

PRIVATE & CONFIDENTIAL

To: Earth Bidco B.V. (the "**Company**" or "**you**")
For the attention of the Directors

Cc: The Original Investors (as defined in the Senior Facilities Agreement)

27 February 2025

PROJECT EARTH – COMMITMENT LETTER

1. INTRODUCTION

- (a) We, the Credit Parties (as defined below) ("**we**" or "**us**"), are pleased to confirm in this letter our agreement and commitment to arrange, manage, implement, underwrite and provide the following facilities in connection with the Acquisition:
- (i) a term loan facility in an aggregate principal amount of EUR 539,000,000 (or such lesser amount as may be required by you in accordance with the terms of the Debt Documents) (the "**Term Facility**"); and
 - (ii) a revolving credit facility in an aggregate principal amount of EUR 400,000,000 (or such lesser amount as may be required by you in accordance with the terms of the Debt Documents) (the "**Revolving Facility**", and together with the Term Facility, the "**Facilities**").
- (b) Terms defined or given a particular meaning or construction in the Senior Facilities Agreement shall have the same meaning or construction when used in this letter unless otherwise defined or context otherwise requires, and "**Senior Facilities Agreement**" means senior facilities agreement in the form annexed to this letter at Schedule 1 (*Senior Facilities Agreement*) (or as may be entered into as contemplated by this letter), "**Intercreditor Agreement**" means the intercreditor agreement in the form annexed to this letter at Schedule 2 (*Intercreditor Agreement*) (or as may be entered into as contemplated by this letter), "**Fee and Syndication Letter**" means the fee and syndication letter dated on or about the date of this letter between the Company and the Credit Parties providing for certain payments relating to the Facilities and as contemplated by paragraph 2(c) of the CP Schedule, "**Commitment Documents**" means this letter, the Fee and Syndication Letter and any other document designated as a 'commitment document' by the Company, and "**Debt Documents**" means the Commitment Documents and the Finance Documents. For the avoidance of doubt, references in this letter to "**Majority Arrangers**" shall be to such term as defined in the Fee and Syndication Letter or, following the Senior Facilities Agreement having been signed, such term as defined in the Senior Facilities Agreement.

2. APPOINTMENT

- (a) By countersigning this letter, you appoint (subject to the terms of this letter):
- (i) BNP Paribas Fortis S.A./N.V., CIBC Capital Markets (Europe) S.A., Coöperatieve Rabobank U.A, Crédit Agricole Corporate and Investment Bank, ING Bank N.V. and MUFG Bank (Europe) N.V. as mandated lead arrangers and bookrunners of the Facilities (each an "**Arranger**" and a "**Bookrunner**"); and

- (ii) BNP Paribas Fortis S.A./N.V., CIBC Capital Markets (Europe) S.A., Coöperatieve Rabobank U.A, Crédit Agricole Corporate and Investment Bank, ING Bank N.V. and MUFG Bank (Europe) N.V. as underwriters of the Facilities (each an "**Underwriter**") in respect of its proportion of the relevant Facility as set out below.
- (b) Each Credit Party confirms and agrees that it or one of its Affiliates will, if so requested by you, act as facility agent, security agent and issuing bank in respect of the Facilities (as applicable) (in each case unless otherwise notified in writing to the Company prior to the date of this letter) (each an "**Administrative Agent**"). Each Credit Party further confirms that its agreements and commitments are not in any way conditional on (or subject to) it being requested or appointed as an Administrative Agent.
- (c) Each Arranger, Bookrunner and Underwriter, including (where applicable) in their capacities as an Administrative Agent in respect of the Facilities (as applicable), are together referred to as the "**Credit Parties**" and each individually is a "**Credit Party**".
- (d) The Company agrees with respect to each Credit Party that, other than as permitted under the terms of any Debt Document (including pursuant to this paragraph 2 and paragraph 8 (*Termination*)) or with the prior consent of the Arrangers, unless (A) any or all of the Facilities are not 100% committed pursuant to this letter, (B) any Credit Party is a Defaulting Credit Party or Defaulting Lender or (C) paragraph 8 (*Termination*) applies in respect of any Credit Party or the Company has a right to terminate the Commitment Documents or the Senior Facilities Agreement or the commitments of any Credit Party pursuant to paragraph 8 (*Termination*) (whether or not any right under that paragraph has been exercised), it shall not appoint any other person as a mandated lead arranger and/or underwriter of any of the Facilities specified in this letter prior to the earlier to occur of (i) the Closing Date and (ii) the date on which the obligations of a Credit Party have been (or are to be) terminated pursuant to paragraph 8 (*Termination*).
- (e) Notwithstanding any other provision in the Debt Documents, each Credit Party acknowledges and agrees that:
 - (i) you may mandate and appoint one or more other banks, financial institutions or other persons to act as agent, trustee, security agent and/or issuing bank (or similar) in respect of all or any of the Facilities;
 - (ii) you may at any time and from time to time, introduce, mandate and appoint one or more other banks, financial institutions or other persons (each an "**Additional Finance Party**") to arrange, manage, underwrite, lend and/or provide all or any part of the Facilities (or amounts in lieu thereof), provided that:
 - (A) such Additional Finance Party may not be awarded a better title in respect of the relevant Facility to which it is appointed than that awarded by the Company to the relevant Credit Parties originally party to this letter with an Underwrite Commitment in respect of the relevant Facility (but excluding any person who is a Defaulting Credit Party), unless any such original Credit Party agrees or is also offered the same title or ceases to be an Underwriter of such Facility;
 - (B) the allocated commitment of such Additional Finance Party in respect of that Facility shall be allocated pro rata to reduce the allocated Underwrite Commitments of the existing Credit Parties party to this letter in respect of that Facility, unless

otherwise agreed by the Company and each Credit Party that is not treated on a pro rata basis in connection therewith; and

- (C) such appointment is made on or prior to the Countersignature Date, or in accordance with paragraph 6 (*Existing Lenders and Early Bird Lenders*) of the Fee and Syndication Letter,

and each Credit Party acknowledges and agrees that its commitments and economics may be reduced accordingly or as otherwise agreed between you and the applicable Credit Parties;

- (iii) that you may at any time and from time to time (but subject to the terms of the Fee and Syndication Letter) introduce, engage with, mandate and/or appoint one or more Additional Finance Parties or arrangers, underwriters, providers or lenders and/or award roles, titles, commitments and economics as contemplated by paragraph 6 (*Existing Lenders and Early Bird Lenders*) of the Fee and Syndication Letter (including, for the avoidance of doubt, to arrange, manage, underwrite, lend and/or provide any Existing Lender/Early Bird Commitments (or amounts or instruments in lieu thereof)) and/or allocate participations and commitments in respect thereof, in each case in accordance with and as contemplated by the Fee and Syndication Letter;
 - (iv) that each Additional Finance Party (and any other person appointed pursuant to this letter) may with your consent accede to this letter and the applicable Debt Documents as agent, trustee, security agent, issuing bank, arranger and/or underwriter and/or lender (or in such other roles or titles as may be required) (as the case may be) and assume all applicable rights and obligations hereunder and under the other Debt Documents, and we hereby consent to the accession of any such Additional Finance Party and the assumption of such rights and obligations; and
 - (v) to enter into new Debt Documents and any other appropriate documentation to amend or replace the Debt Documents to reflect any consequential mechanical changes required to reflect the appointment or accession or joining of any Additional Finance Parties (and any other person appointed pursuant to this letter) and/or Administrative Agents as a party to the relevant Debt Document.
- (f) Without prejudice to any of the termination or cancellation rights of the Company under this letter or any other Debt Document, the Company may (acting in its sole and absolute discretion (and notwithstanding any provision of the Debt Documents to the contrary)) at any time (and from time to time), by notice to the Arrangers, reduce the aggregate principal amount of each (or any) Facility (with any such reduction reducing the obligations in respect of, and commitment of, each applicable Credit Party in the relevant Facility on a *pro rata* basis). Any such reduction shall take effect immediately upon the date of any such notice from the Company (or such later date as the Company may specify to the Arrangers).

3. **COMMITMENTS**

- (a) Subject only to the conditions set out in paragraph 4(a) (*Conditions*) below:
 - (i) each Arranger irrevocably agrees to arrange, manage and implement the Facilities; and

- (ii) each Underwriter irrevocably agrees to underwrite and provide a principal amount of each Facility equal to the relevant amount in respect of each such Facility as set out in the table below (or, in each case, such lesser amount as may be required by you) (an "**Underwrite Commitment**"):

Underwriter	Term Facility (EUR)	Revolving Facility (EUR)
BNP Paribas Fortis S.A./N.V.	89,833,333.33	66,666,666.67
CIBC Capital Markets (Europe) S.A.	89,833,333.33	66,666,666.67
Coöperatieve Rabobank U.A	89,833,333.33	66,666,666.67
Crédit Agricole Corporate and Investment Bank	89,833,333.33	66,666,666.67
ING Bank N.V.	89,833,333.33	66,666,666.67
MUFG Bank (Europe) N.V.	89,833,333.35	66,666,666.65
Total	539,000,000	400,000,000

- (b) The obligations of each Credit Party are several. No Credit Party shall be responsible for the obligations of any other Credit Party. No Credit Party shall be released from, or in any way relieved of, any of its obligations under or in connection with the Debt Documents (whether in whole or in part) by the failure of any other Credit Party to perform its obligations under or in connection with the Debt Documents.
- (c) Without prejudice to the forgoing and the other provisions of this letter, each Credit Party confirms and agrees that to the extent it or any of its Affiliates or Related Funds is the provider of or party to any existing financing, loan, credit facility, working capital or liquidity facility or arrangement, bank guarantee, letter of credit or bonding arrangement, hedging arrangement, ancillary facility arrangement, leasing arrangement, cash pooling arrangement (or similar) or any other existing financing arrangement or other financial accommodation provided to or in respect of any member of the Target Group (each, an "**Existing Arrangement**"), it will, if so requested by you, act reasonably and in good faith and use all commercially reasonable endeavours to extend, continue and rollover (including, as applicable, by way of amendment or waiver of any applicable 'change of control', 'change of ownership', 'listing' or 'de-listing' provision, termination right, or similar (howsoever described)) such Existing Arrangement to which it or any of its Affiliates or Related Funds is a party and/or (if so agreed between it and the Company) make such Existing Arrangement available in full under (or pursuant to the 'ancillary facility' or 'letter of credit' or other provisions of) the Facilities and the Finance Documents (and will, if so requested, promptly execute any applicable amendment, waiver or consent letters in respect of the same).

4. **CONDITIONS AND CONDITIONS PRECEDENT DOCUMENTS**

- (a) The obligations and commitments of each Credit Party pursuant to paragraph 3(a) (*Commitments*) above, and the availability of the Facilities, is subject only to:

- (i) execution of the Senior Facilities Agreement; and
 - (ii) (as a condition to availability of funding under the Senior Facilities Agreement only) delivery of the applicable documentary conditions precedent specified in Part 1 (*Conditions precedent to Initial Utilisation*) of Schedule 2 (*Conditions Precedent*) of the Senior Facilities Agreement (the "**CP Schedule**") and satisfaction of the applicable conditions to drawdown specified in Clause 4.4 (*Utilisations during the Certain Funds Period*) of the Senior Facilities Agreement (or, as the case may be, the requirement for satisfaction or delivery being satisfied or waived in accordance with the terms of this letter or the Senior Facilities Agreement).
- (b) Save as expressly set out in paragraph (a) above, there are no other conditions, expressed, implied or otherwise, to the availability of the Facilities and the commitments given and the obligations of the Credit Parties under the Debt Documents, including with respect to their funding of the Facilities.
- (c) Each Credit Party irrevocably and unconditionally confirms and agrees (on behalf of itself and each of its Affiliates and Related Funds) that:
- (i) it has obtained full and final credit approval and all other relevant authorisations and approvals (including the completion of any client identification or other internal procedures) to execute and enter into this letter and the Debt Documents and to make the Facilities available and it does not require any further authorisations or approvals;
 - (ii) it has undertaken and completed (and is satisfied with the results of) (A) all required client identifications procedures, money laundering checks, 'know your customer' and other similar checks, and (B) all due diligence requirements, in connection with the Facilities, the Transactions, the Original Investors, the Group, the Target Group and entry into this letter and the Debt Documents, and it has no further checks or due diligence requirements with respect to the Facilities or the Transactions or the Group or the Target Group;
 - (iii) it has received, reviewed and is satisfied with the terms of the Senior Facilities Agreement and the Intercreditor Agreement;
 - (iv) it is (A) a Qualifying Lender (under and as defined in the Senior Facilities Agreement), and (B) a bank or financial institution with a rating for its long-term unsecured and non credit-enhanced debt obligations of at least BBB-/Baa3 by at least two of Moody's, Standard & Poor's and Fitch;
 - (v) its commitments and obligations and the availability of the Facilities is not subject to the commencement, the extent of, or the success or completion of, any syndication or sell-down of any of the Facilities occurring or the obtaining of any syndication assistance or credit rating; and
 - (vi) it has received, reviewed and is satisfied with the documents and other evidence referred to below (in each case, including any supplements, exhibits, addenda or schedules thereto) (the "**CP Documents**") and in the following paragraphs of the CP Schedule, and that such conditions precedent are, without prejudice to paragraph (d) below, irrevocably satisfied (or, in the case of those in sub-paragraph (ii) below, in agreed form), and in form and substance satisfactory to it, for all purposes under and in connection with the Debt Documents (including,

for the avoidance of doubt, for the purposes of satisfying the requirements of the CP Schedule and Clause 4.1 (*Initial conditions precedent*) of the Senior Facilities Agreement):

- (i) the Buyside Reports, the Structure Memorandum, the Approved List, the Base Case Model and 'know your customer' checks, referred to in paragraphs 5(a)-(c) (inclusive) and paragraph 5(e) (*Other Documents and Evidence*) of the CP Schedule; and
 - (ii) each other document, evidence or requirement contemplated by the CP Schedule.
- (d) Notwithstanding the foregoing, we acknowledge that (i) certain of the CP Documents may not be issued in "final" form; and (ii) the Company or the Original Investors may update any of the CP Documents from time to time.

Without prejudice to the above terms in this paragraph 4, each Credit Party also confirms and agrees that, in relation to any CP Document and any document or other evidence referred to in the CP Schedule, such document or other evidence may be delivered in the form provided to it on or prior to the date of this letter or in an amended, modified or final version (as the case may be) and that it will accept any amendments, modifications or changes, (including for the purposes of satisfying the requirements of the CP Schedule and Clause 4.1 (*Initial conditions precedent*) of the Senior Facilities Agreement) and any obligation in respect thereof, *provided that* such amended, modified or changed version (as the case may be) is in substantially the same form as is referred to above or not different in respects which (when taken as a whole and having regard to the Transactions as a whole) materially and adversely affect the interests of the Credit Parties (taken as a whole) under the Finance Documents (taken as a whole) or any changes which are (i) contemplated by or approved in accordance with this letter or the Senior Facilities Agreement, (ii) in order to finalise or complete any missing (or to correct, supplement or clarify) information (or any other matter) or items or amendments which are minor, technical or administrative in nature, or (iii) otherwise approved or agreed to by the Agent or the Majority Arrangers (or, where the relevant matter is specified as requiring the approval or consent of the Super Majority Arrangers, the Super Majority Arrangers) (each acting reasonably and in good faith).

- (e) Each Credit Party further agrees that it will promptly on request by the Company execute and deliver a letter confirming the latest status as to the satisfaction of the requirements of the CP Schedule (with any such letter to be on the same terms as this paragraph save for any applicable change in the status of any such requirements) and that it will authorise and instruct the Agent to do likewise.
- (f) For the avoidance of doubt, it is understood and agreed that any change in (i) the form of the Acquisition (including to change from a Scheme to an Offer or from an Offer to a Scheme) and (ii) the structure, form or timing of the Acquisition (including, without limitation, any change from a Scheme to an Offer or an Offer to a Scheme or in the terms of any Scheme or Offer) or in the timing or conditions relating to the Scheme, Offer or Acquisition or in the offer price, purchase price or consideration agreed, paid or payable or the manner in which purchase consideration is paid, shall (in each case) be permitted and shall not be regarded as being a material condition or being material or adverse to the interests of any of the Credit Parties or Finance Parties or any (or any group of) finance parties, arrangers, lenders, agents or providers under any of the Debt Documents.

5. FACILITIES AGREEMENT

- (a) Each Credit Party acknowledges that this letter and the provision of the Facilities under the Senior Facilities Agreement is integral to the Acquisition and that you require certainty as to the availability of the Facilities.
- (b) Each Credit Party irrevocably undertakes to and agrees that it will (and will ensure that any applicable Affiliate or Related Fund will):
- (i) promptly upon (and in any event by no later than 5:00 pm (London time) on the date falling three Business Days after) written request from you, execute and deliver the Senior Facilities Agreement and the Intercreditor Agreement (and, if so requested, each of the agreed form documents to which it is expressed to be a party) in the form annexed to this letter at Schedule 1 (*Senior Facilities Agreement*) and Schedule 2 (*Intercreditor Agreement*), updated (where applicable) to reflect any such changes as may be requested by you:
 - (i) in order to finalise or complete any missing (or to correct, supplement or clarify) information (or any other matter) or which are minor, technical or administrative in nature or necessary or desirable in order for there to be a single agreement containing the Facilities signed by each of the Company, the Arrangers, the Underwriters, the Original Lenders, the Agent and the Security Agent;
 - (ii) so as to give effect to any amendments, matters and/or appointments (as applicable) contemplated by paragraph 2 (*Appointment*) or 3 (*Commitments*) or as otherwise contemplated by this letter;
 - (iii) which are not materially adverse to the interests of the Credit Parties in their capacity as lenders of the Facilities (taken as a whole);
 - (iv) to incorporate such terms, provisions and amendments as may be requested by you (acting reasonably and in good faith) where such term, provision or amendment is (1) consistent with (or approved in accordance with) the terms of the Commitment Documents, the Senior Facilities Agreement or the Intercreditor Agreement; (2) necessary or desirable to implement or complete the Acquisition, Scheme, the Offer or the Transactions (provided that such is permitted or approved in accordance with the provisions of the Debt Documents or is not materially adverse to the interests of the Credit Parties in their capacity as lenders of the Facilities (taken as a whole)); or (3) contemplated by the paragraph 6 (*Amendments to Documents*); and/or
 - (v) where such change is agreed between the Company and the Majority Arrangers or Majority Lenders (or, where the relevant change is specified in the Senior Facilities Agreement as requiring the approval or consent of all of the Lenders, all of the Arrangers or Lenders) (in each case acting reasonably and in good faith); and
 - (b) subject only to the terms and conditions set out in the Senior Facilities Agreement and notwithstanding any other circumstances, make the full amount of its commitments, and

proportion of the advances, available to you under the Senior Facilities Agreement for the purposes specified therein.

6. AMENDMENTS TO DOCUMENTS

- (a) The Credit Parties acknowledge that, prior to the Completion, you may have limited access to the management of (and certain information in respect of) the Target Group. To the extent that, having reviewed the terms of the Commitment Documents, the Structure Memorandum and the Finance Documents (including, without limitation, in respect of any undertakings, baskets, ratios, carve-outs and thresholds contained or to be contained therein) and related documentation (the "**Relevant Documents**"), the management or the Group or Target Group reasonably believe that amendments to the Relevant Documents are required to allow for the operation of the Target Group business in the usual course and consistent with your intended strategy for the Group, you and the Credit Parties shall negotiate in good faith in respect of such proposed amendments.
- (b) Without prejudice to the foregoing, the Credit Parties acknowledge and agree that they will act reasonably and in good faith to:
- (i) (if so required by you) negotiate the Finance Documents in good faith to reflect the principals contemplated by this letter with a view to finalising the Finance Documents as soon as practicable (including in respect of any remaining Finance Documents and any terms in the Finance Documents which have been left blank or are to be completed);
 - (ii) consider and agree any terms, provisions and amendments reasonably requested by you to any of the Debt Documents which are consistent with this letter or which are (i) to implement, effect or reflect the Acquisition, the Transactions or the purposes for which the Facilities are intended to be used or applied; (ii) to provide for the operations of the Target Group and its business in its usual course and consistent with your intended strategy for the Group; (iii) necessary or desirable taking into account the nature, geographies, operations, practices, business and the proposed business plan and any other information received from management or the Target Group or contained in the Transaction Documents or in order to enable the Group to comply with mandatory requirements to enable it or any of its members to conduct its business; (iv) requested by management (actual or potential), the Target board, the Group/Target Group, any Relevant Regulator or applicable legal or regulatory authority, governmental institution, agency of state, public authority, the stock exchange, any court of competent jurisdiction, the Court, the Panel, any listing authority, exchange or clearing system, any 'cash confirmation' or 'bank guarantee' provider, any applicable employee, pensions, works council or trade union, any licencing, tax, competition, anti-trust, listing, legal, governmental or regulatory institution or authority (or similar) or any local authority or reasonably requested by you in light of the Transactions and other matters and arrangements contemplated by the Transaction Documents; (v) in respect of any applicable contractual, legal and regulatory requirements (including requirements of law or regulation), the City Code, the Court, the Panel, any Relevant Regulator, any listing or regulatory authority (including any rule, guidance or practice statements (or similar), whether or not having the force of law or representing a code of conduct (or recommended best practice), any competition or anti-trust authority or the requirements of any 'cash confirmation' provider; and/or (vi) as contemplated

by Clause 30.7 (*Miscellaneous*) or Clause 41.10 (*Environmental, social and governance matters*) of the Senior Facilities Agreement; and/or

- (iii) use all commercially reasonable efforts to execute (and ensure that any applicable Affiliate or Related Fund executes) the Finance Documents to which it (or an Affiliate or Related Fund) is (or is intended to be) a party and each other document required to be signed, agreed or provided prior to drawdown of any of the Facilities (in each case) to reflect the principals contemplated by this letter within 30 days of the Countersignature Date (or such other date as specified by the Company).

7. **CONFIDENTIALITY AND PUBLICITY**

- (a) We acknowledge and agree that this letter is confidential and we shall not (and we shall ensure that none of our respective Affiliates or Related Funds or any of our or their officers, employees, advisers or agents shall), without your prior written consent, disclose this letter or the Debt Documents or any of their terms or any Confidential Information (in whole or in part) to any person, except:

- (i) as required by law or regulation or regulatory authority or any applicable stock exchange or if required in connection with any legal, administrative or arbitration proceedings;
- (ii) to our Affiliates or Related Funds (and, subject to all requirements of law and regulation (including, without limitation, as regards confidential, non-public or price sensitive information), to insurers, reinsurers and Lloyds registered insurance brokers in connection with customary credit risk insurance (provided that such is permitted by the terms of the Senior Facilities Agreement) with a credit risk insurer in the ordinary course as disclosed to the Company in advance) on a 'need to know' basis in connection with the Acquisition and the Facilities, in each case to the extent such disclosure to such persons is necessary for the Facilities to be put in place; and
- (iii) (excluding the Fee and Syndication Letter and any other fee arrangement) to banks or other financial institutions approved by the Company (acting reasonably) for the purposes of Syndication in accordance with the Agreed Syndication Strategy (each as defined in the Fee and Syndication Letter), *provided that* such disclosure is in accordance with the Fee and Syndication Letter and the recipient of such information has first entered into a Confidentiality Undertaking in equivalent terms to this paragraph and as contemplated by paragraph 1.4 (*Syndication*) of the Fee and Syndication Letter,

in each case so long as (unless otherwise agreed by the Company):

- (A) such disclosure is permitted by applicable Confidentiality Undertakings entered into by the Credit Party (and/or its Affiliates) in connection with the Transactions, applicable law and regulation (including any applicable rule or guidance governing takeovers or mergers), the requirements of the City Code, the Panel, any court of competent jurisdiction, any applicable stock exchange, listing or regulatory authority or Relevant Regulator or requirement (including any guidance or practice statements (or similar), whether or not having the force of law or representing a code of conduct or recommended best practice) as well as any other applicable legal or regulatory requirements and restrictions including pursuant to any applicable laws, rules, regulations or customary practice on confidentiality, public and private information, and market abuse and/or the use and/or disclosure of non-public or price sensitive information;

- (B) the person to whom disclosure is to be made is informed of the confidential nature of the information disclosed and that some or all of that information may be material non-public information and that such information might be price-sensitive; and
 - (C) such disclosure is on a 'need to know' basis in connection with the Transaction and the person to whom disclosure is to be made has entered into a Confidentiality Undertaking and agreed to be bound by obligations which are equivalent to those in this paragraph or are in any event subject to confidentiality obligations as a matter of law or professional practice.
- (b) We agree that no publicity or announcements regarding this letter, the Facilities, the Debt Documents or the Transactions (or any part thereof) or any roles as arranger, underwriter, lender or agent, may be made by us or any of our Affiliates or any of our Related Funds without your prior written consent.
 - (c) For the avoidance of doubt and notwithstanding anything to the contrary, we acknowledge and agree that the Group, the Original Investors and (as required or with the consent of the Company) the Target Group shall be entitled to disclose this letter and the Debt Documents and make any and all announcements and disclosures required by, or considered necessary or desirable in connection with, the Acquisition and the Transactions or as may be the requirements of any competition, anti-trust, legal, listing or regulatory authority, any stock exchange, the City Code, the Panel, any Relevant Regulator, any court of competent jurisdiction, any "cash confirmation" or guarantee provider (or similar), any existing relationship banks, any employee or works council (or similar) or any other requirement of (or best practice under) law or regulation.

