that amount becoming due and payable, deduct an amount not exceeding that amount from any payment to that Party which the Facility 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.

### 32.18 **Reliance and engagement letters**

Each Finance Party and Secured Party confirms that each of the Arranger and the Facility 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 Facility 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.

### 32.19 **Role of Reference Banks**

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent.

- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this clause 32.19 subject to clause 1.4 (Third party rights) and the provisions of the Third Parties Act.

### 32.20 **Third party Reference Banks**

A Reference Bank which is not a Party may rely on clause 32.19 (Role of Reference Banks), clause 41.7 (Other exceptions) and clause 43 (Confidentiality of Funding Rates and Reference Bank Quotations ) subject to clause 1.4 (Third party rights) and the provisions of the Third Parties Act.

### 33. **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) save as expressly contemplated by this agreement, oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

### 34. **SHARING AMONG THE FINANCE PARTIES**

#### 34.1 **Payments to Finance Parties**

- (a) Subject to paragraph (b) below, if a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor other than in accordance with clause 35 (Payment mechanics) (a "**Recovered Amount**") and applies that amount to a payment due under the Finance Documents then:
  - (i) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Facility Agent;
  - (ii) the Facility 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 Facility Agent and distributed in accordance with clause 35 (Payment mechanics), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
  - (iii) the Recovering Finance Party shall, within three Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with clause 35.6 (Partial payments).

- (b) Paragraph (a) above shall not apply to any amount received or recovered by an Ancillary Lender in respect of any cash cover provided for the benefit of that Ancillary Lender.

#### 34.2 **Redistribution of payments**

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with clause 35.6 (Partial payments) towards the obligations of that Obligor to the Sharing Finance Parties.

#### 34.3 **Recovering Finance Party's rights**

On a distribution by the Facility Agent under clause 34.2 (Redistribution of payments) of a payment received by a Recovering Finance Party from an Obligor, as between the relevant Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Obligor.

#### 34.4 **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 Facility Agent, pay to the Facility Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "**Redistributed Amount**"); and
- (b) as between the relevant Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.

#### 34.5 **Exceptions**

- (a) This clause 34 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this clause 34, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
  - (i) it notified the other Finance Party of the legal or arbitration proceedings; and
  - (ii) the other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

#### 34.6 **Ancillary Lenders**

- (a) This clause 34 shall not apply to any receipt or recovery by a Lender in its capacity as an Ancillary Lender at any time prior to the Facility Agent exercising any of its rights under clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration).
- (b) Following the exercise by the Facility Agent of any of its rights under clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration), this clause 34 shall apply

to all receipts or recoveries by Ancillary Lenders except to the extent that the receipt or recovery represents a reduction of the Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Net Outstandings.

## **35. PAYMENT MECHANICS**

### **35.1 Payments to the Facility Agent**

- (a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, excluding a payment under the terms of an Ancillary Document, that Obligor or Lender shall make the same available to the Facility 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 Facility 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 such Participating Member State or London, as specified by the Facility Agent) and with such bank as the Facility Agent, in each case, specifies.

### **35.2 Distributions by the Facility Agent**

Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to clause 35.3 (Distributions to an Obligor) and clause 35.4 (Clawback and pre-funding) be made available by the Facility Agent as soon as reasonably 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 Facility Agent by not less than five Business Days' notice, or in the case of a Borrower, such shorter period as is contemplated by clause 5.1 (Delivery of a Utilisation Request), with a bank specified by that Party in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London, as specified by that Party) or, in the case of a Borrower, to such account as it may notify to the Facility Agent in accordance with clause 5.1 (Delivery of a Utilisation Request).

### **35.3 Distributions to an Obligor**

The Facility Agent may (with the consent of the Obligor or in accordance with clause 36 (Set-off)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

### **35.4 Clawback and pre-funding**

- (a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility 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) Unless paragraph (c) below applies, if the Facility Agent pays an amount to another Party and it proves to be the case that the Facility 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 Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.



- (c) If the Facility Agent has notified the Lenders that it is willing to make available amounts for the account of a Borrower before receiving funds from the Lenders then if and to the extent that the Facility Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to a Borrower:
  - (i) the Facility Agent shall notify the Parent of that Lender's identity and the Borrower to whom that sum was made available shall on demand refund it to the Facility Agent; and
  - (ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower to whom that sum was made available, shall on demand pay to the Facility Agent the amount (as certified by the Facility Agent) which will indemnify the Facility Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

### 35.5 Impaired Agent

- (a) If, at any time, the Facility Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Facility Agent in accordance with clause 35.1 (Payments to the Facility Agent) may instead either:
  - (i) pay that amount direct to the required recipient(s); or
  - (ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank 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 Obligor or the Lender making the payment (the "**Paying Party**") and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the "**Recipient Party**" or "**Recipient Parties**").

In each case such payments must be made on the due date for payment under the Finance Documents.

- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties pro rata to their respective entitlements.
- (c) A Party which has made a payment in accordance with this clause 35.5 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 Facility Agent in accordance with clause 32.13 (Replacement of the Facility Agent), each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Facility Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with clause 35.2 (Distributions by the Facility Agent).
- (e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:
  - (i) that it has not given an instruction pursuant to paragraph (d) above; and

- (ii) that it has been provided with the necessary information by that Recipient Party,

give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

### 35.6 **Partial payments**

- (a) If the Facility Agent receives a payment for application against amounts due in respect of any Finance Documents that is insufficient to discharge all the amounts then due and payable by an Obligor under those Finance Documents, the Facility Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:
  - (i) **firstly**, in or towards payment pro rata of any unpaid amount owing to the Facility Agent or the Security Agent under the Finance Documents;
  - (ii) **secondly**, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under those Finance Documents;
  - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under those Finance Documents; and
  - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Facility 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 an Obligor.

### 35.7 **Set-off by Obligors**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim (save as provided under paragraph (b) of clause 9.2 (Repayment of Revolving Facility Loans)).

### 35.8 **Business Days**

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

### 35.9 **Currency of account**

- (a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.
- (b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated, pursuant to this agreement, on its due date.

- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated, pursuant to this agreement, when that interest accrued.
- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

**35.10 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 Facility 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 Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Parent) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.

**35.11 Disruption to payment systems etc.**

If either the Facility Agent determines (in its discretion) that a Disruption Event has occurred or the Facility Agent is notified by the Parent that a Disruption Event has occurred:

- (a) the Facility 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 Facility Agent may deem necessary in the circumstances;
- (b) the Facility Agent shall not be obliged to consult with the Parent in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Facility Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Facility 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 41 (Amendments and waivers);
- (e) the Facility Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for

negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this clause 35.11; and

- (f) the Facility Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

36. **SET-OFF**

36.1 Subject to clause 4.4 (Loans during the Certain Funds Period), at any time following the occurrence of an Event of Default or a Material Event of Default which is continuing, a Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation and that Finance Party shall promptly notify that Obligor of the same. 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.

36.2 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.

37. **NOTICES**

37.1 **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.

37.2 **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 any Original Obligor, that identified with its name below;
- (b) in the case of the Sponsor:

Name: Sheikh Holdings Group (Investments) Limited and Sheikh Ventures Limited

Address:

Attention:

Email:



and

Name: Belgravia Investments Limited and Kensington Capital Limited

Address:

Attention:

Email:

and

Name: THCP Advisory Limited

Address:

Attention:

Email:

(c) in the case of each Lender, each Ancillary Lender or any other Obligor, that notified in writing to the Facility Agent on or prior to the date on which it becomes a Party; and

(d) in the case of the Facility Agent:

Name: Global Loan Agency Services Limited (08318601)

Address:

Attention:

Email:

Telephone:

(e) in the case of the Security Agent:

Name: GLAS Trust Corporation Limited (07927175)

Address:

Attention:

Email:

Telephone:

or any substitute address, fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five Business Days' notice.

### 37.3 **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 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 37.2 (Addresses), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Facility Agent or the Security Agent will be effective only when actually received by the Facility Agent or Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Facility Agent's or Security Agent's signature below (or any substitute department or officer as the Facility Agent or Security Agent shall specify for this purpose).
- (c) All notices from or to an Obligor shall be sent through the Facility Agent.
- (d) Any communication or document made or delivered to the Parent in accordance with this clause 37.3 will be deemed to have been made or delivered to each of the Obligors.
- (e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

### 37.4 **Notification of address and fax number**

Promptly upon changing its address or fax number, the Facility Agent shall notify the other Parties.

### 37.5 **Communication when Facility Agent is Impaired Agent**

If the Facility Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Facility Agent, communicate with each other directly and (while the Facility 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 Facility 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 Facility Agent has been appointed.

### 37.6 **Electronic communication**

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:

- (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above to be made between an Obligor and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
  - (c) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Facility Agent or the Security Agent only if it is addressed in such a manner as the Facility Agent or Security Agent shall specify for this purpose.
  - (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5.00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this agreement shall be deemed only to become effective on the following day.
  - (e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this clause 37.6.
  - (f) Where any information required to be delivered to the Facility Agent under the Finance Documents in copies sufficient for all of the Lenders is delivered by electronic communication, a single copy of such information will suffice unless the Facility Agent notifies the Parent to the contrary.

### 37.7 Use of websites

- (a) The Parent may satisfy its obligation under this agreement to deliver any information in relation to those Lenders (the "**Website Lenders**") who accept this method of communication by posting this information onto an electronic website designated by the Parent and the Facility Agent (the "**Designated Website**") if:
  - (i) the Facility 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 Facility 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 Facility Agent.

If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically then the Facility Agent shall notify the Parent accordingly and the Parent shall at its own cost supply the information to the Facility Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Parent shall at its own cost supply the Facility Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Facility 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 Facility Agent.

- (c) The Parent shall promptly upon becoming aware of its occurrence notify the Facility 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 Facility 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.

- (d) Any Website Lender may request, through the Facility 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 Business Days.

### 37.8 **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 Facility 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.

## 38. **CALCULATIONS AND CERTIFICATES**

### 38.1 **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.

### 38.2 **Certificates and determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### 38.3 **Day count convention and interest calculation**

- (a) Any interest, commission or fee accruing under a Finance Document will accrue from day to day and the amount of any such interest, commission or fee is calculated:



- (i) on the basis of the actual number of days elapsed and a year of 365 days (or, in a leap year, 366 days) or, in any case where the practice in the Relevant Market differs, in accordance with that market practice; and
  - (ii) subject to paragraph (b) below, without rounding.
- (b) The aggregate amount of any accrued interest, commission or fee which is, or becomes, payable by an Obligor under a Finance Document shall be rounded to two decimal places.

**39. 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.

**40. REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Secured Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document. No election to affirm any Finance Document on the part of any Finance Party or Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

**41. AMENDMENTS AND WAIVERS**

**41.1 Intercreditor Agreement**

This clause 41 is subject to the terms of the Intercreditor Agreement.

**41.2 Required consents**

- (a) Subject to clause 41.3 (All Lender matters) to clause 41.10 (Structural Adjustment), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Parent and any such amendment or waiver will be binding on all Parties.
- (b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this clause 41.
- (c) Without prejudice to the generality of paragraphs (c), (d) and (e) of clause 32.7 (Rights and discretions), the Facility Agent may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this agreement.
- (d) Each Obligor agrees to any such amendment or waiver permitted by this clause 41 which is agreed to by the Parent. This includes any amendment or waiver which would, but for this paragraph (d), require the consent of all of the Guarantors.
- (e) Paragraph (c) of clause 29.14 (Pro rata interest settlement) shall apply to this clause 41.

**41.3 All Lender matters**

Subject to clause 41.4 (Majority Super Senior Facility Lender and Majority Lender matters), clause 41.5 (Majority Super Senior Facility Lender matters), 41.6 (Majority Revolving Facility Lender matters) and clause 41.10 (Structural Adjustment), an amendment, waiver or (in the case of a Transaction Security Document) a consent of, or in relation to, any term of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of "Change of Control", "Incremental Term Facility Majority Lenders", "Lenders", "Majority Lenders", "Majority Revolving Facility Lenders", "Majority Super Senior Facility Lenders" and "Structural Adjustment" in clause 1.1 (Definitions);
- (b) the definitions of "Restricted Person", "Sanctions", "Sanctions Authority" or "Sanctioned Country" in clause 1.1 (Definitions), clause 24.18 (Anti-corruption law), clause 24.31 (Sanctions), clause 27.5 (Anti-corruption law) or clause 27.36 (Sanctions);
- (c) an extension to the date of payment of any amount under the Finance Documents (other than in relation to clause 11 (Mandatory prepayment and cancellation) and/or a Structural Adjustment);
- (d) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
- (e) an increase in any Commitment or the Total Commitments (other than pursuant to a Structural Adjustment or pursuant to clauses 2.2 (Incremental Term Facilities) or 2.3 (Increase)), an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under the relevant Facility;
- (f) a change to the Borrowers or Guarantors other than in accordance with clause 31 (Changes to the Obligors);
- (g) any provision which expressly requires the consent of all the Lenders;
- (h) clause 2.4 (Alternative Lenders), clause 2.8 (Finance parties' rights and obligations), clause 11 (Mandatory prepayment and cancellation), clause 29 (Changes to the Lenders), clause 31 (Changes to the Obligors), this clause 41, clause 47 (Governing law) or clause 48.1 (Jurisdiction of English courts);
- (i) any amendment to the order of priority or subordination under the Intercreditor Agreement or the manner in which the proceeds of enforcement of the Transaction Security are distributed;
- (j) a change in currency of payment of any amount under Finance Documents;
- (k) (other than as expressly permitted by the provisions of any Finance Document) the nature or scope of the guarantee and indemnity granted under clause 23 (Guarantee and indemnity); or
- (l) the release of any guarantee and indemnity granted under clause 23 (Guarantee and indemnity) or the release of any Transaction Security, unless it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is a Permitted Disposal or a Permitted Transaction or has been consented to by the Majority Lenders and, if such disposal is a Significant Disposal, the Majority Super Senior Facility Lenders;
- (m) the nature or scope of the Charged Property or the Transaction Security unless it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is a Permitted Disposal or a Permitted

Transaction or has been consented to by the Majority Lenders and, if such disposal is a Significant Disposal, the Majority Super Senior Facility Lenders; or

(n) any other provision which expressly requires the consent of all Lenders,

shall not be made, or given, without the prior consent of all the Lenders.

#### 41.4 **Majority Super Senior Facility Lender and Majority Lender matters**

An amendment, consent or waiver that has the effect of changing or which relates to:

- (a) a Default, in so far as it would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be a Material Event of Default;
- (b) a Material Event of Default or to the definition of "Material Event of Default" in clause 1.1 (Definitions) or the clauses or definitions used or referenced therein (provided that, in the case of such definitions used or clauses referred to therein, such amendment or waiver would change the scope or application of the definition or "Material Event of Default" in a manner which is adverse to the Majority Super Senior Facility Lenders);
- (c) the definitions of "Financial Indebtedness", "Permitted Financial Indebtedness", "Permitted Guarantee" and "Permitted Security" in clause 1.1 (Definitions) or the definitions used or clauses referred to in those definitions, the effect of which would be to permit the incurring (or permitting to subsist) of Financial Indebtedness that ranks pari passu with or prior to a Super Senior Facility or creates (or permits to subsist) Security over assets which are already subject to Transaction Security in favour of the Lenders under a Super Senior Facility, which new Security ranks pari passu or in priority to the Transaction Security granted for the benefit of the Lenders under a Super Senior Facility;
- (d) the definitions of "Significant Assets", "Significant Company" and "Significant Disposal" in clause 1.1 (Definitions) or the definitions used or clauses referred to in those definitions (provided that, in the case of such definitions used or clauses referred to therein, such amendment or waiver would change the scope or application of the definitions of "Significant Asset", "Significant Company" or a "Significant Disposal" in clause 1.1 (Definitions) (as the case may be) in a manner which is adverse to the Majority Super Senior Facility Lenders);
- (e) the provisions of clause 27.14 (Negative pledge) or clause 27.21 (Financial Indebtedness) or the definition of "Permitted Transaction" in clause 1.1 (Definitions) or the definitions used or clauses referred to in those definitions, the effect of which would be to permit the incurring (or permitting to subsist) of Financial Indebtedness that ranks pari passu with or prior to a Super Senior Facility or creates (or permits to subsist) Security over assets which are already subject to Transaction Security in favour of the Lenders under a Super Senior Facility, which new Security ranks pari passu or in priority to the Transaction Security granted for the benefit of the Lenders under a Super Senior Facility;
- (f) clause 25.1 (Financial statements) or clause 25.2 (Provision and contents of Compliance Certificate);
- (g) clause 25 (Information undertakings) (other than clause 25.1 (Financial statements) or clause 25.2 (Provision and contents of Compliance Certificate)), but solely in a way which is material and adverse to the interests of the Lenders of a Super Senior Facility;

- (h) clause 26.2 (Financial condition) and, other than to the extent that the proposed consent, amendment or waiver is solely in relation to the calculation of paragraph (a) of clause 26.2 (Financial condition), the definitions used or referenced therein;
- (i) clause 26.4 (Equity Cure), to the extent that the proposed consent, amendment or waiver would permit an equity cure to be made to cure a breach of paragraph (b) of clause 26.2 (Financial condition);
- (j) clause 28.19 (Super Senior Acceleration) (other than as contemplated in paragraph (f) of clause 41.5 (Majority Super Senior Facility Lender matters) below);
- (k) clause 34 (Sharing among the Finance Parties);
- (l) clause 35.6 (Partial payments);
- (m) the introduction of an additional loan or tranche of a loan, or the increase in the amount of any Loan or Facility (including, in each case, in respect of any Incremental Term Facility Loan or Incremental Term Facility), the effect of which would be to permit the incurring or permitting to subsist of Financial Indebtedness that ranks pari passu or prior to a Super Senior Facility or creates (or permits to subsist) security over assets which are already subject to Transaction Security in favour of the Lenders under a Super Senior Facility, which new security ranks pari passu or in priority to the Transaction Security granted for the benefit of the Lenders under the Super Senior Facility;
- (n) an amendment or waiver which, if it were not granted, either (i) a Default would occur, in so far as it would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be a Material Event of Default, or (ii) a Material Event of Default would occur;
- (o) a change to the definition of "Termination Date" in clause 1.1 (Definitions) of a Facility (other than a Super Senior Facility) so that it falls earlier than six months after the Termination Date for a Super Senior Facility;
- (p) the addition of a loan or tranche of a loan (including in respect of any Incremental Term Facility Loan) with a termination date of less than six months following the Termination Date in respect of a Super Senior Facility; and
- (q) clause 36 (Set-off) to the extent such amendment or waiver would delay, defer or further restrict a Super Senior Facility Lender's ability to exercise its rights of set-off,

shall not be made or given without the prior consent of the Majority Super Senior Facility Lenders and the Majority Lenders.

#### 41.5 **Majority Super Senior Facility Lender matters**

Any amendment, consent or waiver in relation to any term of any Finance Document that has the effect of changing or relates to:

- (a) clause 3.1 (Purpose), but solely in relation to a Super Senior Facility;
- (b) any of the conditions in clause 4.1 (Initial conditions precedent), clause 4.2 (Further conditions precedent), clause 4.3 (Conditions relating to Optional Currencies), clause 4.6 (Maximum number of Loans), clause 5 (Utilisation) and schedule 10 (Timetables), in each case only in the context of a proposed Super Senior Facility Loan;
- (c) clause 10.2 (Voluntary cancellation) to clause 10.4 (Voluntary prepayment of Revolving Facility Loans) (inclusive) and clause 13.1 (Notices of cancellation or

prepayment), in each case solely insofar as that amendment, consent or waiver relates to the cancellation of Available Commitments under a Super Senior Facility and/or prepayment of a Super Senior Facility Loan;

- (d) clause 28.1 (Non-payment), clause 17.1 (Commitment fee) or to clause 17.2 (Arrangement fee) insofar as that amendment, consent or waiver relates to payments to Lenders with a Super Senior Facility Commitment and/or any fee for the account of a Lender of a Super Senior Facility documented in a Fee Letter from time to time;
- (e) if a Material Event of Default has occurred, any amendment or waiver which, if granted would result in that Material Event of Default ceasing to be continuing (provided that, for the avoidance of doubt, no such amendment or waiver shall (if granted) result in an Event of Default ceasing to be continuing); or
- (f) the cancellation or revocation of any notice delivered by the Facility Agent pursuant to clause 28.19 (Super Senior Acceleration),

shall not be made without the consent of the Majority Super Senior Facility Lenders.

#### 41.6 **Majority Revolving Facility Lender matters**

Any amendment, consent or waiver in relation to any term of any Finance Document that has the effect of changing or relates to:

- (a) clause 7 (Ancillary Facilities); and
- (b) clause 17.5 (Interest, commission and fees on Ancillary Facilities) solely in relation to any Revolving Facility Commitment which has been made available as an Ancillary Commitment,

shall not be made without the consent of the Majority Revolving Facility Lenders.

#### 41.7 **Other exceptions**

An amendment or waiver which relates to the rights or obligations of the Facility Agent, the Arranger, the Security Agent, any Ancillary Lender, a Hedge Counterparty or a Reference Bank (each in their capacity as such) may not be effected without the consent of the Facility Agent, the Arranger, the Security Agent, that Ancillary Lender, that Hedge Counterparty or that Reference Bank, as the case may be.

#### 41.8 **ESG amendments**

- (a) If the Company (after consultation with the Facility Agent) considers (acting reasonably) that any of the ESG Provisions are:
  - (i) no longer relevant as a result of the corporate, environmental, social or governance laws and regulations applicable to the Group and/or the Groups internal policies and procedures; or
  - (ii) no longer appropriate following the occurrence of any event or circumstance (including, without limitation, any change in law or material acquisition or disposal),

the Company may propose amendments or waivers to the ESG Provisions to the Facility Agent.

- (b) Following receipt of a proposal in accordance with paragraph (a) above, the Facility Agent and the Company shall negotiate in good faith for a period of no more than 30

days with a view to amending or waiving the ESG Provisions (each an "**ESG Adjustment Proposal**").

- (c) Any ESG Adjustment Proposal may be agreed by the Company and the Facility Agent (acting on the instructions of the Majority Lenders). Any ESG Adjustment Proposal that is agreed by the Company and the Facility Agent shall be deemed to be incorporated into this agreement from the date such agreement is confirmed in writing with no further action required to be taken by any of the Parties.
- (d) If at the end of the period referred to in paragraph (b) above no agreement on the ESG Adjustment Proposal is reached, the relevant ESG Provision shall be deemed to no longer apply, none of the Parties will be subject to the applicable ESG Provision and the Margin shall be determined in accordance with the definition of Margin in clause 1.1 (Definitions) without any adjustment, in each case, with effect from the Business Day following the expiry of the period referred to in paragraph (b) above.

#### 41.9 **Changes to reference rates**

- (a) Subject to clause 41.7 (Other exceptions), if a Published Rate Replacement Event has occurred in relation to any Published Rate for a currency which can be selected for a Loan, any amendment or waiver which relates to:
  - (i) providing for the use of a Replacement Reference Rate in relation to that currency in place of that Published Rate; and
  - (ii)
    - (A) aligning any provision of any Finance Document to the use of that Replacement Reference Rate;
    - (B) enabling that Replacement Reference Rate to be used for the calculation of interest under this agreement (including, without limitation, any consequential changes required to enable that Replacement Reference Rate to be used for the purposes of this agreement);
    - (C) implementing market conventions applicable to that Replacement Reference Rate;
    - (D) providing for appropriate fallback (and market disruption) provisions for that Replacement Reference Rate; or
    - (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Reference Rate (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),may be made with the consent of the Facility Agent (acting on the instructions of the Majority Lenders and (only insofar as and to the extent that the replacement will apply to a Super Senior Facility) the Majority Super Senior Facility Lenders) and the Parent.
- (b) An amendment or waiver that relates to, or has the effect of, aligning the means of calculation of interest on a Compounded Rate Loan under this agreement to any recommendation of a Relevant Nominating Body which:

(i) relates to the use of a risk-free-rate on a compounded basis in the international or any relevant domestic syndicated loan markets; and

(ii) is issued on or after the date of this agreement,

may be made with the consent of the Facility Agent (acting on the instructions of the Majority Lenders and (only insofar as and to the extent that the replacement will apply to a Super Senior Facility) the Majority Super Senior Facility Lenders) and the Parent.

#### 41.10 **Structural Adjustment**

Any Structural Adjustment shall be permitted with the consent of:

- (a) each Lender that is participating in that additional tranche or facility or increasing, extending or redenominating its Commitments or, as applicable, extending or redenominating or reducing any amount due to it; and
- (b) the Majority Lenders (for which purpose only the existing Commitments of each Lender will be taken into account).

#### 41.11 **Excluded Commitments**

If any Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of Lenders under the terms of this agreement within ten Business Days of that request being made (unless the Parent and the Facility Agent agree to a longer time period in relation to any request):

- (a) its Commitments shall not be included for the purpose of calculating the Total Commitments under the relevant Facility/ies when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request, provided that no Lender may be required to incur, increase or extend its Commitment without that Lender's express consent; and
- (b) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

#### 41.12 **Replacement of Lender**

- (a) If:
  - (i) any Lender becomes a Non-Consenting Lender (as defined in paragraph (d) below);
  - (ii) an Obligor becomes obliged to repay any amount in accordance with clause 10.1 (Illegality) or to pay additional amounts pursuant to clause 19.1 (Increased costs), clause 18.2 (Tax gross-up), clause 16.4 (Market disruption) or clause 18.3 (Tax indemnity) to any Lender; or
  - (iii) any Lender becomes a Loan to Own Investor,

then the Parent may, on five Business Days' prior written notice to the Facility Agent and such Lender:

- (A) prepay such Lender at par using the proceeds of Acceptable Funding Sources (Excluding Debt and Retained Cash) and/or cancel the Commitments of that Lender; or

- (B) replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to clause 29 (Changes to the Lenders) all (and not part only) of its rights and obligations under this agreement to an Eligible Institution (a "**Replacement Lender**") which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with clause 29 (Changes to the Lenders) for a purchase price in cash payable at the time of transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest (to the extent that the Facility Agent has not given a notification under clause 29.14 (Pro rata interest settlement)), Break Costs and other amounts payable in relation thereto under the Finance Documents.
- (b) The replacement of a Lender pursuant to this clause 41.12 shall be subject to the following conditions:
  - (i) the Parent shall have no right to replace the Facility Agent or Security Agent;
  - (ii) neither the Facility Agent nor the Lender shall have any obligation to the Parent to find a Replacement Lender;
  - (iii) in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than 60 Business Days after the date on which that Lender is deemed a Non-Consenting Lender;
  - (iv) in no event shall the Lender replaced under this clause 41.3 be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents; and
  - (v) the Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer.
- (c) A Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Facility Agent and the Parent when it is satisfied that it has complied with those checks.
- (d) In the event that:
  - (i) the Parent or the Facility Agent (at the request of the Parent) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents; and
  - (ii) the consent, waiver or amendment in question requires the approval of all the Lenders or the Super Majority Lenders, and the Majority Lenders have consented or agreed to such waiver or amendment,

then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a "**Non-Consenting Lender**".

#### 41.13 **Disenfranchisement of Defaulting Lenders**

- (a) For so long as a Defaulting Lender has any Available Commitment, in ascertaining:



- (i) the Majority Lenders, the Majority Revolving Facility Lenders, the Majority Super Senior Facility Lenders or the Incremental Term Facility Majority Lenders; or
- (ii) whether:
  - (A) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments under the relevant Facility/ies; or
  - (B) the agreement of any specified group of Lenders,
 has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents,

that Defaulting Lender's Commitments under the relevant Facility/ies will be reduced by the amount of its Available Commitments under the relevant Facility/ies and, to the extent that that reduction results in that Defaulting Lender's Total Commitments being zero, that Defaulting Lender shall be deemed not to be a Lender for the purposes of paragraphs (i) and (ii) above.