8. TERMINATION

- (a) This letter is irrevocable and may only be terminated by us or you (by written notice to the other parties to this letter) following the expiry of the Certain Funds Period under paragraph (a) of the definition thereof without the Closing Date having occurred, *provided that* (1) a change in the Acquisition (including, for the avoidance of doubt, any change or amendments to the structure, form or timing or to the terms or conditions of the Acquisition) shall not constitute a lapse, cancellation, termination or withdrawal and (2) the Credit Parties may not exercise such termination rights if any of the Closing Date, the Scheme Effective Date and/or Offer Unconditional Date has occurred, in each case unless otherwise agreed between the Company and that Credit Party.
- (b) Without prejudice to the forgoing, the Company may also terminate this letter and the other Commitment Documents and/or the rights and obligations of one or more Credit Parties under this letter and the other Commitment Documents (by notice to the other parties to this letter) if:
 - (i) upon or following the occurrence of any of the times and/or date or any of the other matters referred to in paragraph (a) above, or if a Senior Facilities Agreement has been signed, or if the Company notifies the Credit Party in writing that it has withdrawn or terminated its offer or bid for the Target Group and that the Acquisition by the Company is no longer proceeding;
 - (ii) such Credit Party (or its Affiliate or Related Fund) does not comply with, or fails to perform or breaches, any obligation, commitment, undertaking and/or material term of this letter or a Debt Document or is (or is regarded as) a Defaulting Lender or Defaulting Credit Party;
 - (iii) you, acting reasonably and in good faith, have requested amendments (or approval to amendments) to any Debt Document (or any other documents delivered under or in connection with any Debt Document) that: (A) in your reasonable opinion are consistent with the provisions

of this letter or the Debt Documents or are minor, technical or administrative in nature, or necessary or desirable to implement or complete the Transactions, or have arisen as part of the negotiations with, or requirements of, the Target board, management, the Target Group, any competition, anti-trust or legal or regulatory authority, any Relevant Regulator, the stock exchange, the Court, the Panel, or the provider of any 'cash confirmation' or 'bank guarantee'; (B) have been approved or consented to by the Majority Arrangers or Majority Lenders (or, where the relevant matter is specified as requiring the approval or consent of the Super Majority Arrangers, the Super Majority Arrangers); or (C) are contemplated by this letter (including, without limitation, paragraphs 4 (*Conditions*), 5 (*Facilities Agreement*), 6 (*Amendments to Documents*) or 10 (*Further Assurance*) of this letter) or the Fee and Syndication Letter, and (in each case) such Credit Party (or an Affiliate or Related Fund of such Credit Party) has not consented to such amendments;

- (iv) if, when so requested by the Company in accordance with this letter, such Credit Party (or its Affiliate or Related Fund) does not agree to the terms of and sign the Finance Documents and any other required documents as contemplated by this letter; or
 - (v) on or after the date on which the Company notifies the Credit Parties in writing by reference to this paragraph that it no longer wishes to proceed with the Credit Parties' commitments in respect of the Facilities and that the Commitment Documents (and all rights and obligations under and in respect of the Commitment Documents) are, or are to be, terminated (or, as the case may be, a portion of the commitments in respect of the Facilities are, or are to be, terminated, in which case such termination shall apply only in respect of such portion and shall apply pro rata among the Credit Parties in respect of the relevant Facility or as otherwise agreed between the Credit Parties and the Company).
- (c) Notwithstanding any other provision of the Debt Documents, in the event of termination of the obligations of one or more Credit Parties pursuant to the paragraphs above, or in the event any Credit Party exercises (or notifies the Company that it intends to exercise) any termination rights pursuant to this letter, or if you exercise (or notify the Credit Parties that you intend to exercise) any termination rights pursuant to this letter, in respect of one or more Credit Parties (each such Credit Party a "**Defaulting Credit Party**") your rights against and obligations of any other Credit Parties (other than the Defaulting Credit Party) under the Debt Documents shall remain in full force and effect and you shall be entitled to appoint one or more persons (and/or increase the commitments of any non-terminated Credit Party with its prior consent) to replace such Credit Party (the "**Replaced Credit Party**") (*provided that* such appointment should be on no better terms than the terms to which the Replaced Credit Party was party unless such better terms are also offered to the remaining Credit Parties with an Underwrite Commitment in respect of the relevant Facility) and each of the parties to this letter (other than, for the avoidance of doubt, the Replaced Credit Party) shall promptly upon your request execute such documentation as is reasonably required by you to effect such appointment.

9. SURVIVAL

- (a) Paragraph 7 (*Confidentiality and Publicity*) and paragraphs 9 (*Survival*) to 14 (*Governing law and jurisdiction*) inclusive shall survive and continue after any termination of any of the other obligations under this letter.

- (b) Except for paragraph 2(a) (*Appointment*), the terms of this letter and the Fee and Syndication Letter shall survive and continue after the Senior Facilities Agreement and Intercreditor Agreement are signed.
- (c) If the Senior Facilities Agreement is not signed, paragraph 7 (*Confidentiality and Publicity*) shall terminate on the date falling 18 months after the date of this letter.

10. **FURTHER ASSURANCE**

- (a) If there is a reasonable likelihood that the Offer Unconditional Date, Scheme Effective Date or Closing Date may occur after the Certain Funds Period or in the event the Company (acting reasonably and in good faith) wishes to extend the Certain Funds Period, the Company (acting reasonably and in good faith) may request that the Credit Parties agree to an extension of the Certain Funds Period and the Credit Parties shall (acting reasonably and in good faith) negotiate an extension to the Certain Funds Period with the Company, *provided that* such extension shall be subject to each Credit Party obtaining any necessary credit approvals required by it (acting reasonably and in good faith).
- (b) If (A) there is a reasonable likelihood that the Company may not be able to acquire or obtain control of at least 75 per cent. of the issued and outstanding Target Shares, or (B) the Company (acting reasonably and in good faith) wishes to reduce such 75 per cent. requirement, then the Company (acting reasonably and in good faith) may request that the Credit Parties agree to a reduction of such requirement (and/or an amendment or waiver of the corresponding condition in the Senior Facilities Agreement) and the Credit Parties shall (acting reasonably and in good faith) negotiate a reduction of such requirement (and/or an amendment or waiver of such condition) with the Company, *provided that* such reduction shall be subject to each Credit Party obtaining any necessary credit approvals required by it (acting reasonably and in good faith) and provided further that each Credit Party shall use its best efforts to facilitate and approve such a reduction (and/or amendment or waiver) in light of any mitigants offered (and the impact thereof, taken as a whole) and where the Company is of the view (acting reasonably and in good faith, having taken advice from the relevant financial advisers to the Company in connection with the Acquisition) that such reduction is necessary or desirable in order to maximise acceptances of the Offer.
- (c) For the avoidance of doubt, a Credit Party that is unable to or does not agree or consent to a request made by the Company pursuant to paragraphs (a) or (b) above may be deemed to be a Defaulting Credit Party,

11. **REMEDIES AND WAIVERS**

- (a) The failure to exercise or delay in exercising a right or remedy under the Commitment Documents will not constitute a waiver of that right or remedy or a waiver of any other right or remedy and no single or partial exercise of any right or remedy will preclude any further exercise of that right or remedy, or the exercise of any other right or remedy. Except as expressly provided in the Commitment Documents, the rights and remedies contained in the Commitment Documents are cumulative and not exclusive of any rights or remedies provided by law.
- (b) Each Credit Party acknowledges and agrees that:
 - (i) the Company and/or its Affiliates may (i) rely on our commitments and undertakings on the terms set out in this letter in making an offer for shares in the Target and entering into

the Acquisition and related commitments and documents; and (ii) be irreparably harmed by a breach or repudiation of any term of this letter (or any other Debt Document) by any Credit Party, and that in any such circumstance damages may not be an adequate remedy;

- (ii) the Company and/or any of its Affiliates may be granted an injunction in connection with any threatened or actual breach or repudiation of any term of this letter (or any other Debt Document) by any Credit Party; and
- (iii) in addition to and without prejudice to any other rights or remedies available to it, the Company may seek injunctions and/or specific performance by the Credit Parties (or any of them) of their (or its, as applicable) commitments and obligations under, and the transactions contemplated by, this letter and/or any other Debt Documents, including their (or its, as applicable) commitment, obligation and agreement to enter into, and to make advances, under the Senior Facilities Agreement.

12. **ENTIRE AGREEMENT**

As at the date of this letter, the applicable Commitment Documents set out the entire agreement between you and the Credit Parties party to this letter as to arranging and underwriting and making available the Facilities and supersede any prior oral and/or written understandings or arrangements relating to the Facilities.

13. **MISCELLANEOUS**

- (a) The Credit Parties and the Company shall not assign or transfer any of its rights or obligations under this letter or the Fee and Syndication Letter other than with the consent of the Company and each of the other Credit Parties party to such letter.
- (b) No waiver or amendment of any provision of this letter shall be effective unless it is in writing and signed by the Company and each Credit Party (other than any Defaulting Credit Party) party to this letter.
- (c) A person who is not a party to this letter has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this letter.
- (d) This letter 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 letter.
- (e) If any provision of the Commitment Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

14. **CONTRACTUAL RECOGNITION OF BAIL-IN**

Notwithstanding any other term of any Commitment Document or Finance Document or any other agreement, arrangement or understanding between the parties to this letter, each party acknowledges and accepts that any liability of any party to any other party under or in connection with the Commitment Documents or 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 this letter or any Commitment Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

For the purposes of this paragraph 14:

"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:

- (i) 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;
- (ii) in relation to the United Kingdom, the UK Bail-In Legislation; and
- (iii) in relation to any state other than such an EEA Member Country and 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.

"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 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).

"Write-down and Conversion Powers" means:

- (i) 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;
- (ii) in relation to any other applicable Bail-In Legislation other than the UK Bail-In Legislation:
 - (A) 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

- (B) any similar or analogous powers under that Bail-In Legislation; and
- (iii) in relation to the UK Bail-In Legislation, 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.

15. **GOVERNING LAW AND JURISDICTION**

This letter and any non-contractual obligations arising out of or in connection with it (including the agreement constituted by your acknowledgement of its terms) is governed by, and construed in accordance with, English law. The parties submit to the exclusive jurisdiction of the English courts.

Please acknowledge your agreement and acceptance of this letter by signing and returning a copy of this letter and the Fee and Syndication Letter to the Arrangers (or to legal counsel to the Arrangers), on or before 11:59 p.m. (London time) on the date falling 15 Business Days after the date of the Announcement (or such later date as may be agreed by us). References in the Commitment Documents to "**Countersignature Date**" shall be to the later of the date specified in the foregoing sentence and the date on which you countersign this letter and the Fee and Syndication Letter.

SCHEDULE 1
SENIOR FACILITIES AGREEMENT

Project Earth Senior Facilities Agreement

Dated [_____] 2025

EARTH BIDCO B.V.

as Company

[_____]

as the Mandated Lead Arrangers

THE FINANCIAL INSTITUTIONS LISTED IN SCHEDULE 1

as the Original Lenders

[_____]

as Agent

[_____]

as Security Agent

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THIS AGREEMENT is dated [] 2025 and made between:

- (1) EARTH BIDCO B.V., a company registered under the laws of the Netherlands and registered with the Dutch Commercial Register (*Handelsregister*) under number 95832902 (the "**Company**");
- (2) Each entity listed in Part I of Schedule 1 (*The Parties*) as an Original Borrower and an Original Guarantor;
- (3) [] as mandated lead arrangers (the "**Mandated Lead Arrangers**");
- (4) THE FINANCIAL INSTITUTIONS listed in Part II of Schedule 1 (*The Parties*) as lenders (the "**Original Lenders**");
- (5) [], as agent of the other Finance Parties (the "**Agent**"); and
- (6) [], as security agent and security trustee for the Secured Parties (the "**Security Agent**").

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"Acceptable Bank" means:

- (a) an Original Lender or its Affiliates or a Finance Party or its Affiliates;
- (b) any 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 or Fitch or Baa3 or higher by Moody's or a comparable rating from an internationally recognised credit rating agency;
- (c) any other bank or financial institution providing banking services to a business or entity acquired by a member of the Group provided that such services are terminated and moved to a bank or financial institution falling under limb (b) or (c) of this definition within six months of completion of the relevant acquisition;
- (d) any bank or financial institution providing banking services to a member of the Target Group as at the Closing Date; or
- (e) any bank or financial institution otherwise approved by the Agent, acting reasonably.

"Acceptable Funding Sources" means:

- (a) any Cash Overfunding and any amounts which any member of the Group is permitted by the terms of this Agreement to pay or distribute pursuant to a Permitted Payment; *plus*
- (b) the amount of any New Shareholder Injections (but excluding the amount of any Cure Amount); *plus*
- (c) Permitted Financial Indebtedness; *plus*

- (d) cash and Cash Equivalent Investments held by members of the Group provided that such cash and Cash Equivalent Investments would otherwise have been able to be used at that time to make a Permitted Payment (excluding any permissions to the extent required to be funded from the Acceptable Funding Sources); *plus*
- (e) the aggregate principal amount of any Financial Indebtedness of the Company or any Group member issued or incurred after the Closing Date (other than Financial Indebtedness issued to or loaned by the Company or a Group member), which has been converted into or exchanged for equity and/or shareholder loans, together with the fair market value of any cash and Cash Equivalent Investments and the fair market value (as reasonably determined by the Company) of any property or assets received by the Company or such Group member upon such exchange or conversion, in each case, during the period from (and including) the day immediately following the Closing Date through (and including) such time; *plus*
- (f) the aggregate amount of net cash proceeds received by the Company or any Group member during the period from (and including) the day immediately following the Closing Date through (and including) such time in connection with the disposal to a person (other than the Company or any Group member) of any investment funded using Acceptable Funding Sources (in whole or in part); *plus*
- (g) to the extent not otherwise already reflected as a return of capital with respect to such investment for the purposes of determining the amount of such investment, the aggregate amount of proceeds received by the Company or any Group member during the period from (and including) the day immediately following the Closing Date through (and including) such time in connection with cash returns, cash profits, cash distributions and similar cash amounts, (including cash interest and/or principal repayments of loans) in each case received in respect of any investment made after the Closing Date using Acceptable Funding Sources (in whole or in part) (in an amount not to exceed the original amount of such investment).

"Accession Letter" means a document substantially in the form set out in Schedule 14 (*Form of Accession Letter*).

"Accounting Principles" means generally accepted accounting principles in the Netherlands or IFRS, in each case to the extent applicable to the relevant financial statements.

"Acquisition" means the acquisition (whether by way of Scheme or one or more public offers (including an Offer), squeeze-outs, compulsory proceedings, irrevocables, rollovers, reinvestments, private or open market purchases and/or any other public or private sale, contribution or otherwise (or any combination thereof), directly or indirectly, of up to 100 per cent. of the issued shares of Target, and all related transactions, arrangements and procedures.

"Acquisition Costs" means all fees, closing payments, commissions, warranty and indemnity insurance payments, costs and expenses, stamp, registration and other Taxes incurred or required to be paid in connection with the Acquisition and any other investment

or acquisition not prohibited by this Agreement or one-off costs in connection with the refinancing of any indebtedness of any entity which is the subject of an acquisition not prohibited by this Agreement (including the Acquisition).

"Acquisition Documents" means:

(a) if the Acquisition is to be effected by means of a Scheme, the Scheme Documents;
or

(b) if the Acquisition is to be effected by means of an Offer, the Offer Documents,

and any other document designated as an Acquisition Document by the Agent and the Company.

"Act" means the Electricity Act 1989 and, unless context otherwise requires, all subordinate legislation made pursuant thereto.

"Additional Borrower" means a company which is or becomes an Additional Borrower in accordance with a Debt Pushdown or Clause 30.2 (*Additional Borrowers*).

"Additional Business Day" means any day specified as such in the applicable Reference Rate Terms.

"Additional Facility" means one or more additional facilities, loans, tranches or other financial instruments or accommodation, made available under this Agreement as described in Clause 2.3 (*Additional Facilities*), including as new or existing facility commitment(s) and/or as an additional tranche of, or an increase of, or an extension of, any existing Facility or a previously committed or incurred Additional Facility (including, in each case, term or revolving facilities, and including, for the avoidance of doubt, any Additional Term Facility or any Additional Revolving Facility).

"Additional Facility Commencement Date" means, in respect of an Additional Facility, the date elected by the Company and specified as the Additional Facility Commencement Date in the Additional Facility Notice relating to that Additional Facility.

"Additional Facility Commitment" means:

(a) in relation to any Lender whose Additional Facility Commitment has been established in accordance with Clause 2.3 (*Additional Facilities*), the amount in the Base Currency of its Commitment so established and the amount of any other Additional Facility Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Additional Facility Commitment transferred to it under this Agreement,

to the extent:

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

(ii) not deemed to be zero pursuant to Clause 31.2 (*Disenfranchisement on Debt Purchase Transactions entered into by a Sponsor Affiliate*).

"Additional Facility Conditions" means:

- (a) the Company has (either in the Additional Facility Notice or in a certificate supplied to the Agent) confirmed that:
- (i) unless such facility or indebtedness is Permitted Refinancing Debt or is otherwise permitted under this Agreement (including in connection with a Structural Adjustment), the aggregate principal amount of the Additional Facility Commitments (excluding any amount of, or which is to fund, fees, costs, taxes or expenses, or similar) does not exceed the Incremental Debt Amount; and
 - (ii) no Event of Default is continuing;
- (b) where such Additional Facility is established as a term loan facility, unless the relevant Additional Facility is being implemented as an increase in the Term Facility Commitments:
- (i) the final maturity date of such Additional Facility Commitments utilised under this Agreement is (while any original Term Facility Commitments or original Revolving Facility Commitments are outstanding) not earlier than the then scheduled Termination Date for the original Term Facility and the original Revolving Facility;
 - (ii) the scheduled amortisation repayment instalments (if any) and scheduled excess cashflow sweep repayment requirements (if any) are (while any original Term Facility Commitments are outstanding) not in a greater percentage amount than the scheduled amortisation repayment instalments (if any) and scheduled excess cashflow sweep repayment requirements (if any) applicable to the original Term Facility Commitments,
- in each case unless (A) (in the case of paragraph (b)(i) above) the Termination Date applicable to the original Term Facility Commitments or original Revolving Facility Commitments (as applicable) is, or is agreed to be, or is offered to be, amended so as to be no later than the final maturity date applicable to such Additional Facility Commitments and/or (in the case of paragraph (b)(ii) above) corresponding scheduled amortisation repayment instalments and/or scheduled excess cashflow sweep repayment requirements are, or are agreed to be, or are offered to be, included for the benefit of the original Term Facility Commitments so as to be not less favourable than those applicable to such Additional Facility Commitments; and/or (B) the outstanding original Term Facility Loans not falling within item (A) of this paragraph (b) are, or are to be or are offered to be repaid, prepaid, refinanced, replaced or discharged on or prior to or in connection with such incurrence and related transactions;
- (c) where the Additional Facility is established as a term loan facility ranking *pari passu* with the original Term Facility Commitments and denominated in the same currency and having a floating rate of interest (a "**Pari Term Facility**") which is utilised under this Agreement prior to the date falling 6 months after the Closing Date, the margin applicable to such Pari Term Facility does not exceed 1.00 per cent. per annum

above the highest margin level applicable to the Term Facility, unless (A) the margin on the Term Facility is, or is agreed to be, or is offered to be, increased such that the margin applicable to such Pari Term Facility does not exceed 1.00 per cent. per annum above the increased margin applicable to the Term Facility and/or (B) the outstanding original Term Facility Loans not falling within item (A) of this paragraph (c) are, or are to be or are offered to be repaid, prepaid, refinanced, replaced or discharged on or prior to or in connection with such incurrence and related transactions;

- (d) such Additional Facility may not (unless approved by the Majority Lenders):
 - (i) be borrowed by any member of the Group which is not an Obligor, unless such member of the Group becomes an Obligor under this Agreement;
 - (ii) be guaranteed by any member of the Group which is not an Obligor, unless (subject to the Agreed Guarantee/Security Principles) such member of the Group is or becomes a Guarantor or a guarantee from such member of the Group is also granted or offered to be granted in favour of (or benefits) the Lenders under this Agreement (or the Agent and/or Security Agent on their behalf);
 - (iii) benefit from Security granted by a member of the Group unless (subject to the Agreed Guarantee/Security Principles) such Security is Transaction Security or is also granted or offered to be granted in favour of (or benefits) the Lenders under this Agreement (or the Agent and/or Security Agent on their behalf);
- (e) in the case of any Additional Facility Lender which signs the Additional Facility Notice establishing such Additional Facility and which is not already a party to the Intercreditor Agreement, such Additional Facility Lender shall, on or prior to the utilisation of such Additional Facility, accede to the Intercreditor Agreement in the capacity of Additional Lender,

provided that in the case of, or where the relevant Additional Facility, facility or indebtedness is, Permitted Refinancing Debt, paragraph (b)(i) above shall not apply if the final stated maturity date of such Permitted Refinancing Debt is not earlier than the final stated maturity date of the debt or arrangement being refinanced or replaced, paragraph (b)(ii) above shall not apply if such terms are not more onerous for the Group than corresponding terms of the debt or arrangement being refinanced or replaced, paragraph (c) above shall not apply where the cost to the Group of such Permitted Refinancing Debt is not greater than the cost to the Group of the debt or arrangement being refinanced or replaced, and paragraph (d) above shall not apply to the extent relevant entity was a borrower, guarantor or indemnitor under or in respect of, or the relevant security (or asset subject to such security) was financed by or secured, the debt or arrangement being refinanced or replaced; and provided further that, notwithstanding the foregoing, paragraphs (b), (c) and (d) above shall not apply to, or where the relevant Additional Facility, facility or indebtedness is, Permitted

Refinancing Debt which refinances or replaces debt or other arrangement outstanding or in effect as at the Closing Date.

"Additional Facility Lender" means any Lender or other bank, financial institution, fund, entity or person (not being a member of the Group) which signs an Additional Facility Notice and confirms its willingness to provide all or a part of an Additional Facility.

"Additional Facility Lender Accession Notice" means a notice substantially in the form set out in Part I of Schedule 13 (*Additional Facility*) or any other form agreed between the Agent and the Company (each acting reasonably).

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

"Additional Facility Notice" means a notice substantially in the form set out in Part II of Schedule 13 (*Additional Facility*) (or any other form agreed between the Agent and the Company (each acting reasonably)), delivered by the Company to the Agent in accordance with Clause 2.3 (*Additional Facilities*).

"Additional Guarantor" means a person which is or becomes an Additional Guarantor in accordance with Clause 30 (*Changes to the Obligors*).

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

"Additional Revolving Facility" means any Additional Facility which is designated as a Revolving Facility in an Additional Facility Notice.