- (b) For the purposes of this clause 41.13, the Facility Agent may assume that the following Lenders are Defaulting Lenders:
  - (i) any Lender which has notified the Facility Agent that it has become a Defaulting Lender;
  - (ii) any Lender in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a), (b) or (c) of the definition of "Defaulting Lender" has occurred,

unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Facility Agent) or the Facility Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

#### 41.14 Replacement of a Defaulting Lender

- (a) The Parent may, at any time a Lender has become and continues to be a Defaulting Lender, by giving five Business Days' prior written notice to the Facility Agent and such Lender:
  - (i) replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to clause 29 (Changes to the Lenders) all (and not part only) of its rights and obligations under this agreement;
  - (ii) require such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to clause 29 (Changes to the Lenders) all (and not part only) of the undrawn Revolving Facility Commitment and/or Incremental Term Facility Commitment of the Lender; or
  - (iii) require such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to clause 29 (Changes to the Lenders) all (and not part only) of its rights and obligations in respect of the Revolving Facility and/or the Incremental Term Facility,

to an Eligible Institution (a "**Replacement Lender**") which confirms its willingness to assume and does assume all the obligations, or all the relevant obligations, of the

transferring Lender in accordance with clause 29 (Changes to the Lenders) for a purchase price in cash payable at the time of transfer which is either:

- (A) in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest (to the extent that the Facility Agent has not given a notification under clause 29.14 (Pro rata interest settlement)), Break Costs and other amounts payable in relation thereto under the Finance Documents; or
  - (B) in an amount agreed between that Defaulting Lender, the Replacement Lender and the Parent and which does not exceed the amount described in paragraph (A) above.
- (b) Any transfer of rights and obligations of a Defaulting Lender pursuant to this clause 41.14 shall be subject to the following conditions:
- (i) the Parent shall have no right to replace the Facility Agent or Security Agent;
  - (ii) neither the Facility Agent nor the Defaulting Lender shall have any obligation to the Parent to find a Replacement Lender;
  - (iii) the transfer must take place no later than 60 Business Days after the notice referred to in paragraph (a) above;
  - (iv) in no event shall the Defaulting Lender be required to pay or surrender to the Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Finance Documents; and
  - (v) the Defaulting Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer to the Replacement Lender.
- (c) The Defaulting Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Facility Agent and the Parent when it is satisfied that it has complied with those checks.

## 42. **CONFIDENTIAL INFORMATION**

### 42.1 **Confidentiality**

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by clause 42.2 (Disclosure of Confidential Information) and clause 42.4 (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.

### 42.2 **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, lenders, partners (including actual or potential limited partners or investors in any Finance Party) 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 Facility Agent or Security Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (iii) appointed by any Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of clause 32.15 (Relationship with the Lenders));
  - (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
  - (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 information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
  - (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to clause 29.13 (Security over Lenders' rights);
  - (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), (b)(ii) and (b)(iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
- (B) in relation to paragraph (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;

- (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;
- (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
- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

#### 42.3 **Press release and related matters**

Excluding Scheme Documents and Offer Documents, and all other documents required to be issued in connection with the Scheme or Offer or other applicable laws and regulations in relation to the Scheme or Offer, no Party shall (and shall ensure that none of its Holding Companies, Affiliates and Related Funds shall) issue any press release or other public disclosure using the name, logo or otherwise referring to any other Party, the Finance Documents or any transaction contemplated herein or therein to which any Finance Party is party, without the prior written consent of the relevant Party.

#### 42.4 **Disclosure to numbering service providers**

- (a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this agreement, the Facilities and/or one or more Obligors the following information:
  - (i) names of Obligors;
  - (ii) country of domicile of Obligors;
  - (iii) place of incorporation of Obligors;
  - (iv) date of this agreement;
  - (v) clause 47 (Governing law);
  - (vi) the names of the Facility Agent and the Arranger;

- (vii) date of each amendment and restatement of this agreement;
  - (viii) amounts of, and names of, the Facilities (and any tranches);
  - (ix) amount of Total Commitments;
  - (x) currencies of the Facilities;
  - (xi) type of Facilities;
  - (xii) ranking of Facilities;
  - (xiii) Termination Date for Facilities;
  - (xiv) changes to any of the information previously supplied pursuant to paragraphs (i) to (xiii) above; and
  - (xv) such other information agreed between such Finance Party and the Parent,  
to enable such numbering service provider to provide its usual syndicated loan numbering identification services.
- (b) The Parties acknowledge and agree that each identification number assigned to this agreement, the Facilities and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
- (c) The Facility Agent shall notify the Parent and the other Finance Parties of:
- (i) the name of any numbering service provider appointed by the Facility Agent in respect of this agreement, the Facilities and/or one or more Obligors; and
  - (ii) the number or, as the case may be, numbers assigned to this agreement, the Facilities and/or one or more Obligors by such numbering service provider.

#### 42.5 **Entire agreement**

This clause 42 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.

#### 42.6 **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.

#### 42.7 **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 42.2 (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 42.

#### 42.8 **Continuing obligations**

The obligations in this clause 42 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with the Finance Documents have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

### 43. **CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS**

#### 43.1 **Confidentiality and disclosure**

- (a) The Facility Agent and each Obligor agree to keep each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c) and (d) below.
- (b) The Facility Agent may disclose:
  - (i) any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to the relevant Borrower pursuant to clause 14.7 (Notification of rates of interest); and
  - (ii) any Funding Rate or any Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Facility and the relevant Lender or Reference Bank, as the case may be.
- (c) The Facility Agent may disclose any Funding Rate or any Reference Bank Quotation, and each Obligor may disclose any Funding Rate, to:
  - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
  - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to

whom that Funding Rate or Reference Bank Quotation is to be given is informed 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 Facility Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;

- (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed 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 Facility Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and
  - (iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.
- (d) The Facility Agent's obligations in this clause 43 relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under clause 14.7 (Notification of rates of interest) provided that (other than pursuant to paragraph (b)(i) above) the Facility Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.

#### **43.2 Related obligations**

- (a) The Facility Agent and each Obligor acknowledge that each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent and each Obligor undertake not to use any Funding Rate or, in the case of the Facility Agent, any Reference Bank Quotation for any unlawful purpose.
- (b) The Facility Agent and each Obligor agree (to the extent permitted by law and regulation) to inform relevant Lender or Reference Bank, as the case may be:
  - (i) of the circumstances of any disclosure made pursuant to paragraph (c)(ii) of clause 43.1 (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 43.

#### **43.3 No Event of Default**

No Event of Default will occur under clause 28.3 (Other obligations) by reason only of an Obligor's failure to comply with this clause 43.

### **44. DISCLOSURE OF LENDER DETAILS BY AGENT**

#### **44.1 Supply of Lender details to Parent**

The Facility Agent shall provide to the Parent within two 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 transmission of information by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the Finance Documents may be made by that means and the account details of each Lender for any payment to be distributed by the Facility Agent to that Lender under the Finance Documents.

#### 44.2 **Supply of Lender details at Parent's direction**

- (a) The Facility Agent shall, at the request of the Parent, disclose the identity of the Lenders and the details of the Lenders' Commitments to any:
  - (i) other Party or any other person if that disclosure is made to facilitate, in each case, a refinancing of the Financial Indebtedness arising under the Finance Documents or a material waiver or amendment of any term of any Finance Document; and
  - (ii) member of the Group.
- (b) Subject to paragraph (c) below, the Parent shall use its reasonable endeavours to procure that the recipient of information disclosed pursuant to paragraph (a) above shall (subject to paragraph (c) below) keep such information confidential and shall not disclose it to anyone and shall ensure that all such information is protected with security measures and a degree of care that would apply to the recipient's own confidential information.
- (c) The recipient may disclose such information to any of its officers, directors, employees, professional advisers, auditors and partners as it shall consider appropriate if any such person is informed in writing of its confidential nature, except that there shall be no such requirement to so inform if that person is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by duties of confidentiality in relation to the information.

#### 44.3 **Supply of Lender details to other Lenders**

- (a) If a Lender (a "**Disclosing Lender**") indicates to the Facility Agent that the Facility Agent may do so, the Facility Agent shall disclose that Lender's name and Commitment to any other Lender that is, or becomes, a Disclosing Lender.
- (b) The Facility Agent shall, if so directed by the Requisite Lenders, request each Lender to indicate to it whether it is a Disclosing Lender.

#### 44.4 **Lender enquiry**

If any Lender believes that any entity is, or may be, a Lender and:

- (a) that entity ceases to have an Investment Grade Rating; or
- (b) an Insolvency Event occurs in relation to that entity,

the Facility Agent shall, at the request of that Lender, indicate to that Lender the extent to which that entity has a Commitment.

#### 44.5 **Lender details definitions**

In this clause 44:

**"Investment Grade Rating"** means, in relation to an entity, a rating for its long-term unsecured and non credit-enhanced debt obligations of BBB- or higher by Standard & Poor's



Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; and

**"Requisite Lenders"** means a Lender or Lenders whose Commitments aggregate 15 per cent (or more) of the Total Commitments (or if the Total Commitments have been reduced to zero, aggregated 15 per cent (or more) of the Total Commitments immediately prior to that reduction).

#### 45. **CONTRACTUAL RECOGNITION OF BAIL-IN**

##### 45.1 **Definitions**

In this agreement:

**"Article 55 BRRD"** means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms;

**"Bail-In Action"** means the exercise of any Write-down and Conversion Powers;

**"Bail-In Legislation"** means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time;
- (b) in relation to any state other than such an EEA Member Country or the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation; and
- (c) in relation to the United Kingdom, the UK Bail-In Legislation;

**"EEA Member Country"** means any member state of the European Union, Iceland, Liechtenstein and Norway;

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

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

**"UK Bail-In Legislation"** means part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings); and

**"Write-down and Conversion Powers"** means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;
- (b) in relation to any other applicable Bail-In Legislation other than the UK Bail-In Legislation:
  - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or

any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and

(ii) any similar or analogous powers under that Bail-In Legislation; and

(c) in relation to any UK Bail-In Legislation:

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

(ii) any similar or analogous powers under that UK Bail-In Legislation.

#### 45.2 **Contractual right of bail-in**

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

(a) any Bail-In Action in relation to any such liability, including (without limitation):

(i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;

(ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and

(iii) a cancellation of any such liability; and

(b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

#### 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.

#### 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) Notwithstanding paragraph (a) above, 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.

#### 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 the Parent as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document (and the Parent by its execution of this agreement, accepts that appointment); and
  - (ii) agrees that failure by an agent for service of process to notify the relevant Obligor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Parent (on behalf of all the Obligors) must immediately (and in any event within five days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.

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**

<b>Name of Company</b>	<b>Registered number (or equivalent, if any) Original Jurisdiction</b>
Amalfi Bidco Limited	14186033, England and Wales

<b>Name of Original Guarantor</b>	<b>Registered number (or equivalent, if any) Original Jurisdiction</b>
Amalfi Bidco Limited	14186033, England and Wales
Amalfi Cleanco Limited	14185950, England and Wales

**Part 2 - The Original Committed Lenders**

<b>Name of Original Committed Lender</b>	<b>Senior Term Facility Commitment (€) A</b>	<b>Senior Term Facility Commitment (€) B</b>	<b>Super Senior Term Facility Commitment (€)</b>	<b>Revolving Facility Commitment (€)</b>	<b>HMRC DT Treaty Passport scheme reference number and jurisdiction of tax residence (if applicable)</b>
Ares Capital Europe V (E) Investments S.à r.l.	65,622,480.00	109,370,800.00	62,497,600.00	9,374,640.00	48/A/380589/ DTTP, Luxembourg
Ares Capital Europe V (G) Investments S.à r.l.	15,266,790.00	25,444,650.00	14,539,800.00	2,180,970.00	48/A/380594/ DTTP, Luxembourg
Ares Capital Europe V (E) (L) Investments S.à r.l.	121,394,490.00	202,324,150.00	115,613,800.00	17,342,070.00	48/A/380585/ DTTP, Luxembourg
Ares Capital Europe V (G) (L) Investments S.à r.l.	7,716,240.00	12,860,400.00	7,348,800.00	1,102,320.00	48/A/380521/ DTTP, Luxembourg
<b>TOTAL</b>	<b>210,000,000.00</b>	<b>350,000,000.00</b>	<b>200,000,000.00</b>	<b>30,000,000.00</b>	

**Part 3 - The Original Alternative Lenders**

<b>Name of Original Alternative Lender</b>	<b>Senior Term Facility A Commitment (£)</b>	<b>Senior Term Facility B Commitment (£)</b>	<b>HMRC DT Treaty Passport scheme reference number and jurisdiction of tax residence (if applicable)</b>
Ares Capital Europe V (E) Investments S.à r.l.	38,279,759.00	68,356,750.00	48/A/380589/DTTP, Luxembourg
Ares Capital Europe V (G) Investments S.à r.l.	8,905,621.00	15,902,906.00	48/A/380594/DTTP, Luxembourg
Ares Capital Europe V (E) Holdings S.à r.l.	35,406,766.00	-	48/A/380588/DTTP, Luxembourg
Ares Capital Europe V (E) Assets S.à r.l.	35,406,766.00	-	(Not available), Luxembourg
Ares Capital Europe V (G) Holdings S.à r.l.	2,250,567.00	-	48/A/380519/DTTP, Luxembourg
Ares Capital Europe V (G) Assets S.à r.l.	2,250,567.00	-	(Not available), Luxembourg
Ares Capital Europe V (E) (L) Investments S.à r.l.	-	126,452,595.00	48/A/380585/DTTP, Luxembourg
Ares Capital Europe V (G) (L) Investments S.à r.l.	-	8,037,750.00	48/A/380521/DTTP, Luxembourg
Ares Credit Strategies Feeder III UK, L.P.	10,499,994.00	18,750,000.00	Exempt Lender
Ares ECSF VI (B) Holdings S.à r.l.	3,999,998.00	7,142,857.00	48/A/371953/DTTP, Luxembourg
Ares ECSF VII (P) Holdings S.à r.l.	1,499,999.00	2,678,571.00	48/A/373666/DTTP, Luxembourg
SC ACM EU PD S.à r.l.	11,499,994.00	20,535,714.00	48/S/374938/DTTP, Luxembourg
MC CA Investment S.à r.l.	13,999,993.00	-	48/M/375619/DTTP, Luxembourg
Prima European Direct Lending 1 Designated Activity Company	1,499,999.00	2,678,571.00	12/P/377225/DTTP, Ireland
Ares ECSF X (T) Holdings S.à r.l.	4,499,998.00	8,035,714.00	48/A/377073/DTTP, Luxembourg
VG ACM EU PD S.à r.l.	2,499,999.00	4,464,286.00	48/V/386525/DTTP, Luxembourg
Ares ECSF XII (Z) (E) Holdings S.à r.l.	5,499,997.00	9,821,429.00	48/A/387611/DTTP, Luxembourg
Ares ECSF XII (Z) (G) Holdings S.à r.l.	2,499,999.00	4,464,286.00	48/A/380273/DTTP, Luxembourg

Ares DCSF (S) Holdings S.à r.l.	999,999.00	1,785,714.00	48/A/380273/DTTP, Luxembourg
Ares SFERS Holdings LLC	999,999.00	1,785,714.00	13/A/378506/DTTP, USA
Ares European Credit Investments II (G), L.P.	7,499,996.00	13,392,857.00	Exempt Lender
Ares ECI I (C) Holdings S.à r.l.	9,999,995.00	17,857,143.00	48/A/377075/DTTP, Luxembourg
Ares ECI V (X) Holdings S.à r.l.	4,999,997.00	8,928,571.00	48/A/387602/DTTP, Luxembourg
Ares ECI IX (AF) Holdings S.à r.l.	2,499,999.00	4,464,286.00	48/A/389355/DTTP, Luxembourg
Ares ECI VIII (M) Holdings S.à r.l.	2,499,999.00	4,464,286.00	48/A/386729/DTTP, Luxembourg
<b>TOTAL</b>	<b>210,000,000.00</b>	<b>350,000,000.00</b>	

## **SCHEDULE 2**

### **Conditions precedent**

#### **Part 1A - Conditions precedent to signing of this agreement**

**1. OBLIGORS**

- (a) A copy of the constitutional documents of each Original Obligor.
- (b) A copy of a resolution of the board of directors of each Original Obligor:
  - (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;
  - (ii) authorising a specified person or persons to execute the Finance 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 and Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
  - (iv) in the case of an Obligor other than the Parent, authorising the Parent to act as its agent in connection with the Finance Documents.
- (c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above in relation to the Finance Documents and related documents who is proposing to sign such documents and notices.
- (d) A copy of a resolution signed by all the holders of the issued shares in each Original Guarantor (other than the Parent), approving the terms of, and the transactions contemplated by, the Finance Documents to which the Original Guarantor is a party.
- (e) A copy of a resolution of the board of directors of each corporate shareholder of each Original Guarantor (other than the Parent) approving the terms of the resolution referred to in paragraph (d) above.
- (f) A certificate of the Parent (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on any Original Obligor to be exceeded.
- (g) A certificate of an authorised signatory of the Parent and each other Original Obligor certifying that each copy document relating to it specified in this part 1A of schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this agreement.

**2. TRANSACTION DOCUMENTS**

A copy of the latest draft Scheme Press Announcement.

**3. FINANCE DOCUMENTS**

- (a) This agreement executed by the members of the Group party to this agreement.
- (b) The Intercreditor Agreement executed by the members of the Group party to that agreement.



- (c) The Syndication Letter executed by the Parent.
- (d) The Fee Letters executed by the Parent.
- (e) At least two originals of the following Transaction Security Documents executed by the Original Obligors specified below opposite the relevant Transaction Security Document:

Name of Original Obligor	Transaction Security Document
The Company	English law composite debenture
The Parent	

- (f) A copy of all notices required to be sent under the Transaction Security Documents executed by the relevant Obligor to the extent that the relevant Transaction Security Document requires such notices to be sent no later than the date of such Transaction Security Document.
- (g) Copies of the register of members in respect of each Obligor whose shares are subject to the Transaction Security.
- (h) All share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Original Obligor in blank in relation to any shares it owns in any other Original Obligor which are subject to or expressed to be subject to the Transaction Security.

**4. LEGAL OPINIONS**

A legal opinion of Hogan Lovells International LLP, legal advisers to the Original Lenders as to English law substantially in the form distributed to the Original Lenders prior to signing this agreement.

**5. OTHER DOCUMENTS AND EVIDENCE**

- (a) The Group Structure Chart which shows the Group assuming the Closing Date has occurred.
- (b) The Base Case Model.
- (c) The Reports (other than the Initial Valuation), each capable of being relied upon by the Reliance Parties.
- (d) The Initial Valuation, provided on a non-reliance basis.
- (e) The Sources and Uses Statement.
- (f) A copy, certified by an authorised signatory of the Parent to be a true copy, of the Target's Original Financial Statements.
- (g) The Pre-Approved New Lender List.
- (h) Completion by the Facility Agent and the Original Lenders of client identification procedures and "know your customer" requirements (including, if necessary, identification of directors, major shareholders, limited partners and general partners (as relevant) of the Company and the Parent) in compliance with applicable money laundering rules.

- (i) In respect of each company incorporated in the United Kingdom whose shares are the subject of the Transaction Security (a "**Charged Company**"), either:
  - (i) a certificate of an authorised signatory of the Parent certifying that:
    - (A) each member of the Group has complied within the relevant timeframe with any notice it has received pursuant to part 21A of the Companies Act 2006 from that Charged Company; and
    - (B) no "warning notice" or "restrictions notice" (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of those shares,  
  
together with a copy of the "PSC register" (within the meaning of section 790C(10) of the Companies Act 2006) of that Charged Company which, in the case of a Charged Company that is a member of the Group, is certified by an authorised signatory of the Parent to be correct, complete and not amended or superseded as at a date no earlier than the date of this agreement; or
  - (ii) a certificate of an authorised signatory of the Parent certifying that such Charged Company is not required to comply with part 21A of the Companies Act 2006.

6. **AGREED FORM DOCUMENTS**

A copy of the agreed form of the certificate referred to as being in an "agreed form" in paragraph 3(b) of part 1B of this schedule 2.

## **Part 1B - Conditions precedent to initial Utilisation**

### **1. SCHEME DOCUMENTS**

Where the Acquisition is being effected by way of a Scheme:

- (a) a copy of the Scheme Press Announcement, certified as a true and correct copy by the Parent;
- (b) a copy of the Scheme Circular, certified as a true and correct copy by the Parent;
- (c) a copy of the Court Order, certified as a true and correct copy by the Parent; and
- (d) a copy of the Scheme Resolution, certified as a true and correct copy by the Parent;
- (e) a copy of the Shareholder Resolution, certified as a true and correct copy by the Parent; and
- (f) a certificate of the Parent (signed by a director) in the agreed form certifying that:
  - (i) the Court Order has been delivered to the Registrar of Companies and that the Scheme has become effective; and
  - (ii) all the terms and conditions of the Scheme (other than payment of the consideration for the Acquisition) have been satisfied and no waiver or amendment of the terms and conditions of the Scheme has occurred, in each case other than as permitted or required (as the case may be) pursuant to paragraphs (e)(iii) and (e)(iv) of clause 27.23 (Scheme undertakings),

provided that the documents set out in this paragraph 1 shall be considered to be in form and substance satisfactory to the Facility Agent (acting on the instructions of all of the Lenders (acting reasonably)) if such documents are in such form that complies with the conditions of clause 27.23 (Scheme undertakings).

### **2. OFFER DOCUMENTS**

Where the Acquisition is being effected by way of an Offer:

- (a) a copy of the Offer Press Announcement, certified as a true and correct copy by the Parent;
- (b) a copy of the Offer Document, certified as a true and correct copy by the Parent;
- (c) the certificate from the Receiving Agent issued in accordance with Rule 10 of the Takeover Code; and
- (d) a certificate of the Parent (signed by a director) in the agreed form certifying that:
  - (i) the Company has (A) received acceptances of the Offer from Target Shareholders whose Target Shares represent, in aggregate, not less than 90 per cent of the Target Shares to which the Offer relates and (B) become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice; and
  - (ii) all the terms and conditions of the Offer (other than payment of the consideration for the Acquisition) have been satisfied and no waiver or amendment of the terms and conditions of the Offer has occurred, in each case other than as permitted or required (as the case may be) pursuant to paragraphs (d)(i)(D) and (d)(ii) of clause 27.24 (Offer undertakings),

provided that the documents set out in this paragraph 2 shall be considered to be in form and substance satisfactory to the Facility Agent (acting on the instructions of all of the Lenders (acting reasonably)) if such documents are in such form that complies with the conditions of clause 27.24 (Offer undertakings).

3. **OTHER DOCUMENTS AND EVIDENCE**

- (a) Utilisation Requests relating to any Utilisations to be made on the Closing Date which shall include an instruction to pay the fees due to Arranger under the terms of paragraph 2 (Arrangement Fee) of the Fee Letter between the Arranger and the Parent, provided that each such Utilisation Request(s) shall be considered to be in form and substance satisfactory to the Facility Agent (acting on the instructions of all of the Lenders (acting reasonably)) if such Utilisation Request is substantially in the relevant form set out in part A of schedule 3 (Requests and Notices).
- (b) A certificate of the Parent (signed by a director) in the agreed form certifying an amount of not less than 35 per cent of the Total Funding Requirement (the "**Minimum Equity Contribution**") has been (or, simultaneously with the Utilisation of the Senior Term Facility A, the Senior Term Facility B and the Super Senior Term Facility on the Closing Date, will be) lent to the Parent in cash or invested in shares in the Parent (including by a transfer of Target Shares valued at the price offered under the Scheme or Offer) and the Parent has contributed (or, simultaneously with the Utilisation of the Senior Term Facility A, the Senior Term Facility B and/or the Super Senior Term Facility on the Closing Date, will contribute) (directly or indirectly) the full amount of the Minimum Equity Contribution to the Company, to be applied in accordance with the Structure Memorandum, and the certificate in this paragraph shall be considered to be in form and substance satisfactory to the Facility Agent (acting on the instructions of all of the Lenders (acting reasonably)) provided that it is in the form delivered under paragraph 6 of part 1A of this schedule 2).
- (c) The Funds Flow Statement, provided that shall not be required to be in form and substance satisfactory to the Facility Agent.

## **Part 2 - Conditions precedent required to be delivered by an Additional Obligor**

1. An Accession Deed executed by the Additional Obligor and the Parent.
2. A copy of the constitutional documents of the Additional Obligor.
3. A copy of a resolution of the board or, if applicable, a committee of the board of directors of the Additional Obligor:
  - (a) approving the terms of, and the transactions contemplated by, the Accession Deed and the 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 party;
  - (b) authorising a specified person or persons to execute the Accession Deed and other Finance Documents to which it is a party on its behalf;
  - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices (including, in relation to an Additional Borrower, any Utilisation Request or Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
  - (d) authorising the Parent to act as its agent in connection with the Finance Documents.
4. If applicable, a copy of a resolution of the board of directors of the Additional Obligor, establishing the committee referred to in paragraph 3 above.
5. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above who is proposing to sign such documents and notices.
6. If required by or customary under local law, a copy of a resolution signed by the member(s) of the Group which hold(s) or will hold the issued shares of the Additional Guarantor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Guarantor is a party.
7. If required by or customary under local law, a copy of a resolution of the board of directors of each corporate shareholder of each Additional Guarantor referred to in paragraph 6 above approving the terms of the resolution referred to in paragraph 6 above.
8. A certificate of the Additional Obligor (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on it to be exceeded.
9. A certificate of an authorised signatory of the Additional Obligor certifying that each copy document listed in this part 2 of schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed.
10. If available, the latest annual financial statements of the Additional Obligor (audited if such statements are required to be audited in such Additional Obligor's jurisdiction of incorporation).
11. The following legal opinions, each addressed to the Facility Agent, the Security Agent and the Lenders:
  - (a) A legal opinion of the legal advisers to the Lenders in England, as to English law in the form distributed to the Lenders prior to signing the Accession Deed.
  - (b) If the Additional Obligor is incorporated in or has its "centre of main interest" (as referred to in clause 24.27 (Centre of main interests)) in a jurisdiction other than

England and Wales or is executing a Finance Document which is governed by a law other than English law, a legal opinion of the legal advisers to the Lenders in the jurisdiction of its incorporation or "centre of main interest" (as applicable) or, as the case may be, the jurisdiction of the governing law of that Finance Document (the "**Applicable Jurisdiction**") as to the law of the Applicable Jurisdiction and in the form distributed to the Lenders prior to signing the Accession Deed.

12. If the proposed Additional Obligor is incorporated in a jurisdiction other than England and Wales, evidence that the process agent specified in clause 48.2 (Service of process), if not an Obligor, has accepted its appointment in relation to the proposed Additional Obligor.
13. Any security documents which, subject to the Agreed Security Principles, are required by the Facility Agent (acting reasonably) to be executed by the proposed Additional Obligor.
14. Any notices or documents required to be given or executed under the terms of those security documents to the extent that such security documents require such notices or documents to be given or executed no later than the date of such security documents.
15.
  - (a) If the Additional Obligor is a public limited company incorporated in England and Wales, Scotland or Northern Ireland, evidence that the Additional Obligor has done all that is necessary (including, without limitation, by re-registering as a private company) to comply with sections 677 to 683 of the Companies Act 2006 in order to enable that Additional Obligor to enter into the Finance Documents and perform its obligations under the Finance Documents.
  - (b) If the Additional Obligor is not incorporated in England and Wales, Scotland or Northern Ireland, such documentary evidence as legal counsel to the Facility Agent may require, that such Additional Obligor has complied with any law in its jurisdiction relating to financial assistance or analogous process.
16. Evidence satisfactory to the Facility Agent that each Finance Party has carried out and is 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 by the Finance Documents.
17. In respect of each Additional Obligor incorporated in the United Kingdom whose shares are the subject of the Transaction Security (a "**Charged Company**"), either:
  - (a) a certificate of an authorised signatory of the Parent certifying that:
    - (i) each member of the Group has complied within the relevant timeframe with any notice it has received pursuant to part 21A of the Companies Act 2006 from that Charged Company; and
    - (ii) no "warning notice" or "restrictions notice" (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of those shares,together with a copy of the "PSC register" (within the meaning of section 790C(10) of the Companies Act 2006) of that Charged Company, which, in the case of a Charged Company that is a member of the Group, is certified by an authorised signatory of the Parent to be correct, complete and not amended or superseded as at a date no earlier than the date of the relevant Accession Deed; or
  - (b) a certificate of an authorised signatory of the Parent certifying that such Charged Company is not required to comply with part 21A of the Companies Act 2006.