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

"Additional Term Facility" means an Additional Facility that is not an Additional Revolving Facility.

"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.

"AFM" means the Netherlands Authority for the Financial Markets (*Stichting Autoriteit Financiële Markten*).

"Agent's Spot Rate of Exchange" means the Agent's spot rate of exchange (or, if the Agent does not have an available spot rate of exchange, any other publicly available spot rate of exchange selected by the Agent (acting reasonably)) for the purchase of the relevant currency with the Base Currency in the London or any other relevant foreign exchange market at or about 11:00 a.m. on a particular day.

"Agreed Guarantee/Security Principles" means the security principles set out in schedule 1 (*Agreed Guarantee/Security Principles*) of the Intercreditor Agreement.

"Ancillary Commitment" means, in relation to an Ancillary Lender and an Ancillary Facility, the Base Currency Amount which that Ancillary Lender has agreed to make available under that Ancillary Facility as notified to the Agent pursuant to Clause 9.3 (*Notification Process*),

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 evidencing an Ancillary Facility or its terms.

"Ancillary Facility" has the meaning given to that term in paragraph (a) of Clause 9.2 (*Availability*).

"Ancillary Lender" means each Lender (or Affiliate of a Lender) which makes available an Ancillary Facility in accordance with Clause 9 (*Ancillary Facilities*), acting in its capacity as a provider of that Ancillary Facility.

"Ancillary Limit" means in relation to an Ancillary Lender, the aggregate of its Ancillary Commitments as varied from time to time in accordance with this Agreement and the relevant Ancillary Documents.

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

- (a) the principal amount under each overdraft facility and on demand short term loan facility (calculated on a net basis and excluding any liability in respect of any BACS or similar facilities);
- (b) the maximum liability at such time under each guarantee, bond and letter of credit issued under any guarantee, bonding or letter of credit facility (net of any cash cover and otherwise as reduced in accordance with its terms and by calls thereon which have been satisfied, and excluding any liability in respect of amounts of interest, fees and similar charges); and
- (c) the amount fairly representing the aggregate exposure (excluding interest, fees and similar charges) of that Ancillary Lender under each other type of accommodation provided under that Ancillary Facility as determined by such Ancillary Lender in accordance with the relevant Ancillary Document or (if not provided for in the relevant Ancillary Document) in accordance with such Ancillary Lender's normal practice for the calculation of such exposures but excluding accrued interest, fees and like charges.

"Announcement" means the press release made by or on behalf of the Company announcing a firm intention to enter into the Acquisition in accordance with Rule 2.7 of the City Code (as the same may be amended, replaced, restated, modified, supplemented or revised from time to time and including any subsequent announcement).

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

"Applicable Securities Laws" means the City Code, the Companies Act 2006, the Dutch Takeover Rules, the Market Abuse Regulation, the London Stock Exchange, Euronext, any other applicable stock exchange and/or any other applicable law, rule, regulation and/or other such requirements.

"Approved List" means the agreed list of entities delivered to the Agent pursuant to paragraph 5(b) of Part I of Schedule 2 (*Conditions Precedent*).

"Assignment Agreement" means an agreement substantially in the form set out in Schedule 5 (*Form of Assignment Agreement*).

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

"Authorised Officer" means any of the CEO, the CFO, the deputy CFO, a director of the Parent, the Company or a Borrower or any other person appointed to or performing, and authorised by the relevant member of the Group (or directors) to perform, the functions commonly associated with the role of financial officer, finance director or treasury officer on behalf of the Group.

"Availability Period" means:

- (a) in relation to the Term Facility, the Certain Funds Period;
- (b) in relation to the Revolving Facility, the period from and including the date of this Agreement to and including the date falling one month prior to the Termination Date in respect of the Revolving Facility; and
- (c) in relation to any Additional Facility, the period specified as such in the Additional Facility Notice relating to that Additional Facility.

"Available Commitment" means, in relation to a Facility, a Lender's Commitment under that Facility minus (subject to Clause 9.7 (*Affiliates of Lenders as Ancillary Lenders*)):

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

For the purposes of calculating a Lender's Available Commitment in relation to any proposed Utilisation under the Revolving Facility only:

- (i) that Lender's participation in any Revolving Utilisations that are due to be repaid or prepaid on or before the proposed Utilisation Date shall not be deducted from that Lender's Revolving Facility Commitment; and
- (ii) that Lender's (or its Affiliates') Ancillary Commitments to the extent that they are due to be reduced or cancelled on or before the proposed Utilisation Date shall not be deducted from such Lender's Revolving Facility Commitment.

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

"Bank Levy" means an amount payable by any Finance Party or any of its Affiliates on the basis of or in relation to its balance sheet or capital base or any part of it or its liabilities or minimum regulatory capital or any combination thereof, including: (i) the UK bank levy as set out in the Finance Act 2011, (ii) the French *taxe pour le financement du fonds de soutien aux collectivités territoriales* as set out in Article 235 ter ZE bis of the French Tax Code, (iii) the German bank levy as set out in the German Restructuring Fund Act 2010 (as amended), (iv) the Dutch *bankenbelasting* as set out in the bank levy act (*Wet bankenbelasting*), and (v) any substantively similar bank levy or tax in any other jurisdiction, in each case to the extent in force (or formally announced though not yet enacted into law) as at the date of this Agreement or (if applicable) as at the date that Lender accedes as a Lender to this Agreement.

"Bank Products" means:

- (a) any cash or treasury management, pooling, netting, set-off, balance transfer, overdraft, depository, account reconciliation or combination, treasury, SWIFT, BACS, CHAPS, payment lines, credit or debit card, purchase card, daylight or overnight facilities or exposures, contingent repayment or obligation lines, collection of cheques, deposits and client debits, electronic funds transfer, clearing house, foreign exchange, or other credit or cash management and cash pooling arrangements (and similar), in each case in existence or consistent with past practice or entered into in the ordinary course of business or business activities or in connection with banking arrangements or treasury activities; and
- (b) overnight or daylight exposures of any member of the Group in respect of banking arrangements in existence or consistent with past practice or entered into in the ordinary course of business or business activities or in connection with banking arrangements or treasury activities,

and includes any facilities or services in relation thereto.

"Base Case Model" means the standalone financing base case model delivered to the Original Lenders pursuant to Clause 4.1 (*Initial conditions precedent*).

"Base Currency" means euro.

"Base Currency Amount" means (subject to the provisions of Clause 6.6 (*Revaluation of Letters of Credit*)):

- (a) in relation to a Utilisation under the Term Facility, the amount specified in the Utilisation Request delivered for that Utilisation;
- (b) in relation to a Utilisation under the Revolving Facility, the amount specified in the Utilisation Request delivered for that Utilisation (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is one Business Day before

the Utilisation Date or, if later, on the date the Agent receives the Utilisation Request); and

- (c) in relation to an Ancillary Commitment, the amount specified in the notice delivered to the Agent pursuant to Clause 9.3 (*Notification Process*) (or, if the amount specified is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is one Business Day before the Commencement Date for that Ancillary Facility or, if later, the date the Agent receives the notice specifying the Ancillary Commitment),
- (d) in relation to an Additional Facility Commitment, the amount specified as such in the Additional Facility Notice delivered to the Agent by the Company pursuant to Clause 2.3 (*Additional Facilities*)

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

"BCI Group" means:

- (a) BCI UK IRR Limited;
- (b) British Columbia Investment Management Corporation;
- (c) any direct or indirect Holding Company or Affiliate of British Columbia Investment Management Corporation;
- (d) any Subsidiary of any person referred to in paragraphs (a), (b) or (c) above;
- (e) any funds, partnership, trust or other person or entity which are owned, controlled (including by contract), managed or advised by any entity referred to in paragraphs (a) to (d) above, including any client for which British Columbia Investment Management Corporation acts as agent for investment or any of their Affiliates;
- (f) any Affiliate or subsidiary undertaking of any such fund or corporate entity referred to in paragraph (e) above.

"Bilateral Issuing Bank" has the meaning given to that term in Clause 6.9 (*Bilateral Letters of Credit*).

"Blocking Law" means:

- (a) any provision of Council Regulation (EC) No 2271/1996 of 22 November 1996 (the **"Blocking Regulation"**) (or any law or regulation implementing such Blocking Regulation in any member state of the European Union);
- (b) the Blocking Regulation as retained in the law of the United Kingdom pursuant to The Protecting against the Effects of the Extraterritorial Application of Third Country Legislation (Amendment) (EU Exit) Regulations 2019 or otherwise;
- (c) section 7 of the German Foreign Trade Regulation (*Außenwirtschaftsverordnung*);
or

(d) any similar blocking or anti-boycott law.

"Borrower" means:

- (a) an Original Borrower; and
- (b) an Additional Borrower,

unless, in each case, it has ceased to be a Borrower in accordance with Clause 30 (*Changes to the Obligors*) and, in respect of an Ancillary Facility, any Affiliate of a Borrower that is a member of the Group that becomes a borrower of that Ancillary Facility with the approval of the relevant Lender pursuant to the provisions of Clause 9.8 (*Affiliates of Borrowers*).

"Break Costs" means:

- (a) in respect of any Term Rate Loan in euro, the amount (if any) by which:
 - (i) the interest (excluding the Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds

- (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; and
- (b) in respect of any other Loan, any amount specified as such in the applicable Reference Rate Terms.

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Amsterdam and Brussels and:

- (a) in relation to any date for payment or purchase of euro, which is a TARGET Day;
- (b) 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; and
- (c) in relation:
 - (i) the fixing of an interest rate in relation to a Term Rate Loan;
 - (ii) any date for payment or purchase of an amount relating to a Compounded Rate Loan; or
 - (iii) the determination of the first day or the last day of an Interest Period for a Compounded Rate Loan or a related Unpaid Sum, 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.

"Buyside Reports" means each of the following reports:

- (a) a financial and tax due diligence report prepared by Deloitte (the **"Financial DD Report"**);
- (b) a commercial due diligence report prepared by Boston Consulting Group;
- (c) a technical due diligence report prepared by Arup (the **"Technical DD Report"**);
- (d) a legal due diligence report prepared by Linklaters LLP (the **"Legal DD Report"**);
and
- (e) the Structure Memorandum.

"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:
 - (i) the United States of America;
 - (ii) the United Kingdom; or
 - (iii) any member state of the European Economic Area or any Participating Member State which has a credit rating of either A-1 or higher by S&P or F1 or higher by Fitch or P-1 or higher by Moody's, 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 S&P or F1 or higher by Fitch or P-1 or higher by Moody's, 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 or collective investment schemes which (i) have a credit rating of either A-1 or higher by S&P or F1 or higher by Fitch or P-1 or higher by Moody's; (ii) which invest substantially all their assets in securities of the

types described in paragraphs (a) to (d) above; and (iii) can be turned into cash on not more than 30 days' notice; and

- (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 Permitted Security.

"Cash Overfunding" means (i) the amount of cash on balance sheet of the Group (including the Target Group) as at the Closing Date and (ii) any amount of New Shareholder Injection that is not applied for the purposes of paying cash consideration for the purchase of Target Shares.

"Central Bank Rate" has the meaning given to it in the applicable Reference Rate Terms.

"Central Bank Rate Adjustment" has the meaning given to it in the applicable Reference Rate Terms.

"Certain Funds Period" shall mean the period from (and including) the date of this Agreement to (and including) 11:59 p.m., London time, on the date falling ten (10) Business Days after the earliest of:

- (a) unless either the Scheme Effective Date or the Offer Unconditional Date has occurred:
- (i) the date falling 12 months from the date of the Announcement;
 - (ii) if the Acquisition is intended to be completed pursuant to a Scheme, the date on which the Scheme lapses (including, subject to exhausting any rights of appeal, if a relevant court refuses to sanction the Scheme) or is withdrawn with the written approval of the Panel, in each case, in accordance with the terms set out in the Announcement or the Scheme Circular, other than where (i) prior to such date the Company has notified the Agent that it proposes to make an Offer or effect the Acquisition pursuant to a different Scheme (ii) such lapse or withdrawal is as a result of the exercise of the Company's right to effect a switch from a Scheme to an Offer or (iii) such lapse or withdrawal is otherwise to be followed within 20 Business Days by an Announcement made by the Company to implement the Acquisition by a different offer or scheme (as applicable);
 - (iii) if the Acquisition is intended to be completed pursuant to an Offer, the date upon which the Offer lapses or is withdrawn with the written approval of the Panel or the Relevant Regulators, in each case, in accordance with the terms set out in the Announcement or the Offer Document, other than where (i) prior to such date the Company has notified the Agent that it proposes to effect the Acquisition by way of a Scheme or implement the Acquisition pursuant to a different Offer, (ii) such lapse or withdrawal is as a result of the exercise of the Company's right to effect a switch from an Offer to a Scheme

or (iii) such lapse or withdrawal is otherwise to be followed within 20 Business Days by an Announcement made by the Company to implement the Acquisition by a different offer or scheme (as applicable);

- (b) the date on which completion of the Acquisition has occurred and the Term Facility has been utilised in full,

or, in each case, such later time as agreed by the Majority Arrangers (acting reasonably and in good faith) and provided that if any such date is not a Business Day the relevant date will instead be the next Business Day thereafter.

For the avoidance of any doubt, a switch or other change from a Scheme to an Offer or from an Offer to a Scheme shall not in any circumstances constitute a lapse, withdrawal, cancellation or termination of a Scheme or an Offer (respectively) nor itself otherwise cause the Certain Funds Period to end.

In the event that the last day of the Certain Funds Period is a day which is not a Business Day or a business day under and as defined in the Acquisition Documents, the Certain Funds Period shall end on the next day to occur that is both a Business Day and a business day under and as defined in the Acquisition Documents.

"Certain Funds Utilisation" means a Utilisation made or to be made under the Term Facility during the Certain Funds Period.

"Change of Borrower Notice" means a notice substantially in the form set out in Schedule 16 (*Change of Borrower Notice*) given in accordance with paragraph (b) of Clause 30.8 (*Debt Pushdown*).

"Change of Control" means any entity (other than any Original Investor or group of Original Investors, whether separately or together) directly or indirectly:

- (a) gains the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to (i) cast a majority of the votes capable of being cast in general meetings of the Company and (ii) be able to appoint a majority of the board of directors (or equivalent) of the Company;
- (b) becomes the beneficial owner of more than 50 per cent. of the issued share capital of the Company (in each case 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);
- (c) the Company (or any successor entity as a result of any Permitted Reorganisation permitted by this Agreement) is not or ceases to be a wholly-owned direct Subsidiary of the Parent; or
- (d) following the later of the Closing Date and Completion (or, in the event the Acquisition is consummated by way of Offer, the Closing Date and Offer Completion Date), the Company (or any successor entity as a result of any Permitted Reorganisation permitted by this Agreement) ceases to directly or indirectly hold more than 50 per cent. of the issued ordinary share capital of Target (or any

successor entity as a result of any Permitted Reorganisation permitted by this Agreement).

For the avoidance of doubt, notwithstanding anything to the contrary, (i) any transfer of any direct or indirect interest in the Company or the Parent between Original Investors (or group of Original Investors) shall be permitted and shall not give rise to a Change of Control and (ii) any temporary rollover, roll-up, investment or reinvestment or similar (howsoever structured or described) shall not give rise to a Change of Control and shall be regarded as permitted by the terms of this Agreement and the Finance Documents provided that following completion of such rollover, roll-up, investment or reinvestment no continuing Change of Control exists as a result thereof.

"Charged Property" means all of the assets of the Parent and the Company which from time to time are, or are expressed to be, the subject of the Transaction Security.

"City Code" means the UK City Code on Takeovers and Mergers issued by the Panel on Takeovers and Mergers, as amended from time to time.

"Clean-Up Date" means the last day of the Clean-Up Period.

"Clean-Up Period" means:

- (a) the period until the date falling 120 days after Completion; and
- (b) in case of any Permitted Acquisition, the period commencing on the date of the relevant Permitted Acquisition and ending on (and including) the date falling 120 days after completion of such Permitted Acquisition

"Closing Date" means the date of first Utilisation of the Term Facility or the Revolving Facility under this Agreement.

"Code" means the US Internal Revenue Code of 1986.

"Commencement Date" means, in relation to an Ancillary Facility, the date on which that Ancillary Facility is first made available (whether or not then drawn), which date shall be a Business Day within the Availability Period for the Revolving Facility.

"Commitment" means a Term Facility Commitment, a Revolving Facility Commitment or an Additional Facility Commitment.

"Commitment Documents" means the commitment letter dated [_____] 2025 and entered into between, among others, the Company and Mandated Lead Arrangers and the fee letter dated [_____] 2025 and entered into between, among others, the Company and Mandated Lead Arrangers, each as the same may be amended, restated, updated, varied and/or replaced from time to time.

"Competitor" means any person that is, or is an Affiliate or Related Fund of, a person that is:

- (a) a competitor of the Target Group or whose business is substantially similar to that carried out by the Target Group provided that no person, a predominant portion of whose business involves banking, insurance, investment banking, broker/dealer,

investment or similar activities (including any Person involved in the life insurance business or in the business of the investment of annuities or contributions to pension, retirement, medical or similar plans or arrangements) shall be deemed to be a competitor of the Group pursuant to this paragraph (a);

- (b) a customer of the Group which is a trade supplier or sub-contractor of the Target Group in respect of the core business activities of the Target Group or
- (c) an Infrastructure Equity Investment Fund,

and provided that no existing Lender shall constitute a Competitor.

"Completion" means the date on which the Acquisition is consummated in full and the Company legally and beneficially owns and controls 100 per cent. of the shares of Target and all consideration in respect thereof has been paid in full.

"Compliance Certificate" means a certificate substantially in the form set out in Schedule 6 (*Form of Compliance Certificate*).

"Compounded Rate Currency" means any currency which is not a Term Rate Currency.

"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 which is not a Term Rate Loan.

"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 Daily Non-Cumulative Compounded RFR Rate for that RFR Banking Day.

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

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

"Confidential Information" means all information relating to the Parent, the Company, any other member of the Group, the Target Group, the Original Investors, the shareholders of the Group or 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 Parent, the Company, any other member of the Group, the Target Group, any Original Investor or any of its advisers; or

- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from the Parent, the Company, any other member of the Group, the Target Group, any Original Investor or any of its advisers,

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

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 42 (*Confidentiality*); or
- (ii) 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
- (iii) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and the Original Investors and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

"Confidentiality Undertaking" means a confidentiality undertaking substantially in the then recommended form of the LMA or in any other form agreed between the Company and the Agent and, in any case, capable of being relied on by, and not capable of being materially amended without the consent of, the Company.

"Contingent Liability" means, at any time:

- (a) in relation to an Issuing Bank and a Letter of Credit, the actual and/or contingent liability of that Issuing Bank under that Letter of Credit at that time; or
- (b) in relation to a Lender and a Letter of Credit, the actual and/or contingent liability of that Lender in relation to that Letter of Credit at that time as a result of the obligations assumed by it under Clause 7.7 (*Indemnities*),

in each case as reduced by any repayment or prepayment made in accordance with the terms of this Agreement.

"Court" means the Court of Session at Parliament House, Parliament Square, Edinburgh, EH1 1RQ.

"Court Meeting" means the meeting of the shareholders of the Target (and any adjournment thereof) to be convened at the direction of the Court under the Companies Act at which a resolution will be proposed to approve the Scheme (with or without amendment).

"Court Order" means the order of the Court sanctioning the Scheme.

"CTA" means the Corporation Tax Act 2009.

"Current Base Currency Amount" has the meaning given to that term in paragraph (a) of Clause 6.6 (*Revaluation of Letters of Credit*).

"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 Agent (or by any other Finance Party which agrees to determine that rate in place of the Agent) in accordance with the methodology set out in Schedule 11 (*Daily Non-Cumulative Compounded RFR Rate*) or in any relevant Compounding Methodology Supplement.

"Daily Rate" means the rate specified as such in the applicable Reference 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.

"Debt Pushdown" means a transfer, novation, pushdown or assumption of the Debt Pushdown Facilities as contemplated by and defined in Clause 30.8 (*Debt Pushdown*) and/or the Structure Memorandum.

"Debt Reduction" means any repayment or prepayment, reduction, purchase or repurchase, discharge, redemption, release, reimbursement, defeasance, buy-back, investment, retirement, extinguishment, termination or satisfaction, cancellation (or similar) or other discharge of debt, liability or commitment.

"Declared Default" means an Event of Default in respect of which a notice has been served on the Company by the Agent pursuant to paragraphs (a) or (b) of Clause 28.14 (*Acceleration*).

"Default" means an 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 or the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

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

- (a) which has failed to make its participation in a Loan available or has notified the Agent or the Company (which has notified the Agent) that it will not make its participation in a Loan available by the Utilisation Date of that Loan in accordance with Clause 5.4 (*Lenders' participation*);
- (b) which is a Restricted Party, a Transfer Defaulting Lender or a Restricted Lender;
- (c) which has otherwise rescinded or repudiated a Finance Document or expressly stated an intention to do so;
- (d) which is an Issuing Bank which has failed to issue a Letter of Credit (or has notified the Agent or the Company (which has notified the Agent) that it will not issue a Letter

of Credit) in accordance with Clause 6.5 (*Issue of Letters of Credit*) or which has failed to pay a claim (or has notified the Agent or the Company (which has notified the Agent) that it will not pay a claim) in accordance with paragraph (a) of Clause 7.6 (*Claims under a Letter of Credit*);

- (e) 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 or issue a Letter of Credit 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 Lender is disputing in good faith whether it is contractually obliged to make the payment in question.

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

"Designated Person" means a person or entity (whether or not having a legal personality):

- (a) listed on, or owned or controlled (as such term may be defined by the relevant Sanctions Authority) by any person(s) listed on, a Sanctions List;
- (b) that is, or is owned or controlled by any person that is, the target of any Sanctions;
- (c) that is, or is owned or controlled by any person that is, resident or located in, operating from, or incorporated under the laws of, a Sanctioned Country; or
- (d) which is a government of a Sanctioned Country, or an agency or instrumentality of, or an entity majority owned or controlled by, a government of a Sanctioned Country.

"Disruption Event" means either or both of:

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

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

"Distressed Debt Fund" means any trust, fund or other entity which is or would reasonably be recognised or categorised as a "distressed debt fund" by reputable institutions which are prominent participants in the financial markets including any person or entity (or any of its Related Funds) whose principal business or material activity is the purchase of loans or other debt securities with the intention of owning the equity or gaining control of a business (directly or indirectly). Distressed Debt Fund will be construed so as to include the debt trading desk (or equivalent) operated by a department of a bank or financial institution where that trading desk would be trading for or on behalf of an entity which itself constitutes a Distressed Debt Fund.

"Dutch Takeover Decree" means the Decree on Public Takeover Bids (*Besluit Openbare Biedingen Wft*) of the Netherlands, and any rules and regulations promulgated pursuant thereto, as amended from time to time.

"Dutch Takeover Rules" means the Dutch Financial Supervision Act (*Wet op het financieel toezicht*) and the Dutch Takeover Decree.

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

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

"EURIBOR" means the euro interbank offered rate administered by the European Money Markets Institute (or any other person which take over administration of that rate) for the relevant currency and Interest Period displayed on page EURIBOR01 of the Thomson Reuters screen or, in each case, on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters, provided that if the agreed page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Obligors' Agent.

"Euronext" means Euronext Amsterdam.

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

"Exempt Bond Instrument" means:

- (a) an advance payment bond or documentary letter of credit issued in respect of the obligations of a member of the Group to make payment for the supply of goods or services ordered by the relevant member of the Group in the ordinary course of its business; or
- (b) any performance bond or letter of credit or equivalent issued either by a member of the Group (or by a bank or other financial institution on behalf of a member of the Group) which allows its beneficiary to require payment under such instrument in respect of:
 - (i) failure by one or more members of the Group to discharge their obligations under a construction contract, waste management contract, investment subscription contract or other contract entered into in the ordinary course of business;
 - (ii) site clean-up costs, contamination costs or other remedial costs or similar whether in favour of a statutory body such as the Environment Agency (or equivalent in any jurisdiction) or otherwise;
 - (iii) cost or expenses incurred in relation to a bidding process for the award of a particular contract or project; or
 - (iv) its future obligations to make investments in Joint Ventures or Project Companies permitted by Clause 27.21 (*Joint Venture and Project Company Investments*).