**SCHEDULE 3**

**Requests and Notices**

**Part 1 - Utilisation Request**

From:        **[Borrower]/[Parent]\***

To:         **[Facility Agent]**

Dated:      [●]

To whom it may concern

**Project Amalfi – 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 borrow a Loan on the following terms:
  - (a) Borrower: [●]
  - (b) Proposed [●] (or, if that is not a Business Day, the next Business Day)  
Utilisation Date:
  - (c) Facility to be [Senior Term Facility A]/[Senior Term Facility B]/[Super Senior  
utilised: Term Facility]/[Incremental Term Facility with an  
Establishment Date of [●]]/[Revolving Facility]<sup>1</sup>
  - (d) Currency of Loan: [●]
  - (e) Amount: [●] or, if less, the Available Facility
  - (f) Interest Period: [●]
3. We confirm that each condition specified in clause 4.2 (Further conditions precedent) of the Facilities Agreement [or, to the extent applicable, clause 4.4 (Loans during the Certain Funds Period) of the Facilities Agreement or clause 4.5 (Utilisations of Incremental Term Facility during the Agreed Certain Funds Period)] is satisfied on the date of this Utilisation Request or will be satisfied on the proposed Utilisation Date.
4. [This Loan is to be made in [whole]/[part] for the purpose of refinancing [**identify maturing Revolving Facility Loan**]]./[The proceeds of this Loan should be credited to [**account**].]
5. This Utilisation Request is irrevocable.

Yours faithfully

.....

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<sup>1</sup> Select the Facility to be utilised and delete references to the other Facilities.

authorised signatory for

[the Parent on behalf of [insert name of relevant Borrower]]/[insert name of Borrower]:

---

<sup>2</sup> Amend as appropriate. The Utilisation Request can be given by the Borrower or by the Parent.



**Part 2 - Selection Notice**  
**Applicable to a Term Loan**

From: [**Borrower**]/[**Parent**]<sup>3</sup>

To: [**Facility Agent**]

Dated: [●]

To whom it may concern

**Project Amalfi – 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 [Senior Term Facility A]/[Senior Term Facility B]/[Super Senior Term Facility]/[Incremental Term Facility] Loan[s] with an Interest Period ending on [●]<sup>4</sup>.
3. We request that the next Interest Period for the above [Senior Term Facility A]/[Senior Term Facility B]/[Super Senior Term Facility]/[Incremental Term Facility] Loan[s] is [●].
4. This Selection Notice is irrevocable.

Yours faithfully

.....

authorised signatory for

the Parent on behalf of [insert name of Borrower]<sup>5</sup>

---

<sup>3</sup> Amend as appropriate. The Selection Notice can be given by the Borrower or the Parent.

<sup>4</sup> Insert details of all Term Loans for the relevant Facility which have an Interest Period ending on the same date.

<sup>5</sup> Amend as appropriate. The Selection Notice can be given by the Borrower or the Parent.

## SCHEDULE 4

### Form of Transfer Certificate

From: [●] as Facility Agent and [●] as Security Agent

To: [*The Existing Lender*] (the "**Existing Lender**") and [*The New Lender*] (the "**New Lender**")

Dated: [●]

#### **Project Amalfi – 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 purposes of the Facilities Agreement and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this agreement unless given a different meaning in this agreement.
2. We refer to clause 29.9 (Procedure for transfer) of the Facilities Agreement:
  - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation and in accordance with clause 29.9 (Procedure for transfer) of the Facilities Agreement all of the Existing Lender's rights and obligations under the Facilities Agreement, the other Finance Documents and in respect of the Transaction Security which relate to that portion of the Existing Lender's Commitment(s) and participations in Loans under the Facilities Agreement as specified in the Schedule.
  - (b) The proposed Transfer Date is [●].
  - (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of clause 37.2 (Addresses) of the Facilities Agreement are set out in the Schedule.
3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of clause 29.8 (Limitation of responsibility of Existing Lenders) of the Facilities Agreement.
4. The New Lender confirms, for the benefit of the Facility Agent and the Obligors, that it is:
  - (a) [a Qualifying Lender (other than a Treaty Lender or an Exempt Lender);]
  - (b) [a Treaty Lender;]
  - (c) [an Exempt Lender;]
  - (d) [not a Qualifying Lender].
5. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:
  - (a) a company resident in the United Kingdom for United Kingdom tax purposes;
  - (b) a partnership each member of which is:

- (i) a company so resident in the United Kingdom; or
  - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of part 17 of the CTA; or
  - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]
6. [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [●]) and is tax resident in [●]<sup>6</sup>, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify:
- (a) each Borrower which is a Party as a Borrower as at the Transfer Date; and
  - (b) each Additional Borrower which becomes an Additional Borrower after the Transfer Date,
- that it wishes that scheme to apply to the Facilities Agreement.]<sup>7</sup>
7. The New Lender confirms that it [is]/[is not]<sup>8</sup> a Sponsor Affiliate.
8. We refer to clause 21.4 (Change of Super Senior Lender or Senior Lender) of the Intercreditor Agreement. In consideration of the New Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined therein), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as 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.
9. 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.
10. This agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
11. This agreement has been entered into on the date stated at the beginning of this agreement.

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

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<sup>6</sup> Insert jurisdiction of tax residence.

<sup>7</sup> Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement

<sup>8</sup> Delete as applicable.

**THE SCHEDULE**

**Commitment/rights and obligations to be transferred**

*[insert relevant details]*

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

[Existing Lender]

[New Lender]

By:

By:

This agreement is accepted as a Transfer Certificate for the purposes of the Facilities Agreement by the Facility Agent, and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Transfer Date is confirmed as [●].

[Facility Agent]

By:

[Security Agent]

By:

## SCHEDULE 5

### Form of Assignment Agreement

From: [●] as Facility Agent and [●], [●] as Security Agent, [●] as Parent, for and on behalf of each Obligor

To: [*the Existing Lender*] (the "**Existing Lender**") and [*the New Lender*] (the "**New Lender**")

Dated: [●]

#### **Project Amalfi – 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 purposes of the Facilities Agreement and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this agreement unless given a different meaning in this agreement.
2. We refer to clause 29.10 (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 Commitment(s) and participations in Loans under the Facilities Agreement as specified in the Schedule.
  - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitment(s) and participations in Loans under the Facilities Agreement specified in the Schedule.
  - (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.
3. The proposed Transfer Date is [●].
4. On the Transfer Date the New Lender becomes:
  - (a) party to the relevant Finance Documents (other than the Intercreditor Agreement) as a Lender; and
  - (b) party to the Intercreditor Agreement as a Senior Lender (as defined in the Intercreditor Agreement).
5. The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of clause 37.2 (Addresses) of the Facilities Agreement are set out in the Schedule.
6. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of clause 29.8 (Limitation of responsibility of Existing Lenders) of the Facilities Agreement.
7. The New Lender confirms, for the benefit of the Facility Agent and the Obligors, that it is:

- (a) [a Qualifying Lender (other than a Treaty Lender or an Exempt Lender);]
  - (b) [a Treaty Lender;]
  - (c) [an Exempt Lender;]
  - (d) [not a Qualifying Lender].
8. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:
- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
  - (b) a partnership each member of which is:
    - (i) a company so resident in the United Kingdom; or
    - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of part 17 of the CTA; or
  - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]
9. [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [●]) and is tax resident in [●]<sup>9</sup>, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify:
- (a) each Borrower which is a Party as a Borrower as at the Transfer Date; and
  - (b) each Additional Borrower which becomes an Additional Borrower after the Transfer Date,
- that it wishes that scheme to apply to the Facilities Agreement.]<sup>10</sup>
10. The New Lender confirms that it [is]/[is not]<sup>11</sup> a Sponsor Affiliate.
11. We refer to clause 21.4 (Change of Super Senior Lender or Senior Lender) of the Intercreditor Agreement. In consideration of the New Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as 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.
12. This agreement acts as notice to the Facility Agent (on behalf of each Finance Party) and, upon delivery in accordance with clause 29.11 (Copy of Transfer Certificate, Assignment

<sup>9</sup> Insert jurisdiction of tax residence.

<sup>10</sup> Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.

<sup>11</sup> Delete as applicable.

Agreement or Increase Confirmation to Parent), to the Parent (on behalf of each Obligor) of the assignment referred to in this agreement.

13. 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.
14. This agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
15. 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:

This agreement is accepted as an Assignment Agreement for the purposes of the Facilities Agreement by the Facility Agent, and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Transfer Date is confirmed as [●].

Signature of this agreement by the Facility Agent constitutes confirmation by the Facility Agent of receipt of notice of the assignment referred to in this agreement, which notice the Facility Agent receives on behalf of each Finance Party.

[Facility Agent]

By:

[Security Agent]

By:



## SCHEDULE 6

### Form of Accession Deed

From: [●] as Facility Agent and [●] as Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below

To: [**Subsidiary**] and [**Parent**]

Dated: [●]

To whom it may concern

#### **Project Amalfi – 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 paragraphs 1-4 of this Accession Deed unless given a different meaning in this Accession Deed.
2. [**Subsidiary**] agrees to become an Additional [Borrower]/[Guarantor] and to be bound by the terms of the Facilities Agreement and the other Finance Documents (other than the Intercreditor Agreement) as an Additional [Borrower]/[Guarantor] pursuant to [clause 31.2 (Additional Borrowers)]/[clause 31.4 (Additional Guarantors)] of the Facilities Agreement. [**Subsidiary**] is a company duly incorporated under the laws of [**name of relevant jurisdiction**] and is a [limited liability company] with registered number [●].
3. [The Parent confirms that no Default is continuing or would occur as a result of [**Subsidiary**] becoming an Additional Borrower].
4. [**Subsidiary's**] administrative details for the purposes of the Facilities Agreement and the Intercreditor Agreement are as follows:

Address:

Fax No.:

Attention:

5. [**Subsidiary**] (for the purposes of this paragraph 5, the "**Acceding Debtor**") intends to [incur liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:

[**Insert details (date, parties and description) of relevant documents**]

the "**Relevant Documents**".

**IT IS AGREED** as follows:

- (a) Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Accession Deed, bear the same meaning when used in this paragraph 5.
- (b) The Acceding Debtor 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]
- (iii) all obligations expressed to be undertaken by the Acceding Debtor to pay amounts in respect of the Liabilities to the Security Agent as trustee for the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee for the Secured Parties, on trust for the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.

- (c) 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.
- (d) [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].

6. 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 5 above only), signed on behalf of the Parent and executed as a deed by [Subsidiary] and is delivered on the date stated above.

**[Subsidiary]**

[EXECUTED AS A DEED

By: [Subsidiary]

\_\_\_\_\_  
 \_\_\_\_\_

Director

Director/Secretary]

**OR**

[EXECUTED AS A DEED

By: [Subsidiary]

Signature of Director

in the presence of

Name of Director

Signature of witness

Name of witness

Address of witness

Occupation of witness]

**The Parent**

[*Parent*]

By:

**The Security Agent**

[*Full Name of Current Security Agent*]

By:

Date:

## SCHEDULE 7

### Form of Resignation Letter

From: [●] as Facility Agent

To: [*resigning Obligor*] and [*Parent*]

Dated: [●]

To whom it may concern

#### **Project Amalfi – 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 31.3 (Resignation of a Borrower)]/[clause 31.5 (Resignation of a Guarantor)] of the Facilities Agreement, we request that [resigning Obligor] be released from its obligations as a [Borrower]/[Guarantor] under the Facilities Agreement and the Finance Documents (other than the Intercreditor Agreement).
3. We confirm that:
  - (a) no Default is continuing or would result from the acceptance of this request; and
  - (b) <sup>12</sup>[this request is given in relation to a Third Party Disposal of [resigning Obligor]];
  - (c) [the [resigning Obligor] is not a Material Company and, if it had not been a Guarantor as of the date at which the Compliance Certificate most recently delivered to the Facility Agent under clause 25.2 (Provision and contents of Compliance Certificate) of the Facilities Agreement was prepared, the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of the Guarantors (calculated on an unconsolidated basis and excluding goodwill, intragroup items and investments in Subsidiaries of any member of the Group) would nevertheless have exceeded 80 per cent of the EBITDA of the Group. Any member of the Group generating negative earnings before interest, tax, depreciation and amortisation has been treated as having earnings before interest, tax, depreciation and amortisation of zero for the purposes of this confirmation];
  - (d) [the Disposal Proceeds have been or will be applied in accordance with clause 11.2 (Disposal, Insurance, Listing and Acquisition Proceeds) of the Facilities Agreement.<sup>13</sup>]
4. This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[Parent]  
By:

[resigning Obligor]  
By:

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<sup>12</sup> Insert where resignation only permitted in case of a Third Party Disposal.

<sup>13</sup> Amend as appropriate, e.g. to reflect agreed procedure for payment of proceeds into a specified account.

## SCHEDULE 8

### Form of Compliance Certificate

To: [●] as Facility Agent

From: [**Parent**]

Dated: [●]

To whom it may concern

#### **Project Amalfi – Facilities agreement dated [●] (the "Facilities Agreement")**

1. We refer to the Facilities Agreement. This is a Compliance Certificate. Terms defined in the Facilities Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
2. We confirm that Adjusted Leverage: on the last day of the Relevant Period ending on [●], Total Net Debt was [●] and Adjusted EBITDA for such Relevant Period was [●]. Therefore Total Net Debt at such time [did/did not] exceed [●] times Adjusted EBITDA for such Relevant Period and the covenant contained in:
  - (a) paragraph (a) of clause 26.2 (Financial condition) [has/has not] been complied with; and
  - (b) paragraph (b) of clause 26.2 (Financial condition) [has/has not] been complied with.
3. We confirm that Adjusted Leverage is [●]:1 and that, therefore:
  - (a) the Margin for each Loan under Senior Term Facility A should be [●] per cent;
  - (b) the Margin for each Loan under Senior Term Facility B should be [●] per cent;
  - (c) the Margin for each Loan under the Super Senior Facility should be [●] per cent; and
  - (d) the Margin for each Loan under the Revolving Facility should be [●] per cent.
4. [We confirm that, as at the end of the Relevant Period:
  - (a) the balance of Retained Cash was £[●]; and
  - (b) the balance of Cash Overfunding was £[●];
  - (c) the amount of net cash proceeds of Disposals, Recovery Claims or insurance claims for that Relevant Period not required to be applied in prepayment of the Facilities was £[●]; and
  - (d) the amount of net cash proceeds of New Shareholder Injections (other than any New Shareholder Injection contributed for the purpose of an equity cure pursuant to clause 26.4 (Equity Cure)) for that Relevant Period was £[●].]<sup>14</sup>
5. [We confirm that no Default is continuing.]<sup>15</sup>

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<sup>14</sup> Only applicable if the Compliance Certificate accompanies the audited financial statements.