"Existing Ancillary Facility" means any facility or other financial accommodation or arrangement made available to one or more member of the Group or Target Group which is notified to the Agent by the Company as a facility or financial accommodation or other arrangement to be treated as an "Existing Ancillary Facility" for the purposes of this Agreement.

"Existing Debt Guarantor" means a guarantor under the Existing Revolving Credit Facility as at the first Utilisation Date (but excluding, for the avoidance of doubt, a Joint Venture, a Project Company or Project Holding Company).

"Existing Joint Venture" means a joint venture under the Existing Revolving Credit Facility as at the Closing Date.

"Existing Project Company" means a project company under the Existing Revolving Credit Facility as at the Closing Date.

"Existing Revolving Credit Facility" means the facilities agreement originally dated on 29 September 2016 between, among others, the Target and ING Bank N.V. as facility agent, as amended and/or otherwise updated from time to time.

"Expiry Date" means, for a Letter of Credit, the last day of its Letter of Credit Term.

"Facilities" means the Term Facility, the Revolving Facility and any Additional Facility.

"Facility Office" means:

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

"FATCA" means:

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

"FATCA Application Date" means:

- (a) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014; 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, *inter alios*, the Mandated Lead Arrangers and the Company (or the Agent and the Company or the Security Agent and the Company) setting out any of the fees referred to in Clauses 18.2 (*Upfront fees*), 18.3 (*Agency fee*) and 18.4 (*Security Agent fee*);
- (b) any letter or letters between the Company and any Increase Lender setting out any fees payable referred to in paragraph (d) of Clause 2.4 (*Increase*) or under any other Finance Document; and
- (c) any agreement setting out fees payable in respect of an Additional Facility referred to in Clause 2.3 (*Additional Facilities*).

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

- (a) the definition of "Default";
- (b) the definition of "Material Adverse Effect";
- (c) paragraph (a) of "Permitted Transaction";
- (d) the definition of "Transaction Document";
- (e) the definition of "Transaction Security Document"; and
- (f) Clause 28 (*Events of Default*) (other than Clause 28.14 (*Acceleration*)).

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

- (a) the definition of "Secured Parties";
- (b) paragraph (c) of the definition of "Material Adverse Effect";
- (c) Clause 27.22 (*Further assurance*); and
- (d) Clause 33 (*Conduct of Business by the Finance Parties*).

"Financial Indebtedness" means any indebtedness for or in respect of:

- (a) monies borrowed;
- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of Capital Leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold or discounted on a non-recourse basis);
- (f) the acquisition cost of any asset to the extent payable after its acquisition or possession by the party liable where the deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset;

- (g) for the purposes of Clauses 27.11 (*Financial Indebtedness*) and 28.5 (*Cross default and cross acceleration*) only, any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked-to-market value as at the relevant date on which Financial Indebtedness is calculated (or, if any actual amount is due as a result of the termination or close out of that Treasury Transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution which liability would fall within one of the other paragraphs of this definition;
- (i) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the latest Termination Date or are otherwise classified as borrowings under the Accounting Principles;
- (j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back, sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles;
- (k) (without double-counting and on a net basis) any accretion portion of any Financial Indebtedness which is indexed and any accretion under any indexed-linked Hedging Agreement; and
- (l) (without double-counting) the amount of any liability in respect of any guarantee, or indemnity for any of the items referred to in paragraphs (a) to (j) above,

in each case if and to the extent such item constitutes Financial Indebtedness of the Group and would be treated as borrowings on the consolidated balance sheet of the Group (excluding notes thereto) prepared in accordance with the Accounting Principles as applied in the preparation of the Annual Financial Statements, and provided that Financial Indebtedness shall not include:

- (i) any earn-out obligation entered into in connection with any acquisition not prohibited by this Agreement (for so long as such earn-out obligations are treated as contingent liabilities in accordance with Accounting Principles) and all pension-related or post-employment liabilities;
- (ii) any Subordinated Indebtedness;
- (iii) indebtedness owed to a member of the Group, indebtedness of a Joint Venture and indebtedness of any person which is not a member of the Group;
- (iv) accrued expenses, trade payables or trade credit on normal commercial terms, trade instruments, payment advances and prepaid amounts on customer contracts;

- (v) any liability or amount owing under or in connection with the Acquisition or the Acquisition Documents and any earn-out, deferred or contingent consideration or post-closing payment or adjustment;
- (vi) any uncrystallized mark-to-market amount under any hedging arrangement or Treasury Transaction;
- (vii) any earn-out, deferred or contingent consideration or post-closing payment or adjustment to which a seller may at any time be entitled to the extent that such payment is determined by a closing or future balance sheet or depends on performance or achievement (or similar), provided that if such a payment obligation of the Group is crystallised and no longer contingent such payment is made within 60 days after the date on which it becomes crystallised and contractually due and payable;
- (viii) Bank Products, contingent obligations in the ordinary course of business, contingent liabilities, obligations relation to invoice discounting, and obligations under or in respect of non-recourse factoring, non-recourse inventory, receivables or invoice financing arrangements or off-balance sheet or similar arrangements;
- (ix) any Vehicle Lease or operating lease or lease liabilities under IFRS16 (and any guarantee, indemnity or other obligation or liability in respect of or constituting an operating lease or Vehicle Lease);
- (x) environmental claims and liabilities;
- (xi) any Letter of Credit Arrangement (or similar instrument) provided that, if a Letter of Credit or similar instrument is called and outstanding for more than 30 days, the applicable obligations of the Group in relation to such Letter of Credit or other instrument are reimbursed, satisfied, released or discharged within 30 days of demand;
- (xii) any indebtedness or obligations (actual or contingent) in respect of Exempt Bond Instruments provided that, if an Exempt Bond Instrument is called and outstanding for more than 30 days, the applicable obligations of the Group in relation to such Exempt Bond Instrument are reimbursed, satisfied, released or discharged within 30 days of demand,

and provided further that (a) any obligation or liability for or in respect of taxes, national insurance, employee contributions, environmental claims, pensions items and provisions (whether or not treated as borrowings under accounting principles) shall not be included (b) intra-day exposures, trading exposures in the ordinary course of business, deferred or prepaid income, obligations in respect of any lease, licence, concession, rental payments, trading contract, permit or approval arising in the ordinary course of business, payroll, accruals and amounts owing to officers and employees, and/or other expenses and liabilities in the ordinary course of business shall not be included and (c) any obligation or

liability arising under or in connection with any 'parallel debt' or 'covenant to pay' or similar, shall not be included.

When determining the amount of any Financial Indebtedness outstanding on a particular date, *pro forma* effect may be given to any Debt Reduction made or to be made on or about that date and such that there shall be no double counting of indebtedness incurred for the purposes of refinancing, replacing or funding a Debt Reduction in respect of any other indebtedness.

"Financial Year" means each period of twelve months ending on or about 31 March.

"Fitch" means Fitch Ratings Ltd.

"Funding Rate" means any individual rate notified by a Lender to the Agent pursuant to paragraph (a)(i) of Clause 17.5 (*Cost of funds*).

"Funds Flow Statement" means the funds flow statement delivered by the Company to the Agent pursuant to paragraph 6 of Part I of Schedule 2 (*Conditions Precedent*).

"General Meeting" means the general meeting of the shareholders of the Target (and any adjournment thereof) to be convened in connection with the Scheme for the purpose of considering, and, if thought fit, approving the shareholder resolutions necessary to enable the Target to implement the Acquisition by means of the Scheme.

"Global Guarantee Deed" means the global guarantee deed originally dated 21 February 2017 between, among others, Shanks Group PLC and the guarantors named therein, as the same may be amended and/or restated and/or updated and/or replaced from time to time (and for the avoidance of doubt any reference to Global Guarantee Deed shall include the guarantees and indemnities granted in connection therewith).

"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 "calculated on a net basis" in paragraph (a) of the definition of "Ancillary Outstandings" were deleted.

"Group" means the Company and each of its Subsidiaries from time to time (but excluding, for the avoidance of doubt, any Project Company).

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

"Hedge Fund" means a pooled investment vehicle or similar entity that is or would reasonably be recognised or categorised as a "hedge fund" by reputable institutions which are prominent participants in the financial markets, and having the following characteristics:

- (a) it generally seeks consistent levels of returns regardless of market conditions;
- (b) it generally uses complex strategies (which may include but not be limited to short-selling, use of leverage and arbitrage and derivatives transactions) in order to minimise market correlations with the goal of generating high returns (either in an absolute sense or over a specified market benchmark); and

(c) it generally is open only to financially sophisticated investors.

Hedge Fund will be construed so as to include "vulture funds" and any pass-through or structured finance vehicles in whatever legal form which are used by a Hedge Fund as part of structuring an investment.

"Hedging Agreement" has the meaning given to that term in the Intercreditor Agreement.

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

"Impaired Agent" means the Agent at any time when:

- (a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;
- (b) the Agent otherwise rescinds or repudiates a Finance Document;
- (c) (if the Agent is also a Lender) it is a Defaulting Lender under the definition of "Defaulting Lender"; or
- (d) an Insolvency Event has occurred and is continuing with respect to the Agent, unless, in the case of paragraph (a) above:
 - (i) its failure to pay is caused by:
 - (A) administrative or technical error; or
 - (B) a Disruption Event; andpayment is made within three Business Days of its due date; or
 - (ii) the Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

"Increase Confirmation" means a confirmation substantially in the form set out in Schedule 8 (*Form of Increase Confirmation*).

"Increase Date" means, in relation to an increase in the Total Commitments pursuant to Clause 2.4 (*Increase*), the later of:

- (a) the proposed Increase Date specified in the relevant Increase Confirmation; and
- (b) the date on which the Agent executes the relevant Increase Confirmation.

"Increased Costs" means:

- (a) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital;
- (b) an additional or increased cost; or
- (c) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

"Increased Costs Lender" means any Lender:

- (a) who has (or who has exercised its rights or notified in writing that it intends to exercise its rights to) cancelled any of its participations or commitments or required cancellation, repayment or prepayment (or has served notice requiring the same) or in respect of whom a member of the Group has served notice under Clause 11.1 (*Illegality*), Clause 11.2 (*Illegality in relation to Issuing Bank or Ancillary Lender*), Clause 11.6 (*Right of cancellation and repayment in relation to a single Lender*) or Clause 12.1 (*Exit*) or any of whose rights and obligations under this Agreement would, but for Clause 41.7 (*Replacement of a Lender*), be cancelled or repaid pursuant to Clause 11.1 (*Illegality*), Clause 11.2 (*Illegality in relation to Issuing Bank or Ancillary Lender*), Clause 11.6 (*Right of cancellation and repayment in relation to a single Lender*) or Clause 12.1 (*Exit*) or who has provided a notice pursuant to Clause 17.4 (*Market disruption*);
- (b) in respect of whom any member of the Group is or becomes obliged (or would become obliged if such person remained an Lender) to make any Tax Deduction or Tax Payment or to indemnify, pay, repay or prepay any sum or amount (or any increased or additional sum or amount) pursuant to or in connection with Clause 11.1 (*Illegality*), Clause 11.2 (*Illegality in relation to Issuing Bank or Ancillary Lender*), Clause 11.6 (*Right of cancellation and repayment in relation to a single Lender*), Clause 12.1 (*Exit*), Clause 17.4 (*Market disruption*), Clause 19 (*Tax Gross-Up and Indemnities*) or Clause 20 (*Increased Costs*); or
- (c) in respect of whom it becomes unlawful for the Company or the Borrower to perform any of its obligations under Clause 19 (*Tax Gross-Up and Indemnities*) or under an equivalent provision of any Finance Document.

"Increase Lender" has the meaning given to that term in Clause 2.4 (*Increase*).

"Incremental Debt Amount" means an unlimited amount, provided that:

- (a) it is or constitutes Permitted Refinancing Debt or a Letter of Credit Arrangement or is consented to by the Majority Lenders; or
- (b) it does not exceed the sum of:
 - (i) the maximum amount such that the Lock-Up Ratios are complied with (calculated on a *pro forma* basis as determined by the Company); *plus*
 - (ii) (in the case of any revolving, working capital, liquidity, local, bilateral, operating facility, letter of credit, guarantee, surety or other similar arrangement, indebtedness or financial accommodation) the maximum amount such that the Total Revolving Facility Commitments incurred and outstanding in reliance on this sub-paragraph (b)(ii) (other than any Letter of Credit Arrangement and any Revolving Facility Commitments which are being repaid, refinanced, replaced or discharged in connection therewith) does not exceed an amount equal to (A) the greater of EUR 100,000,000 (or its equivalent in other currencies) and 55 per cent. of Consolidated EBITDA

(the "**Revolving Facility Basket**") plus (B) the amount of the Revolving Facility Commitments as at the Closing Date plus (C) any available amount under the General Debt Basket; *plus*

- (iii) the amount of any Debt Reduction or indebtedness or financial accommodation repaid, prepaid, refinanced, replaced or discharged on or prior to or in connection with such incurrence and related transactions, and the amount of all Refinancing Costs,

in each case as determined by the Company at the time of such incurrence or (at the option of the Company), the time such amount or facility is committed, established or classified or as otherwise contemplated by this Agreement (in each case on a *pro forma* basis for such commitment or insurance and, if such indebtedness is to be used to fund, directly or indirectly, any transaction, on a *pro forma* basis for such transaction), provided that, for the avoidance of doubt and notwithstanding anything to the contrary, (1) any loans, participations or commitments held by a Defaulting Lender or which are or are to be repaid, prepaid, cancelled or otherwise discharged or replaced on or prior to or in connection with such incurrence and related transactions may be ignored for the purposes of the calculations under paragraphs (b)(i) and (b)(ii) above and (2) nothing in this term shall limit or restrict a Structural Adjustment or increased commitments established pursuant to any other provision of the Finance Documents or any extension, transfer, rollover or other or similar or equivalent replacement of any commitment, loan, participation or other amount (in each case, provided that the principal amount thereof is not increased other than as permitted) and any reference to Incremental Debt Amount shall be interpreted and construed accordingly.

"Infrastructure Equity Investment Fund" means an entity, a predominant portion of whose business involves making equity investments in infrastructure assets (but excluding, for the avoidance of doubt, any entity whose activities are solely the making, purchasing or investing in loans or debt securities or purely passive equity investments in infrastructure and which is an Affiliate or Related Fund of an Infrastructure Equity Investment Fund but is managed or controlled independently from such Infrastructure Equity Investment Fund or has established procedures which will prevent confidential information supplied to such entity from being transmitted or otherwise made available to such Infrastructure Equity Investment Fund).

"Insolvency Event", in relation to a Finance Party or an Acceptable Bank, means that the Finance Party or Acceptable Bank (as applicable):

- (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 other than by way of an Undisclosed Administration, 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) where the relevant Finance Party or Acceptable Bank (as applicable) is an institute (*Institut*) as defined in section 1 (b) of the German Banking Act (*Kreditwesengesetz*), has instituted against it measures according to section 46 (other than section 46(1) sentence 2, no. 1 and 3), 46 (b) or 46 (g) of the German Banking Act (*Kreditwesengesetz*);
- (g) has exercised in respect of it one or more of the stabilisation powers pursuant to Part 1 of the United Kingdom Banking Act 2009 and/or has instituted against it a bank insolvency proceeding pursuant to Part 2 of the United Kingdom Banking Act 2009 or a bank administration proceeding pursuant to Part 3 of the United Kingdom Banking Act 2009;
- (h) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (i) seeks or becomes subject to the appointment of an administrator, judicial manager, provisional liquidator, conservator, receiver, trustee in bankruptcy, custodian or other similar official for it or for all or substantially all its assets other than by way of an Undisclosed Administration;
- (j) 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;

- (k) 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 (j) above; or
- (l) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

"Intercreditor Agreement" means the intercreditor agreement dated on or about the date of this Agreement and made between, amongst others, the Parent, the Company, the Original Lenders and the Security Agent.

"Interest Period" means, in relation to a Loan, each period determined in accordance with Clause 16 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 15.4 (*Default Interest*).

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

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

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

"Issuing Bank" means each person which agrees to act as an issuing bank in respect of the issue of a Letter of Credit in accordance with Clause 6 (*Utilisation by way of Letters of Credit*).

"ITA" means the Income Tax Act 2007.

"Joint Venture" means any joint venture entity or business which is treated as a joint venture or an associate for financial reporting purposes and/or which the Group regards as a joint venture for the purposes of this Agreement.

"Joint Venture Project Company" means

- (a) Maltha Groep B.V. and its subsidiaries;
- (b) any Joint Venture or other person or entity in which a member of the Group holds an equity interest or invests (directly or indirectly), which the Company elects by notice to the Agent should be considered a Joint Venture Project Company for the purposes of this Agreement and which the Company confirms to the Agent is or was a Project Holding Company or a Project Operating Company,

in each case unless the Company confirms in writing to the Agent that such subsidiary or subsidiary undertaking has ceased to be (or should no longer be regarded as) a Joint Venture Project Company.

"Leasing Arrangement" means any lease, licence, concession or similar arrangement, and includes any Capital Lease, Vehicle Lease, purchase money obligations, hire purchase,

sale and leaseback, vehicle or equipment financing arrangement, capital lease or operating lease, and any related liabilities and obligations.

"Legal Opinion" means any legal opinion delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) or otherwise in accordance with the terms of any Finance Document.

"Legal Reservations" means:

- (a) the principle that certain remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under applicable limitation laws (including the Limitation Acts), the possibility that an undertaking to assume liability for or indemnify a person against non-payment of 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 recharacterized as a floating charge or that Security purported to be constituted as an assignment may be recharacterized as a charge;
- (d) the principle that additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void;
- (e) the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant;
- (f) the principle that the creation or purported creation of Security over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which Security has purportedly been created;
- (g) the principle that the application of the provisions of certain laws can not be waived by contract;
- (h) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
- (i) any other matters which are set out as qualifications or reservations as to matters of law of general application in the Legal Opinions.

"Lender" means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 2.3 (*Additional Facilities*), 2.4 (*Increase*) or Clause 29 (*Changes to the Lenders*),

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

"Letter of Credit" means:

- (a) a letter of credit, substantially in the form set out in Schedule 12 (*Form of Letter of Credit*) or in any other form requested by a Borrower or the Obligors' Agent and consented to by the Issuing Bank in respect of that Letter of Credit (such consent not to be unreasonably withheld or delayed); or
- (b) any other guarantee, bank guarantee, bond, indemnity, letter of credit, documentary or like credit, performance bond or surety or any other instrument of suretyship or payment, issued, undertaken or made by an Issuing Bank under this Agreement in a form requested by a Borrower or the Obligors' Agent and consented to by the Issuing Bank in respect of such Letter of Credit (such consent not to be unreasonably withheld or delayed).

"Letter of Credit Arrangement" means any Letter of Credit or letter of credit, bank guarantee, bankers' acceptance, bid bond, performance bond, appeal bond, advance payment bond, surety, insurance, guarantee, indemnity, cost, completion or performance guarantee or any similar instrument, transaction, guarantee or obligation or other instrument issued or relating to liabilities or obligations in existence or consistent with past practice or in the ordinary course of business or business activities or pursuant to customary contract terms or a collateral or collateral maintenance requirement or for the benefit of any agency of state, governmental, regulatory or listing authority (or similar) or in relation to any transaction or arrangement permitted by this Agreement (and includes any facility or arrangement in relation thereto, any guarantee, indemnity, counter-indemnity or reimbursement obligations in connection with any such instrument, and any indebtedness, liability or obligation constituted by or arising out of or related to any such item), and any refinancing, replacement, renewal or extension thereof.

"Letter of Credit Proportion" means in relation to a Lender in respect of any Letter of Credit, the proportion (expressed as a percentage) borne by that Lender's Available Commitment to the Available Facility in relation to the Revolving Facility immediately prior to the issue of that Letter of Credit, adjusted to reflect any subsequent assignment or transfer under this Agreement to or by that Lender which also includes a transfer of liability in respect of that Letter of Credit.

"Letter of Credit Term" means each period determined under this Agreement for which an Issuing Bank is under a liability under a Letter of Credit.

"Limitation Acts" means the Limitation Act 1980, the Foreign Limitation Periods Act 1984 and any other statute of limitations applicable in a Relevant Jurisdiction.

"LMA" means the Loan Market Association.

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

"Local/Liquidity Lines" means any liquidity, working capital, local, bilateral, current account, overdraft, revolving, credit, guarantee, surety, letter of credit, project, foreign exchange or operating facilities, lines, indebtedness or other financial accommodation (or similar) (and any refinancing, replacement, renewal or extension thereof).

"Lock-Up Ratios" means:

- (a) the Leverage Ratio is not more than 3.50:1.00; and
- (b) the Interest Cover Ratio is not less than 1.75:1.00.

"Lookback Period" means the number of days specified as such in the applicable Reference Rate Terms.

"Macquarie" means:

- (a) Macquarie European Infrastructure Fund 7 SCSp (acting through its portfolio manager Macquarie Infrastructure and Real Assets (Europe) Limited) and its subsequent successor in title to all or substantially all of its assets ("**MEIF 7**") (and/or any of its affiliates or related funds/entities or connected persons or any person or entity affiliated with, owned, managed, controlled or advised by MEIF 7 or any of the affiliates or related funds/entities or connected persons of the foregoing);
- (b) any existing investor(s) in any fund or entity managed (as manager or portfolio manager or otherwise) or advised by Macquarie Infrastructure and Real Estate Assets (Europe) Limited or its affiliates;
- (c) other co-investors that are managed, controlled or advised by the Macquarie Group or invest through a co-investment vehicle, fund or entity which is managed, controlled or advised by the Macquarie Group to the extent that such co-investors hold (directly or indirectly) shares in the Company;
- (d) other co-investors which are specified in the Announcement or which are approved by the Lenders to the extent that such co-investors hold (directly or indirectly) shares in the Company; and/or
- (e) any other member of the Macquarie Group.

"Macquarie Group" means:

- (a) Macquarie Group Limited;
- (b) any direct or indirect Holding Company or Affiliate of Macquarie Group Limited;
- (c) any Subsidiary of any person referred to in paragraphs (a) or (b) above;
- (d) any fund, partnership, trust or other person or entity owned, managed or advised (including as portfolio manager) by any entity referred to in paragraphs (a) to (c) above, provided however that the term "advised" means being in receipt of and implementing advice in relation to the management of investments of that legal entity which is substantially the same as the services which would be provided by a fund manager of the relevant legal entity; and/or
- (e) any Affiliate or subsidiary undertaking of any such fund or corporate entity referred to in paragraph (d) above.

"Major Default" means, with respect to the Company only (and, for the avoidance of doubt, not any member of the Target Group or obligation to procure in relation to members of the Target Group), any circumstances constituting an Event of Default under any of:

- (a) Clause 28.1 (*Non-payment*) in respect of payment of principal or fees only;
- (b) Clause 28.3 (*Other obligations*) insofar as it relates to a breach of Clause 27.7 (*Negative pledge*), Clause 27.9 (*Dividends and share redemption*), Clause 27.11 (*Financial Indebtedness*), Clause 27.13 (*Acquisitions*) to Clause 27.15 (*Merger*) (inclusive), Clause 27.18 (*Loans*), Clause 27.19 (*No guarantees*) and paragraphs (a) to (c) of Clause 27.25 (*Conduct of Offer and/or Scheme*);
- (c) Clause 28.4 (*Misrepresentation*) in so far as it relates to a breach of any Major Representation;
- (d) Clause 28.6 (*Insolvency*);
- (e) Clause 28.7 (*Insolvency proceedings*);
- (f) Clause 28.9 (*Unlawfulness and invalidity*); and
- (g) Clause 28.10 (*Repudiation and rescission of agreements*).