<sup>15</sup> 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.

6. We confirm that the amount of any Equity Cure Amount applied during the relevant Financial Quarter in connection with Permitted Bolt-on Acquisitions £[●].
7. [We confirm that the following companies constitute Material Companies for the purposes of the Facilities Agreement: [●].]

[We confirm that the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) of the Guarantors (calculated on an unconsolidated basis and excluding goodwill, intragroup items and investments in Subsidiaries of any member of the Group) exceeds 80 per cent of the EBITDA of the Group. [As it would be unlawful for [●] to become a Guarantor or that person becoming a Guarantor would result in personal liability for that person's directors or other management or would be contrary to the Agreed Security Principles for any other reason, the earnings before interest, tax, depreciation and amortisation of such person have been deducted from the EBITDA of the Group in giving the above confirmation. Any member of the Group generating negative earnings before interest, tax, depreciation and amortisation has been treated as having earnings before interest, tax, depreciation and amortisation of zero for the purposes of the above confirmation.]]<sup>16</sup>

Signed	.....	.....
	Chief Financial Officer	Director
	of	of
	[Parent]	[Parent]

[insert applicable certification language]

.....

for and on behalf of

[name of Parent's Auditors]<sup>17</sup>

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<sup>16</sup> Only applicable if the Compliance Certificate accompanies the audited financial statements.

<sup>17</sup> Only applicable if the Compliance Certificate accompanies the audited financial statements and is to be signed by the Parent's Auditors. To be agreed with the Parent's Auditors prior to signing the Agreement.

**SCHEDULE 9**

**Form of ESG Compliance Certificate**

To: [●] as Facility Agent

From: [Parent]

Dated:

To whom it may concern

**Project Amalfi – Facilities agreement dated [●] (the "Facilities Agreement")**

1. We refer to the Facilities Agreement. This is an ESG Compliance Certificate. Terms defined in the Facilities Agreement have the same meaning when used in this ESG Compliance Certificate unless given a different meaning in this ESG Compliance Certificate.
2. We confirm that, for the most recently ended Ratings Period:
  - (a) the number of Group Registered Services which received a Rating Outcome is [●];
  - (b) the number of Group Registered Services which received a Positive Rating is [●];  
and
  - (c) the National Benchmark is [●].Therefore the Group Rating is [●] per cent [above/below] the National Benchmark.
3. Therefore, pursuant to clause 14.3 (Margin adjustment) of the Facilities Agreement, the applicable Margin for a Senior Term Facility A Loan [shall be increased by [●] per cent/shall be reduced by [●] per cent/shall not be adjusted].
4. [We confirm that an amount equal to 50 per cent of the ESG Discount disclosed in the ESG Compliance Certificate delivered to the Facility Agent on [●] was applied in payment to an ESG Project in accordance with paragraph (f) of clause 14.3 (Margin adjustment).]
5. We confirm that no Event of Default has occurred.

Signed	.....	.....
	Chief Financial Officer	Director
	of	of
	[Parent]	[Parent]

## SCHEDULE 10

### Timetables

	<b>Loans in euro</b>	<b>Loans in sterling</b>	<b>Loans in other currencies</b>
Facility Agent notifies the Parent if a currency is approved as an Optional Currency in accordance with clause 4.3 (Conditions relating to Optional Currencies)	-	-	U-4
Delivery of a duly completed Utilisation Request in respect of the Super Senior Term Facility or Revolving Credit Facility for a Certain Funds Utilisation (clause 5.1 (Delivery of a Utilisation Request))	U-12 calendar days, provided that if U is not a Business Day, the Utilisation will be made available on the immediately preceding Business Day 9.30 a.m.	U-12 calendar days, provided that if U is not a Business Day, the Utilisation will be made available on the immediately preceding Business Day 9.30 a.m.	U-12 calendar days, provided that if U is not a Business Day, the Utilisation will be made available on the immediately preceding Business Day 9.30 a.m.
Delivery of a duly completed Utilisation Request in respect of the Super Senior Term Facility or Revolving Credit Facility for any purpose other than a Certain Funds Utilisation (clause 5.1 (Delivery of a Utilisation Request))	U-12 9.30 a.m.	U-12 9.30 a.m.	U-12 9.30 a.m.
Delivery of a duly completed Utilisation Request in respect of Senior Term Facility A or Senior Term Facility B for a Certain Funds Utilisation (clause 5.1 (Delivery of a Utilisation Request))	U-12 calendar days, provided that if U is not a Business Day, the Utilisation will be made available on the immediately preceding Business Day 9.30 a.m.	U-12 calendar days, provided that if U is not a Business Day, the Utilisation will be made available on the immediately preceding Business Day 9.30 a.m.	U-12 calendar days, provided that if U is not a Business Day, the Utilisation will be made available on the immediately preceding Business Day 9.30 a.m.
Delivery of a duly completed Utilisation Request in respect of Senior Term Facility A or Senior Term Facility B for any purpose	U-12 9.30 a.m.	U-12 9.30 a.m.	U-12 9.30 a.m.



other than a Certain Funds Utilisation (clause 5.1 (Delivery of a Utilisation Request))			
Delivery of a Selection Notice (clause 15.1 (Selection of Interest Periods and Terms))	U-5	U-5	U-5
Facility Agent determines (in relation to a Loan) the Base Currency Amount of the Loan, if required under clause 5.4 (Lenders' participation) and notifies the Lenders of the Loan in accordance with clause 5.4 (Lenders' participation)	U-2 Noon	U-2 Noon	U-2 Noon
Facility Agent receives a notification from a Lender under clause 6.2 (Unavailability of a currency)	Quotation Day 9.30 a.m.		Quotation Day 9.30 a.m.
Facility Agent gives notice in accordance with clause 6.2 (Unavailability of a currency)	Quotation Day 5.30 p.m.		Quotation Day 5.30 p.m.
LIBOR or EURIBOR is fixed	Quotation Day 11.00 a.m. in respect of LIBOR and 11.00 a.m. (Brussels time) in respect of EURIBOR	Quotation Day 11.00 a.m.	Quotation Day 11.00 a.m.
Reference Bank Rate calculated by reference to available quotations in accordance with clause 16.2 (Calculation of Reference Bank Rate)	Noon on the Quotation Day in respect of LIBOR and Quotation Day 11.30 a.m. (Brussels time) in respect of EURIBOR	Noon on the Quotation Day	Noon on the Quotation Day in respect of LIBOR

- "U" = date of utilisation or, if applicable, in the case of a Term Loan that has already been borrowed, the first day of the relevant Interest Period for that Term Loan.
- "U – X" = X Business Days prior to date of utilisation, unless otherwise stated

## SCHEDULE 11

### Agreed Security Principles

#### 1. CONSIDERATIONS

- 1.1 In determining what security or guarantees ("**Security**") will be provided in support of the Facilities the following matters will be taken into account. Security shall not be created or perfected to the extent that it would:
- (a) result in any breach of corporate benefit, financial assistance, fraudulent preference or thin capitalisation laws or regulations (or analogous restrictions) of any applicable jurisdiction;
  - (b) result in a significant risk to any directors or officers of the relevant grantor of Security or contravention of their fiduciary duties and/or of civil or criminal or personal liability;
  - (c) interfere unreasonably with the ordinary course of operations of the grantor of the Security; or
  - (d) result in costs that are unreasonable in all the circumstances or disproportionate to the benefit obtained by the beneficiaries of that Security.
- 1.2 For the avoidance of doubt, in these Agreed Security Principles, "**cost**" includes, but is not limited to, income tax cost, registration taxes payable on the creation or enforcement or for the continuance of any Security, stamp duties, notarisation fees, legal fees, out-of-pocket expenses, and other fees and expenses directly incurred by the relevant grantor of Security or any of its direct or indirect owners, subsidiaries or Affiliates.

#### 2. OBLIGATIONS TO BE SECURED

- 2.1 Subject to paragraph 1 (Considerations) above and sub-paragraph 2.3 below, the obligations to be secured are the Secured Obligations (as defined below). The Transaction Security is to be granted in favour of the Security Agent on behalf of each Lender from time to time, and the Facility Agent, the Arranger and any Hedge Counterparty.
- 2.2 For ease of reference, the following definitions should, to the extent legally possible, be incorporated into each Transaction Security Document (with the capitalised terms used in them having the meaning given to them in the Intercreditor Agreement):

**"Secured Obligations"** means all the Liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Secured Party under the Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity; and

**"Secured Parties"** means the Security Agent, any Receiver or Delegate and each of the Primary Creditors from time to time but, in the case of each Primary Creditor, only if it is a party to the Intercreditor Agreement or has acceded to the Intercreditor Agreement, in the appropriate capacity, pursuant to clause 21.11 (Creditor Accession Undertaking) of the Intercreditor Agreement.

- 2.3 The obligations guaranteed and/or secured by any Obligor will be limited:
- (a) to avoid any breach of corporate benefit, financial assistance, fraudulent preference, thin capitalisation rules or the laws or regulations (or analogous restrictions) of any applicable jurisdiction; and

- (b) to avoid any risk to officers or directors of the relevant member of the Group that is granting Security of contravention of their fiduciary duties and/or civil or criminal or personal liability.

### 3. **GENERAL**

- 3.1 Where appropriate, defined terms in the Transaction Security Documents should mirror those in this agreement.
- 3.2 The parties to this agreement agree to negotiate the form of each Transaction Security Document in good faith and will ensure that all documentation required to be entered into as a condition precedent to first drawdown or subsequent under this agreement is in a finally agreed form as soon as reasonably practicable after the date of this agreement.
- 3.3 The first draft of each Transaction Security Document prepared by the Secured Parties' counsel shall reflect these Agreed Security Principles.
- 3.4 The form of guarantee is set out in clause 23 (Guarantee and indemnity) of this agreement and, with respect to any Additional Guarantor, is subject to any limitations set out in the Accession Deed applicable to such Additional Guarantor.
- 3.5 The Security shall, to the extent possible under local law, be enforceable following the occurrence of a Declared Default.
- 3.6 It shall not be necessary for an Excluded Entity to become an Additional Guarantor or grant Transaction Security.
- 3.7 To the extent that Transaction Security is granted over the issued share capital of CareTech International Limited, it shall not be necessary for CareTech International Limited to grant Transaction Security over the issued share capital of any of its Subsidiaries that are Excluded Entities.
- 3.8 For the purposes of this schedule:

**"Excluded Entity"** means any member of the Group that is incorporated in an Excluded Jurisdiction; and

**"Excluded Jurisdiction"** means the United Arab Emirates.

### 4. **SHARES**

- 4.1 Any share security will provide that, until a notice has been served by the Facility Agent in accordance with clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration), the grantor of the Security will be entitled to:
  - (a) receive dividends unless the payment of those dividends is otherwise prohibited by this agreement or the Intercreditor Agreement; and
  - (b) exercise voting rights, unless the exercise of those rights is reasonably likely to be materially prejudicial to the validity or enforceability of the security created or cause an Event of Default to occur.
- 4.2 After a notice has been served by the Facility Agent in accordance with clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration), the voting and dividend receipt rights may only be exercised by the Security Agent.
- 4.3 Where any charged shares are in certificated form, the original share certificates together with (where customary) unstamped blank share transfer forms will be delivered to the Security Agent.

4.4 Security over shares will, where possible, automatically charge any further shares issued.

## 5. **REAL ESTATE**

5.1 First ranking mortgages or fixed charges shall not be granted over any real estate if the aggregate value (as calculated by reference to the most recent Valuation) of each Site that is subject to a legal mortgage or standard security in favour of the Security Agent pursuant to this agreement has been perfected by registration at HM Land Registry or Registers of Scotland (as applicable) is at least equal to £425,000,000.

5.2 Any such Security shall be subject to any prior rights of any freeholder or third party which are not waived and subject to any applicable third party consents, but the relevant grantor of such security will use all reasonable endeavours to obtain any necessary consent from the freeholder, superior leaseholder or any other third party.

5.3 There shall be no requirement to investigate title or provide surveys or other due diligence unless it is either material freehold property with a value exceeding £5,000,000 (or its equivalent in other currencies) or long leasehold property with an unexpired term of more than 25 years from the date of the relevant Transaction Security or, if later, the date on which such leasehold property is acquired by the Group.

## 6. **RECEIVABLES**

6.1 Receivables of an Obligor will be collected by that Obligor in the ordinary course of its business. The Obligors will be entitled to use the proceeds of the receivables in accordance with the terms of the Finance Documents until notice has been served by the Facility Agent in accordance with clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration).

6.2 Notices of assignment/charge will be delivered within five Business Days of the date of the relevant security document (or, if later, as soon as reasonably practicable following the establishment of any new material insurance policy) to the relevant insurers in respect of material insurance policies (other than any insurance policies relating to third party liability or public liability or directors' and officers' insurance). There will be no requirement for the Security Agent to be named as sole loss payee or co-insured in respect of any insurance policy.

6.3 Any security over customer contracts will be secured by way of a general charge of receivables only. Accordingly there will be no requirement to notify trade creditors of any security over receivables or to provide periodic updates of the nature of such receivables prior to notice being served by the Facility Agent in accordance with clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration).

6.4 Security over receivables shall be subject to any restrictions on charging or assigning in the underlying contract.

6.5 Any obligation to procure the acknowledgement of a notice of assignment or charge by a third party shall be limited to the relevant company using its reasonable endeavours to procure such acknowledgment.

## 7. **ACCOUNTS**

Until notice has been served by the Facility Agent in accordance with clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration), the Obligors will be free to withdraw cash from their bank accounts to make payments permitted by the Finance Documents.

8. **INTELLECTUAL PROPERTY**

Security will be granted over material intellectual property which is necessary to the carrying out of the Group's business.

9. **POWER OF ATTORNEY**

Where customary or necessary, a Transaction Security Document will contain a power of attorney allowing the Security Agent (and/or any other relevant person) to perform on behalf of the grantor of the Security its obligations under that document following a breach by the grantor in complying with any further assurance or perfection obligations or following notice having been served by the Facility Agent in accordance with clause 28.18 (Acceleration) or clause 28.19 (Super Senior Acceleration).