"Majority Arrangers" means Mandated Lead Arrangers which hold (or their Affiliates hold) in aggregate at least 50 per cent. of the Total Commitments of the Mandated Lead Arrangers (or their Affiliates) on the date of this Agreement (provided that the Commitments of any Defaulting Lender or Defaulting Credit Party (as defined in the Commitment Documents) shall be excluded for the purposes of making any determination of Majority Arrangers).

"Majority Lenders" means:

- (a) (for the purpose of paragraph (a) of Clause 41.1 (*Required consents*)) in the context of a waiver in relation to a proposed Utilisation of the Revolving Facility (other than a Utilisation on the Closing Date) of the conditions in Clause 4.2 (*Further conditions precedent*), a Lender or Lenders whose Revolving Facility Commitments aggregate 66⅔ per cent. or more of the Total Revolving Facility Commitments (and for this purpose the amount of an Ancillary Lender's or a Lender's, as the case may be, Revolving Facility Commitment shall not be reduced by the amount of its Ancillary Limit); and
- (b) (in any other case) a Lender or Lenders whose Commitments aggregate 66 per cent. or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated 66⅔ per cent. or more of the Total Commitments immediately prior to that reduction).

"Major Representation" means with respect to the Company and, where relevant, the Parent (but, in each case, only to the extent that such representation constitutes a representation expressed to be given by such Party) a representation or warranty under any of Clause 24.2 (*Status*) to Clause 24.6 (*Validity and admissibility in evidence/Authorisations*) (inclusive).

"Management Advance" means any loans, advances or other payments to, for, or on behalf of any current, former or future director, officer, employee, consultant or member of management of any member of the Group or any Holding Company (or to any trust, fund, person or other entity directly or indirectly holding, managing or acting on behalf of or for the benefit of any such person or any MIP/MEP), and any related guarantees:

- (a) in the ordinary course of business or in respect of employment or service contracts (or similar), travel, payroll, bonuses, tax, benefits, employee contributions, national insurance, tax, entertainment or moving related expenses and other costs, taxes and expenses incurred in the ordinary course of business;
- (b) constituting or for the purposes of, or in lieu of, any MEP Payment or funding or pre-funding (directly or indirectly, and including by way of refinancing or replacing) any subscription or payment for, or any issuance, acquisition, disposal or transfer of any shares, investment, participation, benefit, entitlement or other interest in connection with any MIP/MEP or from any other person; or
- (c) in connection with any termination arrangement or the closing, consolidation, reorganisation or restructuring of any facility or office; or
- (d) the outstanding principal amount of which does not exceed the greater of EUR 5,000,000 (or its equivalent in other currencies) and 3 per cent. of Consolidated EBITDA.

"Management Investor" means any current, former or future, director, officer, employee, consultant or member of management of any member of the Group or any Holding Company (and any trust, partnership, fund, person or other entity directly or indirectly holding, managing or acting on behalf of or for the benefit of, or on the instruction of, any such person or any MIP/MEP).

"Margin" means:

- (a) in relation to any Term Facility Loan and any Revolving Facility Loan, 1.80 per cent. per annum or as otherwise determined in accordance with the following table:

Year	Margin (% per annum)				
	Leverage Ratio > 3.50:1	Leverage Ratio > 3.00:1 but ≤ 3.50:1	Leverage Ratio > 2.00:1 but ≤ 3.00:1	Leverage Ratio > 1.50:1 but ≤ 2.00:1	Leverage Ratio ≤ 1.50:1
Until (and including) the date falling 12 Months after the Closing Date (the " First Step-Up Date ")	2.35	2.10	1.80	1.60	1.50
Following the First Step-Up Date until (and including) the date falling 24 Months after the Closing Date (the " Second Step-Up Date ")	2.60	2.35	2.00	1.75	1.65

Following the Second Step-Up Date until (and including) the date falling 36 Months after the Closing Date (the " Third Step-Up Date ")	2.80	2.50	2.10	1.85	1.75
Following the Third Step-Up Date until (and including) the date falling 48 Months after the Closing Date (the " Fourth Step-Up Date ")	3.00	2.75	2.25	2.00	1.90
Following the Fourth Step-Up Date	3.50	3.20	2.75	2.50	2.40

- (b) in relation to any Additional Facility Loan, the margin specified in the relevant Additional Facility Notice;
- (c) in relation to any Unpaid Sum relating or referable to a Facility, the rate per annum specified above for that Facility; and
- (d) in relation to any other Unpaid Sum, 1.80 per cent. per annum.

For the purposes of paragraph (a) above:

- (i) the Margin applicable for the period until the First Step-Up Date shall as specified above or such other level as is determined in accordance with the foregoing table by reference to the Leverage Ratio on or about the Closing Date (as determined by the Company taking into account the Transactions and related payments made on or about the Closing Date and confirmed to the Agent accordingly); and
- (ii) any increase or decrease in the Margin shall be determined in accordance with the foregoing table and shall take effect on and with effect from the date on which the most recent Compliance Certificate is delivered to the Agent pursuant to Clause 25.2 (*Provision and contents of Compliance Certificate*).

For the avoidance of doubt there shall be no restriction on the number of step-ups or step-downs in the level of Margin that may occur as a result of this provision.

"Market Abuse Regulation" means the Market Abuse Regulation (as it forms part of assimilated law as defined in the EU (Withdrawal) Act 2018 in the United Kingdom) and/or the Market Abuse Regulation (EU) No 596/2014, as the context dictates.

"Market Disruption Rate" means the rate (if any) specified as such in the applicable Reference Rate Terms.

"Material Adverse Effect" means any event or circumstance or series of events or circumstances which, taking into account all the circumstances and subject to all appropriate mitigating factors, has a material adverse effect on:

- (a) the business or financial condition of the Group taken as a whole (provided that projected non-compliance with the Financial Covenants or Lock-Up Ratios will not in and of itself constitute a material adverse effect);
- (b) the ability of the Group (taken as a whole) to perform their payment obligations under the Finance Documents (taking into account all resources available to it); or
- (c) subject to the Legal Reservations and Perfection Requirements, the validity or enforceability of the Finance Documents (taken as a whole) which is not remedied within 20 Business Days of the Agent notifying the Company of the relevant event or circumstance.

"MEP Payment" means (i) any payment, loan, advance or other compensation as part of or in connection with any MIP/MEP or to any Management Investor (including payment to or for any person leaving any MIP/MEP or whose contract is terminated or who ceases to perform a role or be a Management Investor); (ii) any fees, costs, taxes and expenses of or incurred by any Management Investor or relating to any MIP/MEP; and (iii) any acquisition, transfer, repayment or redemption of, or payment in respect of, any shares, investment, participation, benefit, entitlement or other interest of, any Management Investor or in connection with any MIP/MEP (and, in each case, any payment or transaction which is, or is to be made, entered into or used directly or indirectly (or to facilitate) any such action, step or payment).

"MIP/MEP" means any management, officer or employee incentive, equity, share, stock, notes, option, investment, bonus, termination, retention, entitlement, benefit or compensation scheme or plan (or other similar or equivalent arrangement).

"Month" means, in relation to an Interest Period for a Loan (or any other period for the accrual of commission or fees), a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, subject to adjustment in accordance with the rules specified as Business Day Conventions in the applicable Reference Rate Terms.

"Moody's" means Moody's Investor Services Limited.

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

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

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

"New Shareholder Injection" means (a) an equity injection to the Company (b) subscriptions for shares or equity interests in or issued by the Company or contributions to the equity, capital, reserves or share premium (or similar) of the Company or a member of

the Group (through the Company) or any other form of equity or capital contribution to the Company or a member of the Group (through the Parent) and (c) Subordinated Indebtedness (and, in each case, any proceeds, payment or amount for or in respect thereof).

"Non-Consenting Lender" has the meaning given to that term in Clause 41.7 (*Replacement of a Lender*).

"Non-SWIFT Entity" means any entity which has been identified in any public announcement made by or on behalf of SWIFT as having been prohibited from using SWIFT or disconnected from SWIFT.

"Notifiable Debt Purchase Transaction" has the meaning given to that term in paragraph 31.2(c) of Clause 31.2 (*Disenfranchisement on Debt Purchase Transactions entered into by a Sponsor Affiliate*).

"Obligor" means a Borrower or a Guarantor.

"Obligors' Agent" means the Company, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.5 (*Obligors' Agent*).

"Offer" means an offer by or on behalf of the Company in accordance with the City Code to acquire more than 50 per cent. of the Target Shares (within the meaning of Chapter 3 of Part 28 of the Companies Act 2006) (and, as the case may be, an offer (*volledig bod*) as defined in the Dutch Takeover Decree), and any subsequent revision, variation, extension or renewal of such offer.

"Offer Completion Date" means the date which the Offer is completed in full following the occurrence of the Offer Unconditional Date and the Company legally and beneficially owns and controls at least 75 per cent. of the Target Shares and all consideration in respect thereof has been paid in full.

"Offer Document" means an offer document dispatched to shareholders of the Target setting out the terms and conditions of an Offer.

"Offer Unconditional Date" means, in the case of an Offer, the date on which the Offer has become or been declared unconditional as to acceptances.

"Optional Currency" means a currency other than the Base Currency which complies with the conditions set out in Clause 4.5 (*Conditions relating to Optional Currencies*).

"Original Borrower" means the Original Term Facility Borrower and the Original Revolving Facility Borrower.

"Original Financial Statements" means:

- (a) the annual audited consolidated financial statements of the Target for the financial year ended 31 March 2024; and
- (b) the semi-annual financial statements of the Target for the six months ended 30 September 2024.

"Original Guarantor" means each entity identified as such in Part I of Schedule 1 (*The Parties*).

"Original Investors" means each of Macquarie and BCI Group.

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

"Original Revolving Facility Borrower" means the Company.

"Original Term Facility Borrower" means the Company.

"Panel" means The Panel on Takeovers and Mergers.

"Parent" means Earth Pledgeco B.V., a company registered under the laws of the Netherlands and registered with the Dutch Commercial Register (*Handelsregister*) under number 96197153.

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

"Party" means a party to this Agreement.

"Perfection Requirements" means the making or the procuring of the necessary registrations, filing, endorsements, notarisation, stampings and/or notifications of the Transaction Security Documents and/or the Transaction Security created thereunder necessary for the validity and enforceability thereof.

"Permitted Acquisition" means:

- (a) the Acquisition;
- (b) an acquisition (including by way of sale and leaseback) by a member of the Group of an asset sold, leased, transferred or otherwise disposed of by another member of the Group;
- (c) an acquisition of cash or securities which are Cash Equivalent Investments;
- (d) acquisition of shares or securities (i) in the Target by the Company or (ii) in any member of the Group by any other member of the Group, or (iii) any minority interest or shares or securities owned by minority shareholders in a member of the Group or joint venture or associate;
- (e) the acquisition of, or subscription for, the issued share capital or analogous ownership interests of a limited liability entity, including by way of formation, by any member of the Group which has not traded prior to the date of acquisition and on incorporation or acquisition (as applicable) becomes a member of the Group;
- (f) any acquisition or investment in any Joint Venture or Project Company or other person who is not a member of the Group to the extent permitted under Clause 27.21 (*Joint Venture and Project Company Investments*);
- (g) any acquisition, subscription, incorporation or capital contribution (i) described in the Structure Memorandum or (ii) financed (directly or indirectly) by any New

Shareholder Injection or Subordinated Indebtedness, provided that the target is not a Restricted Party;

- (h) any acquisition or investment by a member of the Group provided that:
 - (i) no Event of Default is continuing;
 - (ii) the Financial Covenants, when calculated on a pro forma basis after giving effect to such acquisition, are complied with (calculated on a pro forma basis as is determined by the Company or an Authorised Officer);
 - (iii) the target (A) is or is involved in the waste business or a similar, complementary or related business to that of the Group, or does not materially change the nature of the business of the Group (taken as a whole), (B) is incorporated or established in a member country of the OECD, the United Kingdom, the European Union or a country in the European Economic Area, and (C) is not a Restricted Party;
- (i) any acquisition or investment constituting or in connection with a Permitted Transaction or Permitted Joint Venture/Project Company Investment; and
- (j) any other acquisition made with the prior written consent of the Majority Lenders.

"Permitted Additional Debt" means any indebtedness, facilities, loans, bonds, notes, capital markets instruments, debt securities, private placements or other financial instruments or accommodation made available to any member of the Group, provided that:

- (a) the Company has confirmed that:
 - (i) unless such Permitted Additional Debt is Permitted Refinancing Debt or is otherwise permitted under this Agreement, the aggregate principal amount incurred by the Group thereunder (excluding any amount of, or which is to fund, fees, costs, taxes or expenses, or similar) does not exceed the Incremental Debt Amount;
 - (ii) no Event of Default is continuing;
- (b) where such Permitted Additional Debt is established as a term loan facility, unless the relevant Permitted Additional Debt is being implemented as an increase in then existing Permitted Additional Debt:
 - (i) the final maturity date of such Permitted Additional Debt utilised by the Group is (while any original Term Facility Commitments or original Revolving Facility Commitments are outstanding) not earlier than the then scheduled Termination Date for the original Term Facility and the original Revolving Facility;
 - (ii) the scheduled amortisation repayment instalments (if any) and scheduled excess cashflow sweep repayment requirements (if any) are (while any original Term Facility Commitments are outstanding) not in a greater percentage amount than the scheduled amortisation repayment instalments

(if any) and scheduled excess cashflow sweep repayment requirements (if any) applicable to the original Term Facility Commitments,

in each case unless (A) (in the case of (b)(i) above) the Termination Date applicable to the original Term Facility Commitments or original Revolving Facility Commitments (as applicable) is, or is agreed to be, or is offered to be, amended so as to be no later than the final maturity date applicable to such Permitted Additional Debt and/or (in the case of (b)(ii) above) corresponding scheduled amortisation repayment instalments and/or scheduled excess cashflow sweep repayment requirements are, or are agreed to be, or are offered to be, included for the benefit of the original Term Facility Commitments so as to be not less favourable than those applicable to such Permitted Additional Debt; and/or (B) the outstanding original Term Facility Loans not falling within item (A) of this paragraph (b) are, or are to be or are offered to be repaid, prepaid, refinanced, replaced or discharged on or prior to or in connection with such incurrence and related transactions;

- (c) such Permitted Additional Debt may not (unless approved by the Majority Lenders):
- (i) be borrowed by any member of the Group which is not an Obligor, unless such member of the Group (i) becomes an Obligor under this Agreement (ii) the Target or Renewi BV or Renewi Europe BV or Renewi Belgium BV or approved by the Majority Lenders or (iii) is (or is established as) a holding company or financing vehicle (or for the purposes of issuing bonds, loans, notes or other securities) and/or acting as a finance or treasury company of the Group;
 - (ii) be guaranteed by any member of the Group which is not an Obligor, unless (subject to the Agreed Guarantee/Security Principles) such member of the Group is or becomes a Guarantor or a guarantee from such member of the Group is also granted or offered to be granted in favour of (or benefits) the Lenders under this Agreement (or the Agent and/or Security Agent on their behalf);
 - (iii) benefit from Security granted by a member of the Group unless (subject to the Agreed Guarantee/Security Principles) such Security is Transaction Security or is also granted or offered to be granted in favour of (or benefits) the Lenders under this Agreement (or the Agent and/or Security Agent on their behalf),

provided that in the case of, or where the relevant Permitted Additional Debt, facility or indebtedness is, Permitted Refinancing Debt, paragraph (b)(i) above shall not apply if the final stated maturity date of such Permitted Refinancing Debt is not earlier than the final stated maturity date of the debt or arrangement being refinanced or replaced, paragraph (b)(ii) above shall not apply if such terms are not more onerous for the Group than corresponding terms of the debt or arrangement being refinanced or replaced, and paragraph (c) above shall not apply to the extent relevant entity was a borrower, guarantor or indemnitor under or in respect of, or

the relevant security (or asset subject to such security) was financed by or secured, the debt or arrangement being refinanced or replaced; and provided further that, notwithstanding the foregoing, paragraphs (b) and (c) above shall not apply to, or where the relevant Permitted Additional Debt, facility or indebtedness is, Permitted Refinancing Debt which refinances or replaces debt or other arrangement outstanding or in effect as at the Closing Date.

"Permitted Additional Debt Document" means any agreement or other document or instrument setting out the terms (or any of them) of, or evidencing or constituting any Permitted Additional Debt.

"Permitted Disposal" means any sale, lease, licence, transfer or other disposal:

- (a) made in the ordinary course of business or operations;
- (b) by a member of the Group to another member of the Group;
- (c) of assets in exchange for other assets for use in the business of the Group;
- (d) of loss-making, non-core, used, obsolete, surplus, immaterial or redundant assets or which are (or form part of) loss-making or discontinued operations or which are no longer required for the operation of the business of the disposing entity or arising as a result of the termination of any agreement or arrangement which, in the opinion of the member of the Group party thereto, is uneconomic to continue or which are (or form part of) loss-making or discontinued operations;
- (e) of fixed assets where the proceeds of disposal are used within 12 months of that disposal (or, if contractually committed to be used within 12 months, are actually used within 18 months of that disposal) to purchase replacement assets for use in the business of the Group;
- (f) of cash or Cash Equivalent Investments;
- (g) of the application or disposal of cash not otherwise prohibited under the Finance Documents;
- (h) of assets compulsorily acquired, seized or expropriated by (or by the order of) any central or local governmental authority or agency or other regulatory body not otherwise resulting in an Event of Default under Clause 28.12 (*Expropriation*);
- (i) described in the Structure Memorandum;
- (j) constituting or arising as a result of a Permitted Transaction or any Permitted Security;
- (k) of, or arising in relation to, Treasury Transactions;
- (l) to any person who is providing services related to assets or the business of the Group (including pursuant to outsourcing or similar arrangements);
- (m) of a Joint Venture or Project Company or constituting or pursuant to a Permitted Joint Venture/Project Company Investment or otherwise permitted by Clause 27.21 (*Joint Venture and Project Company Investment*);

- (n) by way of the creation of a lease or licence over an asset which is granted in the ordinary course of business;
- (o) constituting the surrender or transfer by any member of the Group of any tax losses or other reliefs;
- (p) of assets arising under any Bank Products or other cash-pooling, 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;
- (q) of any realisation of investments acquired, purchased or made by the temporary application of funds not immediately required in the relevant member of the Group's business or operations;
- (r) of assets for cash where the cash consideration received by the Group pursuant to and in reliance of this paragraph does not exceed the greater of EUR 150,000,000 (or its equivalent in other currencies) and 85 per cent. of Consolidated EBITDA (when aggregated with the net consideration receivable for any other sale, lease, licence, transfer or other disposal by the Company not permitted under the preceding paragraphs in the same Financial Year);
- (s) of inventory or receivables (and related assets) (i) in the ordinary course of business (including any discount and/or forgiveness thereof) or in connection with the collection or compromise of such accounts receivables or (ii) on a non-recourse basis (except to the extent customary in the context of such arrangement, including customary indemnities, warranties, guarantees and undertakings and customary recourse to and in respect of the relevant members of the Group and the relevant inventory, receivables, accounts and related assets, and purchase obligations) or pursuant to customary factoring or invoice discounting arrangements or (iii) pursuant to an arrangement permitted under limb (m) of Permitted Financial Indebtedness;
- (t) constituting or in connection with any Leasing Arrangement, Bank Product, Letter of Credit Arrangement, Treasury Transaction or other financing arrangement permitted by this Agreement;
- (u) of assets where the net cash proceeds received by the Group for any single item does not exceed the greater of EUR 15,000,000 (or its equivalent in other currencies) and 10 per cent. of Consolidated EBITDA;
- (v) by a member of the Group to comply with laws having mandatory application in relation to minimum shareholding or mandatory holding of shares by board members or other officers;
- (w) of assets (including any shares in or business, undertakings or divisions of any member of the Group), provided that:
 - (i) no Event of Default is continuing;

- (ii) the Lock-Up Ratios, when calculated on a *pro forma* basis after giving effect to such disposal, are complied with (calculated on a *pro forma* basis as is determined by the Company); and
- (iii) the net cash proceeds received by the Group in respect of such disposal are, or will be, used, applied, invested and/or reinvested (or are, or are to be, committed or designated to be used, applied, invested or reinvested) within 18 months of receipt directly or indirectly in or towards the business or assets of the Group, any Specified Transaction, purchase of assets, capital expenditure, acquisition, investment, Permitted Payment, restructuring expenditure, Group Initiatives, Transaction Costs or any Debt Reduction (including, without limitation, by way of financing, refinancing or replacing any of the foregoing or to refinance or replace any other amount so used, applied, committed or designated) or otherwise invested, reinvested or used or applied in or towards the business or assets of the Group, provided that any such proceeds not so used or designated to be used as contemplated by this paragraph shall be applied in prepayment or repayment of the Facilities or other Debt Reduction;
- (x) with the prior written consent of the Majority Lenders.

"Permitted Financial Indebtedness" means Financial Indebtedness:

- (a) incurred pursuant to or arising under or in connection with any of the Finance Documents (for the avoidance of doubt including any Additional Facility or Ancillary Facilities or Letter of Credit);
- (b) which is Permitted Additional Debt;
- (c) arising under the Acquisition Documents;
- (d) which is Subordinated Indebtedness;
- (e) arising under a Treasury Transaction;
- (f) between members of the Group;
- (g) arising under any netting or set-off arrangement entered into in the ordinary course of its banking arrangements to the extent permitted pursuant to the definition of Permitted Security;
- (h) constituting or arising under or in connection with a Permitted Loan, Permitted Guarantee, Permitted Transaction, Permitted Security or Permitted Joint Venture/Project Company Investment or constituting or pursuant to a Permitted Joint Venture/Project Company Investment or otherwise permitted by Clause 27.21 (*Joint Venture and Project Company Investment*);
- (i) to the extent cash covered, collateralised or supported by cash or a Letter of Credit Arrangement or other guarantee, bond or letter of credit;

- (j) under daylight or overnight facilities and financing arrangements or owed on a short term basis of not longer than 30 days to banks and other financial institutions in an amount not exceeding Consolidated EBITDA or incurred in the ordinary course of business or business activities or arising in connection with ordinary banking arrangements to manage the cash of the Group;
- (k) constituting, under or in connection with, or represented by, any Leasing Arrangement (and any refinancing, replacement, renewal or extension thereof);
- (l) constituting, incurred or arising under or in connection with Bank Products or Letter of Credit Arrangements (and any refinancing, replacement, renewal or extension thereof);
- (m) constituting or incurred or arising pursuant to:
 - (1) customary factoring, inventory or receivables financing or invoice discounting arrangements; or
 - (2) any sale, disposal, assignment or discounting of inventory or receivables, factoring, securitisation, receivables financing or similar arrangements provided that such arrangements are (A) in existence (or pursuant to contractual arrangements) as at the Closing Date, (B) non-recourse to the Obligors (except to the extent customary in the context of such arrangement, including customary indemnities, warranties, guarantees and undertakings and customary recourse to and in respect of the relevant members of the Group and the relevant inventory, receivables, accounts and related assets, and purchase obligations) or (C) where the principal amount outstanding of receivables sold, transferred or otherwise disposed of (and not reimbursed or collected) pursuant to such arrangement or (at the option of the Company) the aggregate outstanding principal amount of Financial Indebtedness of the Group incurred and outstanding, in each case under and in reliance on this sub-paragraph (2)(C) (and, in each case, not permitted by any other provision of this definition) does not exceed an amount equal (x) the greater of EUR 50,000,000 and 35 per cent. of Consolidated EBITDA plus (y) any unused amount of the General Debt Basket,

(and any refinancing, replacement, renewal or extension thereof);
- (n) in respect of any loan or deferred or contingent consideration or earn-out arrangement or post-closing payment or adjustment in connection with any acquisition, or capital expenditure, investment, or in respect of any retention payment, transitional services, deferred payment or any advance or deferred or staged payment or purchase price obligation in respect of any asset, goods or services (including in respect of any acquisition, construction, replacement, repair or improvement cost) or general payment terms or customary trade terms in the ordinary course of business or consistent with past practice;

- (o) pursuant to customer, manufacturer, or supplier terms (including general payment or contract terms) or any deposit or advance payment from (or owing to) any customer, manufacturer, supplier or client in the ordinary course of business;
- (p) constituting state-backed financings, government support schemes, bursaries, grants or similar provided by any governmental agencies, quasi-governmental agencies, institutions or entities (including government or quasi-government backed agencies, institutions or entities);
- (q) which arises pursuant to an accrual or capitalisation of any amount owing under or in connection with the Finance Documents or Permitted Financial Indebtedness;
- (r) of the Target Group existing immediately prior to the Closing Date;
- (s) in respect of governmental grants or advances, reimbursement obligations, workers compensation claims, health, disability or other employee benefits, unemployment insurance and other social security laws or regulations or property, casualty or liability insurance and premiums related thereto, pensions items and related obligations, self-insurance obligations, obligations in respect of bids, tenders, franchises, concessions, trade contracts, governmental contracts and leases, licences, grants, permits, concessions, strategic partnerships, statutory obligations, customs, surety, stay, appeal and performance bonds, and performance and completion guarantees and similar obligations incurred by a member of the Group, in each case in the ordinary course of business;
- (t) which is unsecured and in respect of obligations of any member of the Group to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services, provided that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money;
- (u) consisting of the financing of insurance premiums and take-or-pay obligations constituting indebtedness of a member of the Group, in each case, entered into in the ordinary course of business;
- (v) under or in connection with any Permitted Guarantee or any guarantee, indemnity, assurance against loss or similar arrangement, including any counter-indemnity or reimbursement obligation permitted by (or in respect of any liability or obligation permitted by) this Agreement;
- (w) consisting of deposits, accounts with or advance payments from (or amounts owing to) any governmental institution, local authority, grant provider, regulator, agency of state, customer, manufacturer, supplier, distributor, utilities, service provider, franchisee, contractors, sub-contractors, strategic partners, clients, landlord, licensor or licensee, or pursuant to customary trade terms or in the ordinary course of business or business activities or consistent with past practice;

- (x) 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 (otherwise than by the capitalisation of interest) or having its maturity date extended in contemplation of, or since, that acquisition, and outstanding only for a period of six months following the date of acquisition unless permitted under another paragraph of this definition;
- (y) which is Permitted Refinancing Debt;
- (z) incurred pursuant to, or under or in connection with, Local/Liquidity Lines or similar arrangements, provided that the aggregate outstanding principal amount of Financial Indebtedness incurred and outstanding in reliance on this paragraph does not exceed (A) the greater of EUR 50,000,000 (or its equivalent in another currency or currencies) and 35 per cent. of Consolidated EBITDA *plus* (B) the Revolving Facility Basket *plus* (C) any unused amount of the General Debt Basket;
- (aa) incurred by a member of the Group on an unsecured basis, provided that:
 - (i) no Event of Default is continuing; and
 - (ii) the Lock-Up Ratios, when calculated on a *pro forma* basis after giving effect to such incurrence, are complied with (calculated on a *pro forma* basis as determined by the Company); or
- (bb) not permitted by the preceding paragraphs or as a Permitted Transaction and the outstanding principal amount incurred and outstanding in reliance of this paragraph does not exceed the greater of EUR 150,000,000 (or its equivalent in other currencies) and 85 per cent. of Consolidated EBITDA at any time (the "**General Debt Basket**");
- (cc) entered into with the prior written consent of the Majority Lenders.

"**Permitted Guarantee**" means any guarantee, indemnity and/or assurance:

- (a) given or arising under or in respect of any Transaction Document or the Permitted Additional Debt Documents;
- (b) by a member of the Group to or in respect of the obligations of or performance by another member of the Group;
- (c) in the ordinary course of business or business activities (including any guarantee in respect of rent, performance of obligations or entering into a lease, development works payments, supervision of construction obligations, hidden defects, obligations to repurchase land and obligations to refund VAT in the ordinary course of business);
- (d) granted in connection with a Permitted Disposal, provided that the maximum potential liability under any such indemnity does not exceed the value of the relevant asset or (as the case may be) the aggregate consideration received by members of the Group for that disposal;

- (e) of or itself constituting Permitted Financial Indebtedness or which, if it were Financial Indebtedness, is or would be Permitted Financial Indebtedness;
- (f) in connection with any financing arrangement permitted by this Agreement (including, without limitation, customary sale and leaseback transactions, leasing arrangements, receivables financings and other similar financings permitted by this Agreement);
- (g) granted by any person, business or undertaking acquired pursuant to a Permitted Acquisition;
- (h) in favour of financial institutions, performance bond, bank guarantee, insurance or surety providers (or similar) or any other person which has guaranteed obligations or liabilities of a member of the Group;
- (i) that includes, but is not limited to, the endorsement of negotiable instruments in the ordinary course of trading;
- (j) constituting, or in connection with, any Treasury Transaction, Leasing Arrangement, Bank Products, Letter of Credit Arrangement, factoring or invoice discounting arrangements and any guarantee, indemnity, counter-indemnity or reimbursement obligations in relation thereto or in the form of a counter-indemnity or reimbursement obligation in respect of any liability or obligation of, or performance by, a member of the Group;
- (k) by a member of the Group which, if it were a loan by that member of the Group, would constitute a Permitted Loan, and provided that any such guarantee counts towards the calculation of the relevant basket for Permitted Loans;
- (l) entered into in connection with a Permitted Acquisition, an acquisition, investment or other arrangement permitted by Clause 27.21 (*Joint Venture and Project Company Investments*), a Permitted Disposal or a Permitted Security;
- (m) given or arising under legislation relating to Tax or corporate law under which any member of the Group assumes general liability for the obligations of another member of the Group incorporated or tax resident in the same country;
- (n) given in mandate, engagement and commitment letters or otherwise to professional advisers and consultants in the ordinary course of the business of the Group;
- (o) on arm's length terms in favour of directors and officers in their capacity as such;
- (p) required by law or a court to be granted in favour of creditors in relation to mergers of Group companies in order to permit or facilitate the merger occurring, where such merger would constitute a Permitted Reorganisation and/or for the purposes of any capital reduction;
- (q) of performance (or similar) or performance or similar bond guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of trade or business activities or any counter-indemnity obligations in respect of the foregoing;

- (r) constituting, or in respect of the obligations of a member of the Group in connection with, a Permitted Transaction;
- (s) given in respect of obligations or liabilities not constituting Financial Indebtedness;
- (t) in relation to bilateral facilities for the provision of standby letters of credit, guarantees and other contingent instruments;
- (u) constituting or under or in connection with or in respect of an Exempt Bond Instrument or Global Guarantee Deed (or any refinancing or replacement thereof);
- (v) arising as a result of a Holding Company of one or more Subsidiaries incorporated in the Netherlands entering into a declaration or statement in relation to such Subsidiaries as envisaged by section 403 of Book 2 of the Dutch Civil Code (*Burgerlijk Wetboek*) and thereby assuming joint and several liability for such Subsidiaries' obligations;
- (w) any Management Advance or MEP Payment or guarantee constituting or granted in connection with any MIP/MEP or MEP Payment;
- (x) constituting or in connection with any Permitted Joint Venture/Project Company Investment or other transaction on investment in Joint Ventures or Project Companies permitted or made under paragraph (b)(iv) and (b)(v) of Clause 27.21 (*Joint Venture and Project Company Investments*);
- (y) in respect of:
 - (i) the obligations of one or more Joint Ventures or Project Companies under contracts entered into by such Joint Ventures or Project Companies (not being contracts in respect of Financial Indebtedness) provided that the maximum outstanding exposure of the Group in respect of such guarantees or indemnities at the time the guarantee or indemnity is given pursuant to and in reliance on this sub-paragraph (i) does not exceed in aggregate the greater of EUR 60,000,000 (or its equivalent in other currencies) and 35 per cent. of Consolidated EBITDA; and/or
 - (ii) Financial Indebtedness of one or more Joint Ventures or Project Companies provided that the maximum principal amount of outstanding Financial Indebtedness so guaranteed pursuant to and in reliance on this sub-paragraph (ii) does not exceed the greater of EUR 50,000,000 (or its equivalent in other currencies) and 30 per cent. of Consolidated EBITDA,

in each case (I) plus such additional amount as may be available under paragraph (z) below which remains unutilised and (II) calculated at the time such guarantees or indemnities are granted.

For the purpose of this paragraph (y), a guarantee or indemnity will not exceed the limit specified solely by reason of the fact that the quantum of the guarantee or indemnity increases over time by reference to an inflation index contained in that guarantee or indemnity, provided that at the time the guarantee or indemnity is

- granted the principal amount guaranteed or indemnified does not exceed the relevant limit, and the guarantee or indemnity is negotiated on arm's length terms;
- (z) where the aggregate outstanding principal amount of outstanding Financial Indebtedness so guaranteed and outstanding in reliance on this paragraph does not exceed any unused amount of the General Debt Basket; and
 - (aa) consented to or approved by the Majority Lenders.

"Permitted Holding Company Activity" means:

- (a) normal holding company activities, including any liabilities incurred or payments made by a holding company in respect of its share capital and professional fees, employee costs, administration costs and Taxes, and transactions in relation to its shareholding, including implementation and operation of any MIP/MEP or other management arrangements, in each case incurred in the ordinary course of its business as a holding company and not expressly prohibited under this Agreement;
- (b) all activities described in the Structure Memorandum or required in connection with the Transactions or the Transaction Documents and/or any Permitted Financial Indebtedness;
- (c) the entry into and performance of its obligations under the Transaction Documents, the Permitted Additional Debt Documents and the Acquisition Documents;
- (d) the provision of management and administrative services of a type customarily provided by a holding company to its subsidiaries;
- (e) the entry into, carrying out and performance of obligations under or in connection with any Financial Indebtedness and/or other indebtedness or liabilities incurred (including, for the avoidance of doubt, entering into and incurring any rights and liabilities under mandate, engagement or underwriting letters or agreements) and any financial accommodation or arrangement, loan, guarantee, security or payment made and/or transactions entered into under the Finance Documents or in respect of any other Financial Indebtedness, financing arrangement or financial accommodation permitted by this Agreement;
- (f) carrying on business, incurring any liability or owning any asset solely to the extent necessary to maintain its corporate existence;
- (g) activities desirable to maintain tax status;
- (h) incurring liability to pay tax (including through the formation of fiscal unities as described in the Structure Memorandum) and paying that tax (but not, for the avoidance of doubt, the trading, carrying on of business, owning of assets or incurring of liabilities which triggered such liability to pay tax other than as otherwise permitted under the Finance Documents);
- (i) making claims (and the receipt of any related proceeds) for rebates or indemnification with respect to taxes;

- (j) ownership of shares in and making loans to its Subsidiaries (and subscription for or acquisition of additional shares) and in each case any liabilities incurred or payments made by a holding company in respect of its share capital and professional fees, employee costs, administration costs and taxes in each case incurred in the ordinary course of its business as a holding company and not expressly prohibited under the Finance Documents;
- (k) ownership of credit balances in bank accounts, cash and Cash Equivalent Investments;
- (l) the making of any loan or providing any guarantee to or in respect of a member of the Group, Permitted Loans (including the making or receiving of Permitted Loans), Permitted Guarantees (including the making or receiving of Permitted Guarantees), Permitted Security (including the granting of Permitted Security) or entering into a Permitted Transaction and/or a Treasury Transaction not prohibited by the Finance Documents and activities reasonably incidental thereto (including, without limitation, the entry into and performance of the terms and conditions of, and any obligations under, any document in connection therewith);
- (m) the receipt of any Permitted Payments and the making of any Permitted Payments (and any related transaction or arrangement);
- (n) the receipt of the proceeds of any New Shareholder Injection and incurrence and payment of Subordinated Indebtedness;
- (o) (in the case of the Company), the receipt of the proceeds of any equity injection from its direct or indirect shareholders and incurrence and payment of any loan made to the Company by its direct or indirect shareholders;
- (p) incurring liabilities arising by operation of law and regulation;
- (q) activities in connection with any litigation or court or other proceedings that are, in each case, being contested in good faith;
- (r) the issue of shares to its shareholders;
- (s) activities, liabilities and other obligations undertaken or incurred prior to the date of this Agreement and any activities, liabilities and other obligations consistent with those activities, liabilities and other obligations;
- (t) constituting or in connection with a Management Advance, MIP/MEP, MEP Payment or Permitted Transaction (and any related transaction or arrangement); and
- (u) activities, liabilities and other obligations undertaken or incurred with the prior written consent of the Majority Lenders.

"Permitted Loans" means any loan, credit or advance:

- (a) extended on normal commercial terms and in the ordinary course of trading or business activities or operations or pursuant to customer or supplier terms

- (including general payment or contract terms) and any trade credit, deposit or advance payment made or received (including in relation to capital expenditure, goods or services) in the ordinary course of business;
- (b) constituting or under in connection with any Leasing Arrangement, Bank Products, Treasury Transaction, Letter of Credit Arrangement, factoring or invoice discounting arrangements and any guarantee, indemnity, counter-indemnity or reimbursement obligation in relation thereto;
 - (c) constituting, or made or extended in connection with (or to facilitate the making of) a Permitted Payment or Permitted Transaction;
 - (d) made by a member of the Group to another member of the Group;
 - (e) made to a Joint Venture or Project Company to the extent permitted by this Agreement;
 - (f) of or which constitutes Permitted Financial Indebtedness;
 - (g) constituting deferred consideration on Permitted Acquisitions or Permitted Disposals other investment otherwise permitted by this Agreement, including pursuant to acquisitions and investments contracted prior to the date of this Agreement;
 - (h) under or in connection with any financing arrangement permitted by this Agreement (including, without limitation, customary sale and leaseback transactions, leasing arrangements, receivables financings and other similar financings permitted by this Agreement);
 - (i) to the extent that if such loans or credit were instead made by a third party supported by a guarantee by a member of the Group of the obligations of the relevant person to whom such loan or credit are to be made such guarantee would be a Permitted Guarantee other than any guarantee made in substitution for a Permitted Loan to the extent that the issuer of the relevant guarantee would have been entitled to make and maintain such Permitted Loan to such person whose obligations are guaranteed in an amount equal to the amount so guaranteed at the time such guarantee was given and for so long as it subsists;
 - (j) constituting Financial Indebtedness arising under any treasury transaction, hedging arrangement and derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (including forward delivery foreign exchange contracts) entered into for the hedging of actual or projected real exposures arising in the ordinary course of trading activities (including arising pursuant to any Financial Indebtedness not prohibited by this Agreement) of a member of the Group and not for speculative purposes;
 - (k) any Management Advance or MEP Payment or loan or extension of credit made in connection with any MIP/MEP;

- (l) constituting a payment advance or earn-out, contingent or original consideration on Permitted Acquisitions or Permitted Disposal;
- (m) made by a member of the Group for the purposes of enabling a member of the Group that is an Obligor to meet its payment obligations under the Finance Documents or the Permitted Additional Debt Documents or to make any other Permitted Payment;
- (n) constituting (A) loans or the provision of other credit to Joint Ventures or Project Companies to the extent permitted under paragraph (b) of Clause 27.21 (*Joint Venture and Project Company Investments*) including, without limitation, any loans or deemed loans arising as contemplated by paragraph (b) of Clause 27.21 (*Joint Venture and Project Company Investments*) or (B) a Permitted Joint Venture/Project Company Investment or which is, or qualifies as an investment which is, permitted by Clause 27.21 (*Joint Venture and Project Company Investments*);
- (o) where the aggregate principal outstanding amount of Financial Indebtedness under any such loan incurred and outstanding in reliance on this paragraph does not exceed the greater of EUR 75,000,000 (or its equivalent in other currencies) and 45 per cent. of Consolidated EBITDA;
- (p) otherwise approved or consented to by the Majority Lenders.

"Permitted Payment" means any payment, distribution, advance or investment (including to any person to enable such person to make such payment, distribution, advance or investment):

- (a) provided that:
 - (i) the Lock-Up Ratios, when calculated on a *pro forma* basis after giving effect to such payment, are complied with (calculated on a *pro forma* basis as determined by the Company); and
 - (ii) no Event of Default is continuing;
- (b) payment:
 - (i) of reasonable professional or legal fees and amounts required to maintain its or any of its Holding Companies' corporate existence, regulatory costs and expenses and, provided that they are on arm's length terms and reasonably incurred, administrative, operating and corporate overhead costs and expenses of Holding Companies pursuant to and in reliance of this paragraph in an amount not exceeding the greater of EUR 5,000,000 (as increased each financial year in line with UK retail price index) and 3 per cent. of Consolidated EBITDA in any Financial Year (plus any related taxes);
 - (ii) in respect of taxes, provided that such taxes are attributable to the Group;
 - (iii) for corporate finance, investment, M&A and transaction advice provided to any member of the Group on *bona fide* arms' length commercial terms;

- (iv) in respect of director and officer remuneration, engagement terms, pensions items, insurance and employment costs (including customary directors or managers fees, costs, expenses, salary, bonus and other benefits) and any related taxes;
 - (v) in respect of out-of-pocket costs and expenses, and monitoring or advisory fees to, or reasonable out-of-pocket costs or expenses of, any Original Investor and/or their Affiliates which are attributable to the Company or any other member of the Group, provided that the aggregate amount so paid pursuant to and in reliance of this paragraph does not exceed the greater of EUR 10,000,000 (or its equivalent in other currencies) and 6 per cent. of Consolidated EBITDA in any Financial Year; and
 - (vi) amounts to enable transactions, activities and arrangements of the type contemplated by the definition of Permitted Holding Company Activity to be carried out and any fees, costs, taxes, expenses or other amount paid, payable or incurred in acting as, or maintaining existence as, a holding company of the Group or otherwise referable to the Group and/or complying with the Transaction Documents and/or in connection with compliance with applicable laws, rules or regulations or otherwise in the ordinary course of business as a holding company;
- (c) by a member of the Group to another member of the Group or to a minority Shareholder in any member of the Group (other than the Company) in an amount which is not greater than proportionate to such person's shareholding or holding in the relevant instrument;
 - (d) a payment which is (or which constitutes or is made pursuant to) a Permitted Transaction;
 - (e) constituting or made in connection with (or to fund) any Management Advance, MEP Payment and/or Transaction Costs and any other fees, costs, taxes and expenses or other payments or amounts payable under or in connection with the Transaction Documents or any MIP/MEP;
 - (f) funded directly or indirectly with, or in the amount of, Acceptable Funding Sources;
 - (g) for or in respect of transactional, advisory, management, consulting, monitoring, financial, administrative or other advisory services or investment banking activities, corporate finance, M&A, Group Initiatives and transaction advice, administrative, general corporate services and any reimbursement obligations or re-charges and any related facilities and services actually provided to or on behalf of the Group, and the amount of any fees, costs, taxes and expenses incurred in relation thereto or referable to the Group (but, for the avoidance of doubt, excluding any monitoring or investor fees payable to the Original Investors);
 - (h) of any obligation, liability or amount owing (or that may become due) under or in connection with the Acquisition Documents or any acquisition, capital expenditure

or investment permitted by this Agreement (including any retention payment, transitional services, earn-out, deferred or contingent consideration or post-closing payment or adjustment (or similar));

- (i) made in connection with any Treasury Transaction, Bank Product, Leasing Arrangement or Letter of Credit Arrangement;
- (j) out of any amount which represents Cash Overfunding (to the extent not already applied by the Company for another specific purpose under this Agreement);
- (k) of remuneration or other amounts payable under service contracts or engagement terms or amounts paid or payable to or on behalf of (or for the benefit of) directors, officers, consultants, management and/or employees, and related taxes, national insurance, employee benefit and pensions items (or similar);
- (l) contemplated by the Structure Memorandum or made in connection with a Debt Pushdown;
- (m) constituting a Permitted Joint Venture/Project Company Investment;
- (n) costs (including all professional fees and expenses) in connection with reporting obligations under or otherwise incurred in connection with compliance with applicable laws, rules or regulations of any governmental, regulatory or self-regulatory body or stock exchange or agency of state; and
- (o) any other payment consented to or approved by the Majority Lenders.

"Permitted Refinancing Debt" means any Permitted Additional Debt or Additional Facilities or any other indebtedness, facilities, loans, bonds, notes, capital markets instruments, debt securities, private placements or other financial instruments or accommodation (and any related hedging) to (directly or indirectly) repay, prepay, refinance, replace or discharge (or to implement any other Debt Reduction, debt exchange, rollover or other similar or equivalent transaction) all or any portion of any existing indebtedness, facilities, loans, bonds, notes, capital markets instruments, debt securities, private placements or other financial instruments or accommodation (including any related hedging)), provided that (i) the aggregate principal amount of such Permitted Refinancing Debt does not (save for any Treasury Transactions or Refinancing Costs) exceed the aggregate principal amount being so repaid, prepaid, refinanced, replaced or discharged or (ii) immediately following the incurrence of such Permitted Refinancing Debt and the use of proceeds thereof the aggregate principal amount of Financial Indebtedness of the Group is not increased other than in respect of Treasury Transactions and Refinancing Costs. For the avoidance of doubt, Permitted Refinancing Debt may be incurred from time to time prior to or after the repayment or Debt Reduction of any such other indebtedness to which it relates.

References to Permitted Refinancing Debt may also include Refinancing Costs relating to that Permitted Refinancing Debt (including in respect of any related refinancing or replacement and any debt or arrangement being refinanced or replaced).

"Permitted Reorganisation" means:

- (a) any transaction or arrangement constituting or in connection with any Permitted Acquisition or Permitted Disposal (or any transaction, reorganisation, liquidation, winding-up, dissolution, amalgamation, combination, consolidation, merger, demerger, hive-out, migration, conversion, corporate reconstruction or other similar or equivalent transaction (a "**Reorganisation**") which, if it were an acquisition or disposal would be a Permitted Acquisition or Permitted Disposal) (but excluding any merger or other consolidation of the Company unless the Company is the surviving entity of such Reorganisation);
- (b) any Reorganisation of, or involving the business or assets of, or shares of (or other interests or investments in), any member of the Group, provided that:
 - (i) the continuing assets owned by the relevant member of the Group and distributed as part of such Reorganisation continue to be part of (or owned by) the Group, or are (or are to be) distributed to (or owned by a) member of the Group in the same or a greater percentage as prior to such reorganisation, except:
 - (A) the shares of (or other interests or investments in) any member of the Group which has been merged into, or subject to a Reorganisation into, another member of the Group, or which has ceased to exist;
 - (B) to the extent applied in settlement of liabilities of such person;
 - (C) any business, assets, shares or other interests or investments which cease to exist, or which cease to be owned by the Group as a result of:
 - (I) a Permitted Disposal of Permitted Payment;
 - (II) a cessation of business or liquidation, winding-up or dissolution of a member of the Group in conjunction with a distribution of its assets (to the extent remaining after settlement of liabilities) to its immediate shareholder(s) or other persons directly holding investments or ownership interests in it; or
 - (III) compliance with applicable law or regulation; and
 - (ii) where such reorganisation involves:
 - (A) merging a Borrower, either (i) a Borrower is the surviving entity or (ii) the surviving entity shall be or become a Borrower in accordance with the terms of this Agreement and assume or continue to have liability for the obligations of the merged Borrower under the Finance Documents;
 - (B) merging a Guarantor, either (i) an Obligor is the surviving entity or (ii) the assets of such Guarantor are transferred or distributed to an

Obligor or (iii) the surviving entity shall be or become an Obligor in accordance with this Agreement and assume or continue to have liability for the obligations of the merged Obligor under the Finance Documents;

- (C) merging the Company, either (i) the Company is the surviving entity or (ii) the surviving entity (or such other person as is nominated by a Borrower for such purpose) shall be or become the Company for the purposes of this Agreement,

in each case unless otherwise permitted under this Agreement, including in circumstances where Clause 30.3 (*Resignation of an Obligor*) applies;

- (c) an amalgamation, demerger, merger, consolidation, liquidation or corporate reconstruction or dissolution of a non-Obligor where all of the business and assets of that non-Obligor remain within the Group (or the proportionate interest of the Group, in the case of a non-wholly-owned non-Obligor);
- (d) any (i) change in the legal form or jurisdiction of incorporation or tax residency of any member of the Group (ii) capital reduction (or similar) made by any member of the Group or conversion or reorganisation of capital or reserves (iii) issue of shares or other equity instruments (or similar) (iv) conversion, exchange, equitization, forgiveness, waiver, release, repayment, capitalisation, cancellation or other discharge or disposition (or similar) or (v) debt, equity or capital restructuring or reorganisation, provided that (in each case) no cash payment is made by any member of the Group to any person who is not a member of the Group unless such payment is otherwise permitted under this Agreement;
- (e) any issues of shares (or other interests or investments) pursuant to or in connection with a Permitted Acquisition, Permitted Disposal, Permitted Joint Venture/Project Company Investment, Permitted Debt, Permitted Payment, Permitted Transaction or MIP/MEP or which is otherwise permitted by the terms of this Agreement;
- (f) any Debt Purchase Transaction or other purchase of or investment in any indebtedness or securities (or similar) or Debt Reduction;
- (g) any Reorganisation as a result of a cessation of business or any person or in respect of a dormant company;
- (h) any Reorganisation (i) in connection with a Debt Pushdown or arising as a consequence of an undertaking in this Agreement; (ii) contemplated in the Structure Memorandum; or (iii) in order to comply with applicable loans;
- (i) any amalgamation, demerger, merger, consolidation, liquidation or corporate restructuring constituting or in respect of a Permitted Transaction or in respect of which the Majority Lenders have given their consent; and/or
- (j) any amalgamation, demerger, merger, consolidation, liquidation or corporate restructuring which is contemplated by this Agreement.