10. **UNDERTAKINGS/REPRESENTATIONS AND WARRANTIES**

10.1 Any representations, warranties or undertakings which are required to be included in any Transaction Security Document shall:

- (a) reflect (to the extent to which the subject matter of such representation, warranty and undertaking is the same as the corresponding representation, warranty and undertaking in this agreement) the commercial deal set out in this agreement, (save to the extent that Secured Parties' local counsel reasonably consider that it is necessary to include any further provisions (or deviate from those contained in this agreement) in order to protect or preserve the Security granted to the Secured Parties under the laws of the jurisdiction in which they practise);
- (b) only be included to the extent that the relevant matter is not otherwise provided for in this agreement;
- (c) in the case of representations or warranties, not repeat after the date of the relevant Transaction Security Document; and
- (d) not prohibit any transaction which constitutes a Permitted Disposal, Permitted Distribution, Permitted Security or Permitted Share Issue.

10.2 Any indemnities, costs undertakings, set-off rights or further assurance provisions contained in the Transaction Security Documents will be consistent with the equivalent provisions in this agreement.

11. **NON WHOLLY-OWNED MEMBERS OF THE GROUP**

It shall not be necessary for any non-wholly owned members of the Group to become an Additional Guarantor or grant Transaction Security.

12. **NON-MATERIAL COMPANIES**

It shall not be necessary to grant specific Transaction Security over the shares or other ownership interests in any members of the Group that are not Material Companies (but such shares shall not be excluded from any general security interest granted by the Holding Company of any such member of the Group).

13. **RELEASE OF SECURITY**

Each Transaction Security Document shall provide for the relevant Security to be released by the Security Agent upon the relevant Secured Parties being satisfied (acting reasonably) that the Secured Obligations have been irrevocably and unconditionally discharged in full and that no Secured Parties has any further obligations to provide financial accommodation to the relevant debtors.



## SCHEDULE 12

### Form of Increase Confirmation

To: [●] as Facility Agent, [●] as Security Agent and [●] as Parent, for and on behalf of each Obligor

From: [**the Increase Lender**] (the "**Increase Lender**")

Dated: [●]

#### Project Amalfi – 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 purposes of the Facilities Agreement and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this 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(s) specified in the Schedule (the "**Relevant Commitment(s)**") as if it had been an Original Lender under the Facilities Agreement in respect of the Relevant Commitment(s).
4. The proposed date on which the increase in relation to the Increase Lender and the Relevant Commitment(s) 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 (as defined in the Intercreditor Agreement).
6. The Facility Office and address, fax number and attention details for notices to the Increase Lender for the purposes of clause 37.2 (Addresses) of the Facilities Agreement are set out in the Schedule.
7. The Increase Lender expressly acknowledges the limitations on the Lenders' obligations referred to in paragraph (i) of clause 2.3 (Increase) of the Facilities Agreement.
8. The Increase Lender confirms, for the benefit of the Facility Agent and the Obligors, that it is:
  - (a) [a Qualifying Lender (other than a Treaty Lender or an Exempt Lender);]
  - (b) [a Treaty Lender;]
  - (c) [Exempt Lender;]
  - (d) [not a Qualifying Lender].



9. [The Increase Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:
- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
  - (b) a partnership each member of which is:
    - (i) a company so resident in the United Kingdom; or
    - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of part 17 of the CTA; or
  - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]
10. [The Increase Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [●]) and is tax resident in [●]<sup>18</sup>, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify:
- (a) each Borrower which is a Party as a Borrower as at the Increase Date; and
  - (b) each Additional Borrower which becomes an Additional Borrower after the Increase Date,
- that it wishes the scheme to apply to the Facilities Agreement.]<sup>19</sup>
11. The Increase Lender confirms that it is not a Sponsor Affiliate.
12. We refer to clause 21.11 (Creditor Accession Undertaking) of the Intercreditor Agreement. 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 provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.
13. 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.
14. This agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
15. 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***

<sup>18</sup> Insert jurisdiction of tax residence.

<sup>19</sup> This confirmation must be included if the Increase Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.

***other formalities are required to obtain the benefit of the Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.]***

**THE SCHEDULE**

**Relevant Commitment(s)/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 Facility Agent, and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Increase Date is confirmed as [●].

Agent:

By:

Security Agent:

By:

**SCHEDULE 13**

**Forms of Notifiable Debt Purchase Transaction Notice**

**Part 1 – Form of Notice on Entering into Notifiable Debt Purchase Transaction**

To: [●] as Facility Agent

From: [**The Lender**]

Dated: [●]

**Project Amalfi – Facilities agreement dated [●] (the "Facilities Agreement")**

1. We refer to paragraph (b) of clause 30.2 (Disenfranchisement of Sponsor Affiliates) of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this notice unless given a different meaning in this notice.
2. We have entered into a Notifiable Debt Purchase Transaction.
3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to the amount of our Commitment(s) as set out below.

<b>Commitment</b>	<b>Amount of our Commitment to which Notifiable Debt Purchase Transaction relates (Base Currency)</b>
[Senior Term Facility A Commitment] <sup>20</sup>	<i>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</i>
[Senior Term Facility B Commitment] <sup>21</sup>	<i>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</i>
[Super Senior Term Facility Commitment] <sup>22</sup>	<i>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</i>
[Incremental Term Facility Commitment under the Incremental Term Facility with an Establishment Date of [●]] <sup>23</sup>	<i>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</i>

[Lender]

By: .....

---

<sup>20</sup> Delete as applicable

<sup>21</sup> Delete as applicable

<sup>22</sup> Delete as applicable

<sup>23</sup> Delete as applicable

**Part 2 - Form of Notice on Termination of Notifiable Debt Purchase Transaction /  
Notifiable Debt Purchase Transaction ceasing to be with Sponsor Affiliate**

To: [●] as Facility Agent

From: [**The Lender**]

Dated: [●]

**Project Amalfi – Facilities agreement dated [●] (the "Facilities Agreement")**

1. We refer to paragraph (c) of clause 30.2 (Disenfranchisement of Sponsor Affiliates) of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this notice unless given a different meaning in this notice.
2. A Notifiable Debt Purchase Transaction which we entered into and which we notified you of in a notice dated [●] has [terminated]/[ceased to be with a Sponsor Affiliate].<sup>24</sup>
3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to the amount of our Commitment(s) as set out below.

<b>Commitment</b>	<b>Amount of our Commitment to which Notifiable Debt Purchase Transaction relates (Base Currency)</b>
[Senior Term Facility Commitment] <sup>25</sup>	<b><i>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</i></b>
[Senior Term Facility Commitment] <sup>26</sup>	<b><i>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</i></b>
[Incremental Term Facility Commitment under the Incremental Term Facility with an Establishment Date of [●]] <sup>27</sup>	<b><i>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</i></b>

[Lender]

By: .....

---

<sup>24</sup> Delete as applicable  
<sup>25</sup> Delete as applicable  
<sup>26</sup> Delete as applicable  
<sup>27</sup> Delete as applicable

## SCHEDULE 14

### Form of Incremental Term Facility Notice

To: [●] as Facility Agent and [●] as Security Agent

From: [●] as the Parent and the entities listed in the Schedule as Incremental Term Facility Lenders (the "**Incremental Term Facility Lenders**")

Dated:

#### **Project Amalfi – Facilities agreement dated [●] (the "Facilities Agreement")**

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This is an Incremental Term Facility Notice. This Incremental Term Facility Notice shall take effect as an Incremental Term Facility Notice for the purposes of the Facilities Agreement and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Incremental Term Facility Notice unless given a different meaning in this Incremental Term Facility Notice.
2. We refer to clause 8 (Establishment of Incremental Term Facilities) of the Facilities Agreement.
3. We request the establishment of an Incremental Term Facility with the following Incremental Term Facility Terms:
  - (a) Borrower:  
[●]
  - (b) Facility designation:  
Incremental Term Facility
  - (c) Currency:  
[●]
  - (d) Total Incremental Term Facility Commitments:  
[●]
  - (e) Margin (including any applicable floor):  
[●]
  - (f) Level of commitment fee payable pursuant to clause 17.1 (Commitment fee) of the Facilities Agreement in respect of the Incremental Term Facility:  
[●]
  - (g) Availability Period:  
[●]
  - (h) [Incremental Term Facility Conditions Precedent:

[●]

(i) Termination Date:

[●]

4. The proposed Establishment Date is [●].
5. The Parent confirms that:
  - (a) each of:
    - (i) the Incremental Term Facility Terms set out above;
    - (ii) the Aggregate Yield applicable to the Incremental Term Facility; and
    - (iii) the fees payable to any arranger of the Incremental Term Facility,  
comply with clause 8.5 (Restrictions on Incremental Term Facility Terms and fees) of the Facilities Agreement;
  - (b) the Incremental Term Facility Lenders and the Incremental Term Facility Commitments set out in this Incremental Term Facility Notice have been selected and allocated in accordance with clause 8.1 (Selection of Incremental Term Facility Lenders) of the Facilities Agreement; and
  - (c) each condition specified in paragraph (a) of clause 8.6 (Conditions to establishment) of the Facilities Agreement is satisfied on the date of this Incremental Term Facility Notice.
6. Each Incremental Term Facility Lender agrees to assume and will assume all of the obligations corresponding to the Incremental Term Facility Commitment set opposite its name in the Schedule as if it had been an Original Lender under the Facilities Agreement in respect of that Incremental Term Facility Commitment.
7. On the Establishment Date each Incremental Term Facility Lender becomes:
  - (a) party to the relevant Finance Documents (other than the Intercreditor Agreement) as a Lender; and
  - (b) party to the Intercreditor Agreement as a Senior Lender (as defined in the Intercreditor Agreement).
8. Each Incremental Term Facility Lender expressly acknowledges the limitations on the Lenders' obligations referred to in clause 8.11 (Limitation of responsibility) of the Facilities Agreement.
9. Each Incremental Term Facility Lender confirms that it is not a Sponsor Affiliate.
10. We refer to clause 21.11 (Creditor Accession Undertaking) of the Intercreditor Agreement. In consideration of each Incremental Term Facility Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), each Incremental Term Facility Lender confirms that, as from the Establishment Date, it intends to be party to the Intercreditor Agreement as a Senior Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Senior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

11. This Incremental Term Facility Notice is irrevocable.
12. This Incremental Term Facility Notice may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Incremental Term Facility Notice.
13. This Incremental Term Facility Notice and any non-contractual obligations arising out of or in connection with it are governed by English law.
14. This Incremental Term Facility Notice has been entered into on the date stated at the beginning of this Incremental Term Facility Notice.

***[Note: The execution of this Incremental Term Facility Notice may not be sufficient for each Incremental Term Facility Lender to obtain the benefit of the Transaction Security in all jurisdictions. It is the responsibility of each Incremental Term Facility Lender to ascertain whether any other documents or other formalities are required to obtain the benefit of the Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.]***

- **Delete as appropriate**



**THE SCHEDULE**

**Name of Incremental Term Facility Lender    Incremental Term Facility Commitment**

**The Parent**

By: .....

**The Incremental Term Facility Lenders**

[●]

This document is accepted as an Incremental Term Facility Notice for the purposes of the Facilities Agreement by the Facility Agent, and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Establishment Date is confirmed as [●].

**The Facility Agent**

By: .....

**The Security Agent**

By: .....

## SCHEDULE 15

### Form of Incremental Term Facility Lender Certificate

To: [●] as Facility Agent and [●] as Parent  
From: [**The Incremental Term Facility Lender**]  
Dated:

#### Project Amalfi – Facilities agreement dated [●] (the "Facilities Agreement")

1. We refer to the Facilities Agreement and to the Incremental Term Facility Notice dated [●]. This is an Incremental Term Facility Lender Certificate. Terms defined in the Facilities Agreement have the same meaning in this Incremental Term Facility Lender Certificate unless given a different meaning in this Incremental Term Facility Lender Certificate.
2. We confirm, for the benefit of the Facility Agent and without liability to any Obligor, that we are:
  - (a) [a Qualifying Lender (other than a Treaty Lender or an Exempt Lender);]
  - (b) [a Treaty Lender;]
  - (c) [an Exempt Lender;]
  - (d) [not a Qualifying Lender.]
3. [We confirm that the person beneficially entitled to interest payable to us in respect of an advance under a Finance Document is either:
  - (a) a company resident in the United Kingdom for United Kingdom tax purposes;
  - (b) a partnership each member of which is:
    - (i) a company so resident in the United Kingdom; or
    - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of part 17 of the CTA; or
  - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]
4. [We confirm that we hold a passport under the HMRC DT Treaty Passport scheme (reference number [●]) and are tax resident in [●]<sup>28</sup>, so that interest payable to us by borrowers is generally subject to full exemption from UK withholding tax and request that the Parent notify:

---

<sup>28</sup> Insert jurisdiction of tax residence.

- (a) each Borrower which is a Party as a Borrower as at the Establishment Date of the Incremental Term Facility requested in the Incremental Term Facility Notice referenced above; and
- (b) each Additional Borrower which becomes an Additional Borrower after that Establishment Date,

that we wish that scheme to apply to the Facilities Agreement.]<sup>29</sup>

5. The Facility Office and address, fax number and attention details for notices of the Incremental Term Facility Lender for the purposes of clause 37.2 (Addresses) of the Facilities Agreement are:

[●].

**Incremental Term Facility Lender**

[*Incremental Term Facility Lender*]

By:

---

<sup>29</sup> Include if the Incremental Term Facility Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.

**SCHEDULE 16**

**Contingency Periods**

<b>Screen Rate</b>	<b>Period</b>
LIBOR	One month
EURIBOR	One month

## SCHEDULE 17

### Compounded Rate Terms

**CURRENCY:** Sterling.

**Cost of funds as a fallback**

**Cost of funds will not apply as a fallback.**

#### Definitions

**Additional Business Days:** An RFR Banking Day.

**Break Costs:** None specified.

**Business Day Conventions (definition of "Month" and clause 15.3 (Non-Business Days)):** (a) If any period is expressed to accrue by reference to a Month or any number of Months then, in respect of the last Month of that period:

(i) subject to paragraph (iii) 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;

(ii) 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

(iii) 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.

(b) 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).

**Central Bank Rate:** The Bank of England's Bank Rate as published by the Bank of England from time to time.

**Central Bank Rate Adjustment:** In relation to the Central Bank Rate prevailing at close of business on any RFR Banking Day, the mean (calculated by the Facility Agent) of

the Central Bank Rate Spreads for the five most immediately preceding RFR Banking Days for which the RFR was available, excluding the days with the highest (and, if there is more than one highest spread, only one of those highest spreads) and lowest spreads (or, if there is more than one lowest spread, only one of those lowest spreads) to the Central Bank Rate.