A reorganisation contemplated by this definition may be entered into, carried-out or implemented in any manner including, without limitation, pursuant to a liquidation or winding-up or any acquisition, disposal, reorganisation, dissolution, amalgamation, combination, consolidation, merger, demerger, hive-out, migration, conversion, corporate reconstruction or other similar or equivalent transaction or otherwise.

"Permitted Security" means:

- (a) any Transaction Security and any Security or Quasi-Security arising or granted under or in connection with the Finance Documents, the Facilities or an Additional Facility, Permitted Additional Debt or a Permitted Additional Debt Document;
- (b) any lien or set-off rights arising by operation of law in the ordinary course of day to day business and not as a result of any omission by the relevant member of the Group;
- (c) any netting or set-off arrangement or Security or Quasi-Security created or entered into by the Company or any other member of the Group in the ordinary course of its banking arrangements for the purpose of netting its debit and credit balances;
- (d) any Security or Quasi-Security arising pursuant to (or in compliance with) laws or regulations, or in the ordinary course of trading or business activities;
- (e) 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 by a member of the Group; and
 - (iii) the Security or Quasi-Security is removed or discharged within six months of the date of acquisition of such asset,unless, in each case, such Security is otherwise permitted under this Agreement;
- (f) 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; and
 - (iii) the Security or Quasi-Security is removed or discharged within six months of that company becoming a member of the Group,unless, in each case, such Security is otherwise permitted under this Agreement;

- (g) any Security or Quasi-Security arising under any retention of title, hire purchase, defeased or advance payment or consideration arrangement, rights of set-off, or conditional sale arrangement, or arrangements having similar effect in respect of goods supplied in the ordinary course of business and on the supplier's standard or usual terms, and not arising as a result of any default or omission by any member of the Group;
- (h) any Security or Quasi-Security arising as a result of a disposal which is a Permitted Disposal;
- (i) any Security or Quasi-Security constituting or in connection with any Leasing Arrangement, Bank Products, Local/Liquidity Lines or Letter of Credit Arrangement;
- (j) any Security or Quasi-Security constituting or in connection with any factoring, receivables financing or invoice discounting or similar arrangements permitted by this Agreement (including, for the avoidance of doubt, any as contemplated by paragraph (s) of Permitted Disposal or paragraph (m) of Permitted Financial Indebtedness);
- (k) any Security or Quasi-Security constituting or in connection with a Permitted Joint Venture/Project Company Investment or other transaction or arrangement permitted or made under Clause 27.21 (*Joint Venture and Project Company Investments*);
- (l) any Security or Quasi-Security arising over rent deposits made by the relevant lessee in relation to occupational leases entered into in the ordinary course business and on arm's length terms;
- (m) any Security or Quasi-Security created on any asset to secure any Financial Indebtedness incurred in connection with the financing of any asset or project in respect of which the repayment of that Financial Indebtedness is to be made from the revenues arising out of, or other proceeds of realisation from, that asset or project, with recourse to those revenues and proceeds and other assets used in connection with, or forming the subject matter of, that asset or project;
- (n) any payment or close-out netting, set-off or margin arrangement pursuant to any Treasury Transaction;
- (o) any Security or Quasi-Security provided by the Company or any other member of the Group to a stock, trade or derivative exchange for the purpose of entering into any Treasury Transaction not prohibited by the Finance Documents and not entered into for speculative purposes;
- (p) any Security or Quasi-Security arising under statute or by operation of law in favour of any government, state or local authority in respect of taxes, assessments or government charges which are being contested by the Company or any other member of the Group in good faith and where adequate reserves are being maintained in respect of such claims;

- (q) any rights of set-off and combination of accounts or other customary Security or Quasi-Security arising in favour of the account holding bank with whom the Company or any other member of the Group maintains a banking relationship in the ordinary course of business and granted as part of that bank's standard terms and conditions;
- (r) any Security or Quasi-Security created in respect of any pre-judgment legal process or any judgment or judicial award relating to security for costs or other legal proceedings, where the relevant proceedings are being contested in good faith by the Company or any other member of the Group by appropriate procedures and where adequate reserves are being maintained in respect of such claim;
- (s) a right of set-off, banker's liens or the like arising by operation of law or by contract by virtue of the provision of any overdraft facility and like arrangements arising as a consequence of entering into arrangements on the standard terms of any bank providing an overdraft;
- (t) any Security or Quasi-Security arising in the ordinary course of trade over documents of title or goods as part of a letter of credit transaction;
- (u) any Security or Quasi-Security constituting an escrow arrangement for the purpose of the payment of the purchase price for any Permitted Acquisition;
- (v) any Security or Quasi-Security created in favour of any member of the Group;
- (w) any Security or Quasi-Security which does not secure outstanding Financial Indebtedness;
- (x) any Security or Quasi-Security in relation to Permitted Refinancing Debt, provided that such Security or Quasi-Security does not extend to assets of the Group which had not previously been secured or which are acquired after the Closing Date or which are permitted to be subject to Security other than by reason of this paragraph;
- (y) any Security or Quasi-Security, provided that (subject to the Agreed Guarantee/Security Principles) such Security is Transaction Security or is also granted or agreed to be granted in favour of (or benefits) the Lenders under this Agreement (or to the Agent and/or Security Agent on their behalf);
- (z) any Security or Quasi-Security granted by or on over or affecting shares, equity interests, securities or investments in and/or assets of any person that is not a member of the Group or any person that is not an Obligor;
- (aa) any Security or Quasi-Security constituting any escrow, cash collateral, blocked account, redemption or discharge amount (or similar) which arises or is granted pending any asset or amount being disposed of or used or applied for a particular purpose or otherwise granted in order to implement a Debt Reduction, or over cash collateral required to be provided:
 - (i) under this Agreement or any Ancillary Facility;

- (ii) in favour of any person or entity which has issued an Exempt Bond Instrument on behalf of one or more members of the Group and where such cash collateral is required to be provided pursuant to the terms of the contractual agreement under which such Exempt Bond Instrument is issued, provided that (I) the maximum cash collateral which may be subject to any such security interests in relation to Exempt Bond Instruments will not exceed EUR 50,000,000 (or equivalent judged at the time of providing the cash collateral) at any time in aggregate, (II) may not remain in place in respect of a specific facility under which Exempt Bond Instruments are issued for a period of more than 30 Business Days and (III) may not be provided in favour of a Lender in respect of Exempt Bond Instruments issued under this Agreement or under an Ancillary Facility;
- (bb) any Security or Quasi-Security over (or over loans to, shares or equity interests of, or investments in) a Project Holding Company, Project Company or Joint Venture (including, for the avoidance of doubt, to give security to one or more lenders or other financiers or swap providers to a Project Company or Joint Venture);
- (cc) any Security or Quasi-Security (or similar) constituted by or arising pursuant to the exercise of any rights of first refusal and put, call, tag, drag and similar rights and options in investment agreements or joint venture agreements (or similar) or in respect of any person which is not a member of the Group;
- (dd) any Security or Quasi-Security securing indebtedness of the Group, provided that the outstanding principal amount of Financial Indebtedness (when aggregated with the outstanding principal amount of any other Financial Indebtedness which has the benefit of Security given by a member of the Group other than any permitted under and other paragraphs of this definition does not exceed the greater of EUR 50,000,000 (or its equivalent in other currencies) and 30 per cent. of Consolidated EBITDA in aggregate at any time;
- (ee) any other Security or Quasi-Security with the prior written consent of the Majority Lenders.

"Permitted Structural Adjustment" means a Structural Adjustment as permitted by this Agreement.

"Permitted Transaction" means the Transactions, any Permitted Reorganisation, and any other transaction, activity, action, payment, investment, undertaking, commitment or arrangement:

- (a) arising under (or required pursuant to) the Finance Documents;
- (b) contemplated or set out in the Structure Memorandum or any Transaction Document (including the entry into and performance of obligations under the Transaction Documents and any step or matter arising as a consequence of or an undertaking or obligation in respect of the Transaction Documents);

- (c) in the ordinary course of business or business activities or consistent with past practice of the Target Group;
- (d) as between members of the Group;
- (e) constituting, or in connection with, any Letter of Credit Arrangement, Treasury Transactions, Bank Products, Leasing Arrangements, factoring or invoice discounting arrangements, cash management or pooling, profit and loss pooling, tax, tax payment, grouping, sharing and consolidation arrangements and/or any pooling, fiscal unity, tax consolidation and/or any profit and/or loss sharing or domination (or similar) arrangement (including the establishment, maintenance and/or operation of any such arrangement);
- (f) existing, or committed or arising pursuant to arrangements in place or effect as at, or incurred or entered into on or prior to, Completion (or, in the case of an acquisition permitted by this Agreement, as at the date of completion of such permitted acquisitions), in each case as such item, transaction, activity, arrangement or commitment may be refinanced, replaced, renewed or extended from time to time in a manner that is not (when taken as a whole) materially adverse to the interests of the Lenders (taken as a whole) under the Finance Documents;
- (g) (i) arising pursuant to law or regulation or required by the Panel, the Court, any regulator, governmental institution, local authority, stock exchange or clearing system or Relevant Regulator, or to comply with the City Code or Applicable Securities Laws or any applicable rule, law, regulation, directive, order, condition or guidance (or similar) of or by any applicable court, regulator or agency of state, tax, legal, governmental, municipal or public authority, regulatory, legislative, licencing, competition, anti-trust, listing, administrative or supervisory authority, regulator or agency of state (or similar body) or (ii) any employee, pensions, works council or trade union requirements, any listing, regulation, listing stock exchange requirements and any public obligations, state grants, government support requiring grants, reimbursement schemes, contracts, licences, tenders, concessions, utilities, operating permits or requirements, any employee, pensions, works council, trade union requirements or similar in relation to any member of the Group, or in order to allow the Group to comply with mandatory requirements to enable it or any of its members to conduct its business;
- (h) constituting or in connection with a Debt Pushdown;
- (i) constituting or arising as a consequence of a Permitted Acquisition, Permitted Disposal, Permitted Financial Indebtedness, Permitted Guarantee, Permitted Joint Venture/Project Company Investment, Permitted Loan, Permitted Payment, Permitted Security or Permitted Reorganisation (which, in each case, is permitted by the terms of this Agreement);
- (j) in connection with any rollover, roll-up, exchange, conversion, investment or reinvestment in connection with an acquisition or investment not prohibited by this Agreement;

- (k) the entry into and performance of (and the carrying out of any transaction, activity, payment or arrangement in connection with) any Treasury Transaction;
- (l) any closure of bank accounts in the ordinary course of business;
- (m) in connection with, or arising pursuant to the exercise of, any customary rights of first refusal or options (or similar) or put, call, tag, drag and/or similar rights, obligations, options or arrangements in investment agreements, shareholders agreements, constitutional documents or joint venture agreements (or similar);
- (n) any acquisition by a member of the Group of, or loan to a trust or special purpose vehicle to fund the acquisition of, shares and loans of directors and employees whose appointment and/or contracts are terminated;
- (o) constituting or in connection with any Management Advance or any MIP/MEP or MEP Payment or employee benefit or pensions items or arrangements with or for the benefit of, any current, former or future director, officer, employee, consultant, representative or member of management;
- (p) funded (directly or indirectly) with, or in the amount of, Acceptable Funding Sources or in circumstances where the Lock-Up Ratios, when calculated on a *pro forma* basis after giving effect thereof, are complied with (calculated on a *pro forma* basis as determined by the Company);
- (q) in respect of a Joint Venture or Project Company and permitted by Clause 27.21 (*Joint Venture and Project Company Investments*);
- (r) any transaction, activity or arrangement in connection with the drawdown of the Facilities, the carrying out of the Transactions and the carrying out of any purpose for which the Facilities are raised or are to be applied (including as detailed in the Funds Flow Statement); or
- (s) any transaction, activity or arrangement approved or consented to by the Agent or the Majority Lenders.

"Primary Term Rate" means:

- (a) in relation to any Term Rate Loan in euro, EURIBOR; or
- (b) in relation to any other Term Rate Loan, the rate specified as such in the applicable Reference Rate Terms.

"Project Company" means:

- (a) an Existing Project Company;
- (b) a Joint Venture Project Company;
- (c) a Subsidiary Project Company; or
- (d) any other person or entity, provided that: (i) the Company has confirmed in writing to the Agent that the relevant person or entity is to be designated or re-designated as a Project Company (ii) no Event of Default is continuing on the date on which the

Project Company is designated or re-designated (as the case may be); (iii) the Company certifies to the Agent that, on the date of such designation or re-designation and *pro forma* for that designation or re-designation, the Company would be in compliance with Clause 26.2 (*Financial condition*) if the Financial Covenants were re-calculated on that date,

in each case, as the context requires.

"Project Company Investment" means an investment in a Project Company or a Project Holding Company (and all associated or related contractual rights and interests).

"Project Holding Company" means a company which is the immediate Holding Company of a Project Operating Company and whose sole business is its ownership of shares in (and shareholder loans or notes or other investments advanced to) a Project Operating Company (and related assets and activities).

"Project Operating Company" means a company which is or was tendering for or engaging in the provision of waste management services or similar or complementary businesses.

"Quasi-Security" means a transaction or arrangement to (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 the Company 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.

"Quotation Day" means:

- (a) in relation to any Term Rate Loan in euro, in relation to any period for which an interest rate is to be determined, two TARGET 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 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); or
- (b) in relation to any other Loan, the day specified as such in the applicable Reference Rate Terms.

"Quotation Time" means:

- (a) in relation to any Term Rate Loan in euro, 11:00 a.m. on the Quotation Day; or
- (b) in relation to any other Loan, the relevant time (if any) specified as such in the applicable Reference Rate Terms.

"Quoted Tenor" means, in relation to a Primary Term Rate, any period for which that rate is customarily displayed on the relevant page or screen of an information service.

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

"Reference Bank Rate" means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks as the rate at which the relevant Reference Bank could borrow funds in the European interbank market for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period.

"Reference Banks" means the principal London office of any such banks (with a long-term currency credit rating of equal to or better than A3 according to Moody's and equal to or better than A- according to Standard and Poor's) as may be selected by the Agent in consultation with the Obligors' Agent.

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

- (a) is agreed in writing by the Company, the Agent (in its own capacity) and the Agent (acting on the instructions of the Majority Lenders);
- (b) specifies for that currency the relevant terms which are expressed in this Agreement to be determined by reference to the Reference Rate Terms;
- (c) specifies whether that currency is a Compounded Rate Currency or a Term Rate Currency; and
- (d) has been made available to the Company and each Finance Party.

"Reference 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 and (where such terms are set out for different categories of Loan, Unpaid Sum or accrual of commission or fees in that currency) for the applicable category of that Loan, Unpaid Sum or accrual, in Schedule 10 (*Reference Rate Terms – Sterling*) or in any relevant Reference Rate Supplement.

"Refinancing Costs" means any fees, costs, taxes, charges or expenses incurred, paid or payable in connection with the Facilities, any Permitted Refinancing Debt, Debt Reduction or the refinancing or replacement of indebtedness of any member of the Group or the incurrance of Permitted Financial Indebtedness, and/or the entry into of, restructuring of, or amendment, termination or closing-out of, any Treasury Transactions (including, without limitation, any accrued interest, break costs, upfront fees, original issue discount, waiver costs, expenses, commissions, repayment or prepayment fees, call premia, make-whole

amount, premium, penalty, accrued amount or gross-up amount (or similar) and any flex, syndication or sell-down costs or expenses (or similar)).

"Related Fund", in relation to a fund (the **"first fund"**), means a fund (the **"second fund"**) which is managed or advised by the same investment manager or adviser as the first fund or, if it is managed by a different investment manager or adviser, a fund whose investment manager or adviser is an Affiliate of the investment manager or adviser of the first fund and in each case the second fund will include co-investments that are related to the second fund.

"Relevant Jurisdiction" means, in relation to the Parent, Company or any member of the Group (as applicable):

- (a) its jurisdiction of incorporation, formation, establishment or residency;
- (b) (in the case of Transaction Security granted by such person) any jurisdiction where any asset subject to or intended to be subject to such Transaction Security to be created by it is situated and any jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it); and/or
- (c) any jurisdiction where it conducts all or a substantial part of its business.

For the avoidance of doubt a person may change its Relevant Jurisdiction(s) in a manner permitted by this Agreement.

"Relevant Market" means:

- (a) in relation to euro, the European interbank market; and
- (b) in relation to any other currency, the market specified as such in the applicable Reference Rate Terms.

"Relevant Regulator" means the Panel, the AFM, the Court, the Competition and Markets Authority and/or any other entity, agency, body governmental authority or person that has regulatory or supervisory authority (or any other similar or equivalent power) in connection with the Acquisition.

"Repeating Representations" means each of the representations and warranties set out in Clause 24.2 (*Status*) to Clause 24.5 (*Power and authority*), paragraph (a) of Clause 24.6 (*Validity and admissibility in evidence/Authorisations*), Clause 24.7 (*Governing law and enforcement*) and Clause 24.19 (*Sanctions and anti-corruption*).

"Reporting Time" means the relevant time (if any) specified as such in the applicable Reference Rate Terms.

"Restricted Lender" means:

- (a) a Lender that is a Restricted Party;
- (b) a Lender that is a Non-SWIFT Entity;

- (c) a Lender whose participation in the Facilities would cause any member of the Group or any Original Investor to be in violation of Sanctions or other applicable law that implements, applies or facilitates the implementation of Sanctions; or
- (d) any Lender which fails to confirm that it is not a Restricted Lender within three Business Days of written request from the Company (until such time that such Lender confirms in writing that it is not a Restricted Lender and where none of paragraphs (a) to (c) above apply in respect of that Lender at such time).

"Restricted Party" means any person that is:

- (a) listed on, or 50 per cent. or more owned or controlled by a person listed on, a Sanctions List;
- (b) a government of a Sanctioned Country;
- (c) an agency or instrumentality of, or an entity directly or indirectly owned or controlled by, a government of a Sanctioned Country; or
- (d) resident or located in, operating from, or incorporated under the laws of, a Sanctioned Country.

"Revolving Facility" means the revolving loan facility made available under this Agreement as described in paragraph (a)(ii) of Clause 2.1 (*The Facilities*).

"Revolving Facility Borrower" means the Original Revolving Facility Borrower and any member of the Group which becomes an Additional Borrower under the Revolving Facility in accordance with Clause 30 (*Changes to the Obligors*).

"Revolving Facility Commitment" means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading "Revolving Facility Commitment" in Part II of Schedule 1 (*The Parties*) and the amount of any other Revolving Facility Commitment assigned or transferred to it under this Agreement or assumed by it in accordance with Clause 2.4 (*Increase*); and
- (b) in relation to any other Lender, the amount of any Revolving Facility Commitment assigned or transferred to it under this Agreement or assumed by it in accordance with Clause 2.4 (*Increase*),

to the extent:

- (i) not cancelled, reduced, transferred or assigned by it under this Agreement; and
- (ii) not deemed to be zero pursuant to Clause 31.2 (*Disenfranchisement on Debt Purchase Transactions entered into by a Sponsor Affiliate*).

"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 Utilisation" means a Revolving Facility Loan or a Letter of Credit.

"RFR" means the rate specified as such in the applicable Reference Rate Terms.

"RFR Banking Day" means any day specified as such in the applicable Reference Rate Terms.

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

- (a) made or to be made on the same day that:
 - (i) a maturing Revolving Facility Loan is due to be repaid; or
 - (ii) a demand by the Agent pursuant to a drawing in respect of a Letter of Credit or payment of outstandings under an Ancillary Facility is due to be met;
- (b) the aggregate amount of which is equal to or less than the amount of the maturing Revolving Facility Loan or Ancillary Facility Utilisation or the relevant claim in respect of that Letter of Credit;
- (c) in the same currency as the maturing Revolving Facility Loan (unless it arose as a result of the operation of Clause 8.2 (*Unavailability of a currency*)) or the relevant claim in respect of that Letter of Credit or an or Ancillary Facility Utilisation; and
- (d) made or to be made to the same Borrower (or, if applicable in the case of an Ancillary Facility Utilisation, that Borrower's Affiliate) for the purpose of:
 - (i) refinancing that maturing Revolving Facility Loan or Ancillary Facility Utilisation; or
 - (ii) satisfying the relevant claim in respect of that Letter of Credit.

"Sale" means the sale of all or substantially all of the assets of the Group to a person which is not a member of the Group (whether in a single transaction or a series of related transactions).

"Sanctioned Country" means any country or other territory subject to countrywide or territory-wide Sanctions.

"Sanctions" means trade, economic or financial sanctions laws, regulations or embargoes or other restrictive measures imposed, administered or enforced from time to time by any Sanctions Authority.

"Sanctions Authority" means (i) the United States, (ii) the United Nations Security Council, (iii) the European Union or any of its member states, (iv) the United Kingdom, (v) the Government of Japan, (vi) Government of Canada and Global Affairs Canada or (vii) the respective governmental institutions of any of the foregoing including, without limitation, His Majesty's Treasury, the Office of Foreign Assets Control of the US Department of the Treasury, the US Department of Commerce, the US Department of State and any other agency of the US government.

"Sanctions List" means any of the lists of specifically designated nationals or designated persons (or equivalent) held by any Sanctions Authority, as amended, supplemented or substituted from time to time.

"Scheme" means a scheme of arrangement under Scots law pursuant to Part 26 of the Companies Act 2006 between the Target and the holders of Target Shares in connection with the Acquisition, with or subject to any modification, addition or condition approved or imposed by the Court and agreed by the Target and the Company.

"Scheme Circular" means a circular (including any supplemental circular) dispatched (or to be dispatched) by the Target to holders of Target Shares setting out, among other things, the terms and conditions of a Scheme, the resolutions and proposals for and convening the Court Meeting and the General Meeting.

"Scheme Documents" means (i) each Announcement, (ii) the Scheme Circular, (iii) the Court Order and (iv) any other documents distributed by or on behalf of the Company, Macquarie, the BCI Group or the Target to (among others) holders of Target Shares in connection with the Scheme.

"Scheme Effective Date" means the date on which the Court Order sanctioning the Scheme is duly delivered on behalf of the Target to the Registrar of Companies in Scotland.

"Secured Debt Documents" means the Finance Documents, the Hedging Agreements and any Additional Finance Documents (as defined in the Intercreditor Agreement).

"Secured Parties" means the Security Agent, the Agent, each Mandated Lead Arranger and each Lender from time to time party to this Agreement and any Receiver or Delegate.

"Security" means a mortgage, charge, land charge, pledge, lien, assignment or transfer for security purposes 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 III of Schedule 3 (*Requests and Notices*) given in accordance with Clause 16 (*Interest Periods*).

"Separate Loan" has the meaning given to that term in Clause 10.2 (*Repayment of Revolving Facility Loans*).