**Central Bank Rate Spread:**

In relation to any RFR Banking Day, the difference (expressed as a percentage rate per annum) calculated by the Facility Agent of:

- (a) the RFR for that RFR Banking Day; and
- (b) the Central Bank Rate prevailing at close of business on that RFR Banking Day.

**Credit Adjustment Spread:**

The rate per annum for the relevant Interest Period calculated in accordance with the following table:

<b>Length of Interest Period</b>	<b>Credit Adjustment Spread</b>
1 month or less	0.0326 per cent
3 months or less but more than 1 month	0.1193 per cent
6 months or less but more than 3 months	0.2766 per cent
6 months or more	0.4644 per cent

**Daily Rate:**

The "**Daily Rate**" for any RFR Banking Day is:

- (a) the RFR for that RFR Banking Day; or
- (b) if the RFR is not available for that RFR Banking Day, the percentage rate per annum which is the aggregate of:
  - (i) the Central Bank Rate for that RFR Banking Day; and
  - (ii) the applicable Central Bank Rate Adjustment; or
- (c) if paragraph (b) above applies but the Central Bank Rate for that RFR Banking Day is not available, the percentage rate per annum which is the aggregate of:
  - (i) the most recent Central Bank Rate for a day which is no more

than five RFR Banking Days before that RFR Banking Day; and

- (ii) the applicable Central Bank Rate Adjustment,

rounded, in either case, to four decimal places and if, in either case, the aggregate of that rate and the applicable Credit Adjustment Spread is less than zero, the Daily Rate shall be deemed to be such a rate that the aggregate of the Daily Rate and the applicable Credit Adjustment Spread is zero.

**Lookback Period:**

Five RFR Banking Days.

**Market Disruption Rate:**

The percentage rate per annum which is the aggregate of:

- (a) the Cumulative Compounded RFR Rate for the Interest Period of the relevant Loan; and
- (b) the applicable Credit Adjustment Spread.

**Relevant Market:**

The sterling wholesale market.

**Reporting Day:**

The day which is the Lookback Period prior to the last day of the Interest Period or, if that day is not a Business Day, the immediately following Business Day.

**RFR:**

The SONIA rate displayed on the relevant screen of any authorised distributor of that reference rate.

**RFR Banking Day:**

A day (other than a Saturday or Sunday) on which banks are open for general business in London.

**RFR Contingency Period**

Five RFR Banking Days.

**Interest Periods**

Length of Interest Period in absence of selection (paragraph (c) of clause 15.1 (Selection of Interest Periods and Terms)):

Three Months.

Periods capable of selection as Interest Periods (paragraph (d) of clause 15.1 (Selection of Interest Periods and Terms)):

Three or six Months in relation to a Term Facility or one, three or six Months in relation to the Revolving Facility.

**Reporting Times**

Deadline for Lenders to report market disruption in accordance with clause 16.4 (Market disruption):

Close of business in London on the Reporting Day for the relevant Loan.

Deadline for Lenders to report their cost of funds in accordance with clause 16.5 (Cost of funds): Not applicable.



## SCHEDULE 18

### Daily Non-Cumulative Compounded RFR Rate

The "**Daily Non-Cumulative Compounded RFR Rate**" for any RFR Banking Day "**i**" during an Interest Period for a Compounded Rate Loan is the percentage rate per annum (without rounding, to the extent reasonably practicable for the Finance Party performing the calculation, taking into account the capabilities of any software used for that purpose) calculated as set out below:

$$(UCCDR_T - UCCDR_{i-1}) \times \frac{dcc}{n_i}$$

where:

"**UCCDR<sub>i</sub>**" means the Unannualised Cumulative Compounded Daily Rate for that RFR Banking Day "**i**";

"**UCCDR<sub>i-1</sub>**" means, in relation to that RFR Banking Day "**i**", the Unannualised Cumulative Compounded Daily Rate for the immediately preceding RFR Banking Day (if any) during that Interest Period;

"**dcc**" means 360 or, in any case where market practice in the Relevant Market is to use a different number for quoting the number of days in a year, that number;

"**n<sub>i</sub>**" means the number of calendar days from, and including, that RFR Banking Day "**i**" up to, but excluding, the following RFR Banking Day; and

the "**Unannualised Cumulative Compounded Daily Rate**" for any RFR Banking Day (the "**Cumulated RFR Banking Day**") during that Interest Period is the result of the below calculation (without rounding, to the extent reasonably practicable for the Finance Party performing the calculation, taking into account the capabilities of any software used for that purpose):

$$ACCDR \times \frac{tn_i}{dcc}$$

where:

"**ACCDR**" means the Annualised Cumulative Compounded Daily Rate for that Cumulated RFR Banking Day;

"**tn<sub>i</sub>**" means the number of calendar days from, and including, the first day of the Cumulation Period to, but excluding, the RFR Banking Day which immediately follows the last day of the Cumulation Period;

"**Cumulation Period**" means the period from, and including, the first RFR Banking Day of that Interest Period to, and including, that Cumulated RFR Banking Day;

"**dcc**" has the meaning given to that term above; and

the "**Annualised Cumulative Compounded Daily Rate**" for that Cumulated RFR Banking Day is the percentage rate per annum (rounded to four decimal places) calculated as set out below:

$$\left[ \sum_{i=1}^{d_0} \left( 1 + \frac{\text{DailyRate}_{i-LP} \times n_i}{dcc} \right) - 1 \right] \times \frac{dcc}{tn_i}$$

where:

**"d<sub>0</sub>"** means the number of RFR Banking Days in the Cumulation Period;

**"Cumulation Period"** has the meaning given to that term above;

**"i"** means a series of whole numbers from one to d<sub>0</sub>, each representing the relevant RFR Banking Day in chronological order in the Cumulation Period;

**"DailyRate<sub>i-LP</sub>"** means, for any RFR Banking Day **"i"** in the Cumulation Period, the Daily Rate for the RFR Banking Day which is the applicable Lookback Period prior to that RFR Banking Day **"i"**;

**"n<sub>i</sub>"** means, for any RFR Banking Day **"i"** in the Cumulation Period, the number of calendar days from, and including, that RFR Banking Day **"i"** up to, but excluding, the following RFR Banking Day;

**"dcc"** has the meaning given to that term above; and

**"tn<sub>i</sub>"** has the meaning given to that term above.

## SCHEDULE 19

### Cumulative Compounded RFR Rate

The "**Cumulative Compounded RFR Rate**" for any Interest Period for a Compounded Rate Loan is the percentage rate per annum (rounded to the same number of decimal places as is specified in the definition of "**Annualised Cumulative Compounded Daily Rate**" in schedule 18 (Daily Non-Cumulative Compounded RFR Rate)) calculated as set out below:

$$\left[ \sum_{i=1}^{d_0} \left( 1 + \frac{\text{DailyRate}_{i-LP} \times n_i}{dcc} \right) - 1 \right] \times \frac{dcc}{d}$$

where:

"**d<sub>0</sub>**" means the number of RFR Banking Days during the Interest Period;

"**i**" means a series of whole numbers from one to  $d_0$ , each representing the relevant RFR Banking Day in chronological order during the Interest Period;

"**DailyRate<sub>i-LP</sub>**" means for any RFR Banking Day "**i**" during the Interest Period, the Daily Rate for the RFR Banking Day which is the applicable Lookback Period prior to that RFR Banking Day "**i**";

"**n<sub>i</sub>**" means, for any RFR Banking Day "**i**", the number of calendar days from, and including, that RFR Banking Day "**i**" up to, but excluding, the following RFR Banking Day;

"**dcc**" means 360 or, in any case where market practice in the Relevant Market is to use a different number for quoting the number of days in a year, that number; and

"**d**" means the number of calendar days during that Interest Period.

**SIGNATURES**

**The Parent**

**AMALFI CLEANCO LIMITED**



By:



Title: Director

**Notice details**

Address:

Attention:

Email:



**The Company**

**AMALFI BIDCO LIMITED**

\_\_\_\_\_  \_\_\_\_\_

By: 

Title: Director

**Notice details**

Address:

Attention:

Email:



**The Original Guarantors**

**AMALFI CLEANCO LIMITED**

\_\_\_\_\_  
[Redacted Signature]

By: [Redacted Name]

Title: Director

**Notice details**

Address:

Attention:

Email:

[Redacted Notice Details]

**AMALFI BIDCO LIMITED**

\_\_\_\_\_  
[Redacted Signature]

By: [Redacted Name]

Title: Director

**Notice details**

Address:

Attention:

Email:

[Redacted Notice Details]

**The Facility Agent**

**GLOBAL LOAN AGENCY SERVICES LIMITED**

By:



\_\_\_\_ Authorised Signatory

**The Security Agent**

**GLAS TRUST CORPORATION LIMITED**

By:



— Authorised Signatory



**The Arranger**

**ARES MANAGEMENT LIMITED**

By:



.....

Name:

Title:      Authorised signatory

Address:

Copy to:

Email:

Attention:



**The Original Lenders**

**ARES CAPITAL EUROPE V (E) INVESTMENTS S.À R.L.**

By:  .....

Name: 

Title: Manager

By:  .....

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

**ARES CAPITAL EUROPE V (G) INVESTMENTS S.À R.L.**

By: .....  
Name:   
Title:     Manager

By: .....  
Name:   
Title:     Manager

Address:   
Copy to:   
Email:   
Attention: 

**ARES CAPITAL EUROPE V (E) HOLDINGS S.À R.L.**

By:  .....

Name: 

Title:     Manager

By:  .....

Name: 

Title:     Manager

Address: 

Copy to: 

Email: 

Attention: 

**ARES CAPITAL EUROPE V (E) ASSETS S.À R.L.**

By:  .....

Name: 

Title: Manager

By:  .....

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

**ARES CAPITAL EUROPE V (G) HOLDINGS S.À R.L.**

By:  .....

Name: 

Title:     Manager

By:  .....

Name: 

Title:     Manager

Address: 

Copy to: 

Email: 

Attention: 

**ARES CAPITAL EUROPE V (G) ASSETS S.À R.L.**

By:  .....

Name: 

Title: Manager

By:  .....

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

**ARES CAPITAL EUROPE V (E) (L) INVESTMENTS S.À R.L.**

By:  .....

Name: 

Title: Manager

By:  .....

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 



**ARES CAPITAL EUROPE V (G) (L) INVESTMENTS S.À R.L.**

By:  .....

Name: 

Title:     Manager

By:  .....

Name: 

Title:     Manager

Address: 

Copy to: 

Email: 

Attention: 

**ARES CREDIT STRATEGIES FEEDER III UK, L.P.**

By Ares Management Limited, its manager

By:  .....

Name: 

Title: Authorised signatory

Address: 

Copy to: 

Email: 

Attention: 

**ARES ECSF VI (B) HOLDINGS S.À R.L.**

By:  .....

Name: 

Title: Manager

By:  .....

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

**ARES ECSF VII (P) HOLDINGS S.À R.L.**

By: .....  
Name:   
Title:     Manager

By: .....  
Name:   
Title:     Manager

Address:   
Copy to:   
Email:   
Attention: 

**SC ACM EU PD S.À R.L**

By: Ares Management Limited, its portfolio manager

By:  .....

Name: 

Title: Authorised signatory

Address: 

Copy to: 

Email: 


Attention: 


**MC CA INVESTMENT S.À R.L.**

By:  .....

Name: 

Title:     Manager

By:  .....

Name: 

Title:     Manager

Address: 

Copy to: 

Email: 

Attention: 

Ares Management Limited signing for and on behalf of (i) **Prima European Direct Lending 1 Designated Activity Company** (the "DAC") and (ii) Prima Multi-Manager Platform 1 ICAV (an umbrella fund with segregated liability between sub-funds acting in respect of its sub-fund Prima European Direct Lending 1 Fund) (the "ICAV"), in each case as its lawfully appointed attorney and portfolio manager and in the case of the ICAV for the sole purpose of acknowledging the entry into the contract by the DAC so as to comply with Chapter 2, Part I, Section 1, vii, paragraph 1(d) of the Central Bank of Ireland's AIF Rulebook as such may be amended or replaced from time to time

By:



.....

Name:

Title:

Authorised signatory

Address:

Copy to:

Email:

Attention:



**ARES ECSF X (T) HOLDINGS S.À R.L.**

By:  .....

Name: 

Title: Manager

By:  .....

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 



**VG ACM EU PD S.À R.L.**

By: Ares Management Limited, its portfolio manager

By:



.....

Name:

Title:

Authorised signatory

Address:

Copy to:

Email:

Attention:



**ARES ECSF XII (Z) (E) HOLDINGS S.À R.L.**

By:  .....

Name: 

Title: Manager

By:  .....

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

**ARES ECSF XII (Z) (G) HOLDINGS S.À R.L.**

By:  .....

Name: 

Title: Manager

By:  .....

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

**ARES DCSF (S) HOLDINGS S.À R.L.**

By:  .....

Name: 

Title: Manager

By:  .....

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 

**ARES SFERS HOLDINGS LLC**

By: Ares Capital Management LLC, its Servicer

By: Ares Management Limited, as subadvisor

By:  .....

Name:

Title: Authorised signatory

Address:

Copy to:

Email:

Attention:

**ARES EUROPEAN CREDIT INVESTMENTS II (G), L.P.**

By Ares Management Limited, its manager

By:



.....

Name:

Title:

Authorised Signatory

Address:

Copy to:

Email:

Attention:



**ARES ECI I (C) HOLDINGS S.À R.L.**

By:  .....

Name: 

Title:     Manager

By:  .....

Name: 

Title:     Manager



Address: 

Copy to: 

Email: 

Attention: 

**ARES ECI V (X) HOLDINGS S.À R.L.**

By: .....  
Name:   
Title: Manager

By: .....  
Name:   
Title: Manager

Address:   
Copy to:   
Email:   
Attention: 





**ARES ECI IX (AF) HOLDINGS S.À R.L.**

By:  .....

Name: 

Title: Manager

By:  .....

Name: 

Title: Manager


Address: 

Copy to: 

Email: 

Attention: 

**ARES ECI VIII (M) HOLDINGS S.À R.L.**

By:  .....

Name: 

Title: Manager

By:  .....

Name: 

Title: Manager

Address: 

Copy to: 

Email: 

Attention: 