"Specified Time" means a time determined in accordance with Schedule 7 (*Timetables*).

"Sponsor Affiliate" means the Original Investors, each of their Affiliates, any trust of which the Original Investors or any of their Affiliates is a trustee, any partnership of which the Original Investors or any of their Affiliates is a partner and any trust, fund or other entity which is managed by, or is under the control of, the Original Investors or any of their Affiliates, provided that any trust, fund or other person or entity which (A) has been established for at least six months solely for the purpose of (or whose principal or material business is) making, purchasing or investing in loans or debt securities or (B) is managed, operating and controlled separately from the Original Investors with respect to their equity investment in the Group shall not constitute a Sponsor Affiliate (but excluding, for the avoidance of doubt, each member of the Group and the Parent).

"Standard & Poor's" means Standard and Poor's Ratings Services.

"Structural Adjustment" means any amendment, variation, waiver or change to the terms of the Finance Documents that is requested by the Company and that is intended to result in:

- (a) the introduction of any additional loan, commitment, tranche or facility under the Finance Documents (provided that such does not rank super senior to the existing Facilities as regards the proceeds of enforcement of the Transaction Security under this Agreement);
- (b) any increase in, addition to or extension of any Commitment (or its maturity or availability) or the re-tranching of a Commitment, or any change to the Termination Date or Availability Period applicable to any Commitment;
- (c) any deferral, reduction in (or in any payment or amount of), or extension of a maturity or date of payment of any principal, interest, fee or commission or other amount owing, accruing, payable or capable of becoming payable under the Finance Documents;
- (d) any reduction in any Margin (other than pursuant to the margin ratchet provisions detailed in the definition of "Margin"), or the capitalisation or conversion of interest into non-cash interest;
- (e) any redenomination of a Commitment into another currency (other than pursuant to the mechanics relating to Optional Currencies or a change to the amount or currency of (or in any payment or amount of) any Commitment or any payment or any principal, interest, margin, fee or commission or any other amount owing, accruing, payable or capable of becoming payable under the Finance Documents; and/or
- (f) any amendments, waivers or changes to the Finance Documents that are consequential on, incidental to, or required to implement or effect or reflect any of the changes contemplated in paragraphs (a) to (e) above.

"Structure Memorandum" means the tax structure memorandum provided to Finance Parties in connection with this Agreement.

For the avoidance of doubt, for the purposes of and where used in the Finance Documents, references to the Structure Memorandum (and to items permitted thereby) shall exclude the section of the Structure Memorandum entitled 'exit considerations'.

"Subordinated Indebtedness" means any indebtedness or similar arrangement or amount which is classified as 'Subordinated Liabilities' under and as defined in the Intercreditor Agreement or has been subordinated to the Facilities in accordance with the Intercreditor Agreement or otherwise subordinated on terms satisfactory to the Majority Lenders (acting reasonably).

"Subsidiary" means:

- (a) in relation to any company, corporation or other legal entity (a "holding company" for the purpose of this definition), a company, corporation or other legal entity:

- (i) which is controlled, directly or indirectly, by the holding company;
 - (ii) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the holding company; or
 - (iii) which is a subsidiary of another Subsidiary of the holding company; and
- (b) (in the case of an Original Investor) a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006 (but for the avoidance of doubt excluding the Parent, the Company or any member of the Group),

and, for this purpose, a company, corporation or other legal entity shall be treated as being controlled by another if that other company, corporation or other legal entity holds or controls a majority of the voting rights or is able to determine the composition of the majority of its board of directors (or equivalent body), provided that notwithstanding anything to the contrary, unless the Company elects otherwise in respect of such a Project Company, no Project Company shall be deemed to be or be regarded as a Subsidiary of the Parent, the Company or any member of the Group (provided that such person may be included in the consolidated financial statements).

"Subsidiary Project Company" means any subsidiary or subsidiary undertaking or other person or entity which the Company elects by notice to the Agent should be considered a Subsidiary Project Company or Project Company for the purposes of this Agreement and which the Company confirms to the Agent is or was a Project Holding Company or a Project Operating Company, in each case unless the Company confirms in writing to the Agent that the relevant subsidiary or subsidiary undertaking of the Target has ceased to be (or should no longer be regarded as) a Subsidiary Project Company or a Subsidiary Project Company or Project Company (as the case may be).

"Super Majority Arrangers" means Mandated Lead Arrangers which hold (or their Affiliates hold) in aggregate at least 80 per cent. of the Total Commitments of the Mandated Lead Arrangers (or their Affiliates) on the date of this Agreement (provided that the Commitments of any Defaulting Lender or Defaulting Credit Party (as defined in the Commitment Documents) shall be excluded for the purposes of making any determination of Super Majority Arrangers).

"Super Majority Lenders" means a Lender or Lenders whose Commitments aggregate 80 per cent. or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 80 per cent. of the Total Commitments immediately prior to that reduction) (and for this purpose the amount of an Ancillary Lender's or a Lender's, as the case may be, Revolving Facility Commitment shall not be reduced by the amount of its Ancillary Limit).

"T2" means the real time gross settlement system operated by the Eurosystem, or any successor system.

"Target" means Renewi plc, a company incorporated in Scotland with company number SC077438 and having its registered office at 16 Charlotte Square, Edinburgh EH2 4DF, United Kingdom.

"TARGET Day" means any day on which T2 is open for the settlement of payments in euro.

"Target Group" means the Target and its Subsidiaries.

"Target Shares" means the issued and outstanding ordinary shares in the share capital of the Target.

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

"Term Facility" means the term facility made available under this Agreement as described in paragraph (a)(i) of Clause 2.1 (*The Facilities*).

"Term Facility Borrower" means the Original Term Facility Borrower and any member of the Group which becomes an Additional Borrower under the Term Facility in accordance with Clause 30 (*Changes to the Obligors*).

"Term Facility Commitment" means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading "Term Facility Commitment" in Part II of Schedule 1 (*The Parties*) and the amount of any other Term Facility Commitment assigned or transferred to it under this Agreement or assumed by it in accordance with Clause 2.4 (*Increase*); and
- (b) in relation to any other Lender, the amount of any Term Facility Commitment assigned or transferred to it under this Agreement or assumed by it in accordance with Clause 2.4 (*Increase*),

to the extent:

- (i) not cancelled, reduced, transferred or assigned by it under this Agreement; and
- (ii) not deemed to be zero pursuant to Clause 31.2 (*Disenfranchisement on Debt Purchase Transactions entered into by a Sponsor Affiliate*).

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

"Termination Date" means:

- (a) in relation to each of the Term Facility and the Revolving Facility, the date falling five years after the Closing Date; and
- (b) in relation to an Additional Facility, the date specified as such in the Additional Facility Notice relating to that Additional Facility.

"Term Rate Currency" means:

- (a) euro; and
- (b) any currency specified as such in a Reference Rate Supplement relating to that currency,

to the extent, in any case, not specified otherwise in any subsequent Reference Rate Supplement.

"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 a Term Rate Loan:

- (a) the applicable Primary Term Rate as of the Quotation Time for a period equal in length to the Interest Period of that Loan; or
- (b) as otherwise determined pursuant to Clause 17.1 (*Interest calculation if no Primary Term Rate*),

and if, in either case, that rate is less than zero, the Term Reference Rate shall be deemed to be zero.

"Test Date" has the meaning given to that term in Clause 26.1 (*Financial definitions*).

"Testing Period" has the meaning given to that term in Clause 26.1 (*Financial definitions*).

"Third Parties Act" has the meaning given to that term in Clause 1.9 (*Third party rights*).

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

"Total Commitments" means the aggregate of the Total Term Facility Commitments, the Total Revolving Facility Commitments and the Total Additional Facility Commitments, being EUR [_____] as at the date of this Agreement.

"Total Revolving Facility Commitments" means the aggregate of the Revolving Facility Commitments, being EUR [_____] as at the date of this Agreement.

"Total Term Facility Commitments" means the aggregate of the Term Facility Commitments, being EUR [_____] as at the date of this Agreement.

"Transaction" means:

- (a) the Acquisition;
- (b) the equity and debt funding provided or to be provided in connection with the Acquisition and the entry into the Finance Documents and drawdown of the Facilities (and the use of proceeds thereof);
- (c) amending, refinancing, repaying or replacing certain indebtedness and other financial arrangements of the Target Group (and payment of any associated fees, costs, taxes, expenses, etc);
- (d) the delisting and re-registration of Target and the performance of any legal or regulatory requirements;
- (e) the incurrence and payment of Transaction Costs (including any fees, costs, taxes or expenses in connection with the Transaction and/or Transaction Documents);

- (f) the transactions, activities and arrangements contemplated by or to be entered into in relation to the Transaction and the Transaction Documents (including the Announcement and the Structure Memorandum); and
- (g) any transactions, activities or arrangements in connection with or incidental to the foregoing.

"Transaction Document" means the Finance Documents, the Structure Memorandum and the Acquisition Documents.

"Transaction Security" means the Security created or expressed to be created pursuant to the Transaction Security Documents.

"Transaction Security Documents" means each of the documents listed as being a Transaction Security Document in paragraph 3 of Part I of Schedule 2 (*Conditions Precedent*), together with any other document entered into by the Parent as a Third Party Security Provider (as defined in the Intercreditor Agreement) or the Company creating or expressed to create any Security over all or any part of its assets in respect of the obligations of the Parent and the Company under any of the Finance Documents and designated a 'Transaction Security Document'.

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

"Transfer Date" means, in relation to an assignment or transfer, the later of:

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

"Transfer Defaulting Lender" has the meaning given to that term in paragraph (l) of Clause 29.2 (*Conditions of assignment or transfer*).

"Treasury Transactions" means any treasury transaction, hedging arrangement, derivative transaction or any other instrument, agreement or financial accommodation entered into (A) in connection with protection against or benefit from, or to hedge or manage fluctuations in, or to trade or offset, any rate, currency, commodity, risk or price (including, without limitation, forward delivery contracts and spot, swap, forwards, options, offsets, credits, exchange, cap, floor, collar, ceiling and similar arrangements) or (B) to hedge, manage or protect against, or to trade or off-set, actual or projected interest rate, currency, commodity or other risks or exposures of a member of the Group (including interest rate and currency hedging in relation to indebtedness), and any refinancing, replacement, renewal or extension thereof.

"UK" and **"United Kingdom"** mean the United Kingdom of Great Britain and Northern Ireland.

"Undisclosed Administration" means, in relation to any Lender, the appointment of an administrator, judicial manager, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender is subject to home jurisdiction supervision if applicable law requires that such appointment is not to be publicly disclosed.

"Unpaid Sum" means any sum due and payable but unpaid by the Company under the Finance Documents.

"US" and **"United States"** mean the United States of America.

"Utilisation" means a Loan or a Letter of Credit.

"Utilisation Date" means the date on which a Utilisation is made.

"Utilisation Request" means:

- (a) in the case of a Loan, a notice substantially in the relevant form set out in Part I of Schedule 3 (*Requests and Notices*); and
- (b) in the case of a Letter of Credit, a notice substantially in the form set out in Part II of Schedule 3 (*Requests and Notices*).

"VAT" means:

- (a) any value added tax imposed by the Value Added Tax Act 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 paragraph (a) or (b) above, or imposed elsewhere.

"Vehicle Lease" means any leasing, lease of or Leasing Arrangement relating to trucks or vehicles which is an operating lease or which is treated as operating lease for the purposes of this Agreement in accordance with paragraph (c)(ii) of Clause 26.3 (*Financial testing*).

1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:
 - (i) the **"Agent"**, the **"Company"**, any **"Finance Party"**, any **"Lender"**, any **"Mandated Lead Arranger"**, any **"Party"**, any **"Secured Party"** and the **"Security Agent"** or any other person shall be construed so as to include its successors in title (including, for the avoidance of doubt, any surviving entity in connection with a merger or reorganisation communicated to the public through press releases and similar channels of such entity prior to the date of this Agreement), permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
 - (ii) an **"agency of state"** or a **"governmental institution"** includes any regulator, local or other authority, self-regulating or other recognised body, agency or association,

central or federal bank, department, governmental, legislature, minister, secretary of state, ministry, self-regulation organisation, official or public or statutory person of, or of the government of, that state or any political sub division in or of that state and any respective successors or delegates;

- (iii) a document in "**agreed form**" is a document which is previously agreed in writing by or on behalf of the Company and the Agent;
- (iv) "**amendment**" includes any amendment, supplement, variation, novation, modification, replacement or restatement (and "**amend**", "**amending**" and "**amended**" shall be construed accordingly);
- (v) "**assets**" includes present and future properties, revenues and rights of every description;
- (vi) "**disposal**" or "**dispose**" means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any right (being any right, privilege, power or immunity, or any interest of any kind, whether it is personal or proprietary) over an asset in favour of another person, but does not include the lending of money or creation of Security permitted under this Agreement;
- (vii) in the case of the Group, a reference to "**employee**" shall include (as applicable) directors, officers, contractors and sub-contractors;
- (viii) the "**equivalent**" of an amount specified in a particular currency (the "**specified currency amount**") shall be construed as a reference to the amount of the other relevant currency which can be purchased at the Agent's Spot Rate of Exchange with the specified currency amount in the foreign exchange market at or about 11:00 a.m. on the date the calculation falls to be made for spot delivery;
- (ix) 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 (however fundamentally, including by any increase in amounts owing or available to be utilised under such document or any change to the parties thereto);
- (x) "**including**" means including without limitation;
- (xi) an "**operating lease**" shall include any lease, licence, concession or hire purchase or other transaction or arrangement which is or is commonly regarded as (or would have been, prior to IAS 17 or IFRS16 and any similar accounting principles, standards or practices and any change to the treatment of leases or other arrangements) considered, classified or treated as a short-term lease, a lease of low-value assets or an operating lease (or similar) or which is entered into in the ordinary course of trading activities (and any guarantee, indemnity, liability or obligation in relation thereto);
- (xii) references to any transaction being in the "**ordinary course of business**" of a member of the Group shall be construed to include (without limitation) items,

activities or arrangements in the ordinary course of business activities or consistent with past practice of the Group or Target Group or with industry practice in the industries in which the Group operates, and the establishment, implementation, maintenance and/or operation of any such arrangement;

- (xiii) "**pay**", "**prepay**" or "**repay**" in Clause 27 (*General Undertakings*) includes by way of set-off, combination of accounts or otherwise;
- (xiv) a "**participation**" of a Lender in:
 - (A) a Loan, means the amount of such Loan which such Lender has made or is to make available and thereafter that part of the Loan which is owed to such Lender; or
 - (B) a Letter of Credit, means such Lender's actual and contingent liabilities in respect of such Letter of Credit pursuant to paragraph (b) of Clause 7.7 (*Indemnities*) or, in the case of the Issuing Bank in respect of such Letter of Credit, that portion of any actual or contingent liability under such Letter of Credit which is not the subject of an indemnity under paragraph (b) of Clause 7.7 (*Indemnities*);
- (xv) "**pensions items**" includes any pensions, pensions scheme or other retirement, severance or post-employment benefits, liabilities or obligations, and any fees, costs, taxes, expenses, deficit, contributions, charges, accruals or provisions relating thereto;
- (xvi) 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);
- (xvii) any calculation expressed or permitted to be made on a "**pro forma basis**" or given "**pro forma effect**" (and similar terms) means, as applicable and as the context requires, such calculation may be calculated *pro forma* for and after giving effect to such applicable transaction or event as determined by the Company and including for any related transactions and taking into account any Pro Forma Adjustment;
- (xviii) 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, which is binding or customarily complied with) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (xix) any reference to any matter or action or other step (or similar) being "**required by**" the City Code, Applicable Securities Laws, the Panel, a Relevant Regulator, the Court or any other applicable law, regulation or regulatory body (or any similar or equivalent reference) shall include any matter or action or other step (or similar) that the Company (acting reasonably and in good faith) determines to be necessary to comply with the relevant requirement;

- (xx) "**rights**" includes all rights, whether actual or contingent, present or future, arising under contract or law, or in equity;
 - (xxi) a "**sub-participation**" includes a sub-participation (whether risk or funded), total return swap, credit default swap or any other similar or other derivative transaction pursuant to which an economic interest is acquired or is to be acquired in or in relation to a Facility, and "sub-participant" shall be construed accordingly;
 - (xxii) "**trustee**", "**fiduciary**" and "**fiduciary duty**" has, in each case, the meaning given to such term under applicable law;
 - (xxiii) the "**winding-up**", "**dissolution**", "**administration**" or "**judicial management**" of a person or to a "**receiver**" or "**administrative receiver**" or "**administrator**" or "**judicial manager**" in the context of insolvency proceedings or security enforcement actions in respect of a person shall be construed so as to include any equivalent or analogous proceedings or any equivalent and analogous person or appointee (respectively) under the law of the jurisdiction in which such person is established or incorporated or any jurisdiction in which such person carries on business, including (in respect of proceedings) the seeking or occurrence of liquidation, winding up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors;
 - (xxiv) a provision of law is a reference to that provision as amended or re-enacted;
 - (xxv) a time of day is a reference to London time unless otherwise specified;
 - (xxvi) words importing the plural shall include the singular and vice versa; and
 - (xxvii) "**set-off**" includes any right of retention, claim for compensation or right to balance accounts on insolvency.
- (b) Subject to any amendment pursuant to Clause 25.3 (*Requirements as to financial statements*), where any term used in the construction of Clause 26.1 (*Financial definitions*) or the definition of "Financial Indebtedness" in Clause 1.1 (*Definitions*) has a meaning under the Accounting Principles consistent with those applied in the preparation of the Base Case Model, and such term is not otherwise defined in this Agreement, such provisions shall be construed at all times in accordance with that meaning, regardless of any subsequent change to the Accounting Principles.
- (c) If any inventory or receivable (or any part thereof) has been sold or discounted on a basis which means it would be treated as off balance sheet or derecognised under the Accounting Principles as applied in the applicable Annual Financial Statements, that inventory or receivable shall be considered to have been sold or discounted on a non-recourse basis and shall not be (and any such arrangement shall not be) included when determining the amount of Financial Indebtedness outstanding, and any such arrangement shall be considered '**non-recourse**'. Furthermore references to '**non-recourse**' may include customary indemnities, warranties, guarantees and undertakings and customary recourse to and in respect of the relevant members of the Group and the relevant inventory, receivables, accounts and related assets, and purchase obligations, in each case to the

extent customary in the context of such arrangement, and such arrangement may still be considered 'non-recourse' for the purposes of this Agreement.

- (d) A Letter of Credit or Ancillary Outstandings are "**repaid**" or "**prepaid**" (or any derivative form thereof) to the extent that:
- (i) a Borrower provides cash cover for that Letter of Credit or in respect of the Ancillary Outstandings; or
 - (ii) in the case of a Letter of Credit, a Borrower complies with its obligations under Clause 7.1 (*Immediately Payable*); or
 - (iii) the maximum amount payable under or in respect of the Letter of Credit or Ancillary Outstandings is reduced or cancelled in accordance with its terms or otherwise reduced or cancelled in a manner satisfactory to the Issuing Bank in respect of such Letter of Credit, Ancillary Lender (in each case, acting reasonably); or
 - (iv) in the case of a Letter of Credit, the Letter of Credit is returned by the beneficiary with its written confirmation that it is released and cancelled; or
 - (v) in the case of a Letter of Credit, a bank or financial institution with a long term credit rating from Moody's, Standard & Poors or Fitch at least equal to BBB- or Baa3 (as applicable, or such other rating as the Obligors' Agent and the relevant Issuing Bank may agree) has issued an unconditional and irrevocable guarantee, indemnity, counter-indemnity or similar assurance against financial loss in respect of amounts due under that Letter of Credit; or
 - (vi) the Issuing Bank in respect of such Letter of Credit, Lender or Ancillary Lender, as the case may be (in each case, acting reasonably) has confirmed to the Agent that it has no further liability under or in respect of that Letter of Credit or Ancillary Outstandings,

and the amount by which a Letter of Credit is, or Ancillary Outstandings are, repaid or prepaid under paragraphs (i) to (vi) above is the amount of the relevant cash cover, payment, release, cancellation, guarantee, indemnity, counter-indemnity, assurance or reduction.

- (e) A Lender funding its participation in a Utilisation includes a Lender participating in a Letter of Credit.
- (f) The outstanding or principal amount of a Letter of Credit at any time is the maximum amount that is or may be payable by the relevant Issuing Bank in respect of that Letter of Credit at that time less any amount which has been repaid or prepaid (including by way of cash cover provided in respect of that Letter of Credit).
- (g) A Letter of Credit or Ancillary Outstandings will cease to be outstanding if that Letter of Credit is, or Ancillary Outstandings are, repaid or prepaid in full (including by way of cash cover provided in respect thereof).

- (h) A Borrower provides "**cash cover**" for a Letter of Credit or Ancillary Outstandings if it pays an amount in the currency of the Letter of Credit or Ancillary Outstandings (as the case may be) to an account in the name of the Borrower and the following conditions are satisfied:
- (i) the account is with the relevant Issuing Bank (in the case of a Letter of Credit) or Ancillary Lender (in the case of an Ancillary Facility); and
 - (ii) withdrawals from the account (other than in respect of accrued interest) may only be made to pay the Issuing Bank or Ancillary Lender (as the case may be) amounts due and payable to it under this Agreement (unless the amount standing to the credit of the account exceeds the amount outstanding under that Letter of Credit, or, as the case may be, the aggregate amount of those Ancillary Outstandings, in which case such excess amount may be withdrawn by the Borrower).

If requested by the relevant Issuing Bank or Ancillary Lender (as the case may be), the relevant Borrower shall (to the extent the account is not already subject to the Transaction Security) execute and deliver an additional Transaction Security Document creating first ranking security over any such account held with it (subject to the Agreed Guarantee/Security Principles).

- (i) For the avoidance of doubt, a reference to a Loan or a Letter of Credit shall not include a utilisation of an Ancillary Facility.
- (j) Section, Clause and Schedule headings are for ease of reference only.
- (k) Notwithstanding anything to the contrary in any Finance Document, nothing in the Finance Documents shall prohibit (i) a non-cash contribution of any asset (including any participation, claim, commitment, rights, benefits and/or obligations in respect of any indebtedness borrowed or issued by any member of the Group from time to time) by a person that is not a member of the Group to the Company or any member of the Group, provided that to the extent such transaction results in any Financial Indebtedness being outstanding from the Company or a member of the Group, such Financial Indebtedness is permitted by the Finance Documents or (ii) any step, action or matter arising in connection with any actual, proposed or future payment of Tax (including as a consequence of any 'group contributions', the surrender of tax relief or similar or equivalent arrangements).
- (l) 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 Agent after consultation with the Company.
- (m) A reference in this Agreement to a Central Bank Rate shall include any successor rate to, or replacement rate for, that rate.

- (n) Any Reference Rate Supplement relating to a currency overrides anything relating to that currency in:
 - (i) Schedule 10 (*Reference Rate Terms – Sterling*); or
 - (ii) any earlier Reference Rate Supplement.
- (o) A Compounding Methodology Supplement relating to the Daily Non-Cumulative Compounded RFR Rate overrides anything relating to that rate in:
 - (i) Schedule 11 (*Daily Non-Cumulative Compounded RFR Rate*); or
 - (ii) any earlier Compounding Methodology Supplement.
- (p) 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.
- (q) A reference to any matter, transaction, arrangement, action or circumstance being "**permitted**" under this Agreement or any other Finance Documents shall include reference to such matter, transaction, arrangement, action or circumstance not being prohibited or otherwise being approved under this Agreement or such other Finance Document. The taking of any matter, transaction, arrangement or action that is contemplated as being so permitted shall be deemed for all purposes of the Finance Documents to be permitted and no further consent, waiver or amendment shall be required from the Finance Parties or any class of them.
- (r) A Default or Event of Default is "**continuing**" if it has not been cured, remedied or waived. If any Default or Event of Default is remedied, waived or cured or is no longer continuing (a "**Cured Default**"), any resulting, consequential or other Default or Event of Default which would not have arisen had the Cured Default not occurred, shall be deemed not to be continuing automatically upon, and simultaneous with, the remedy, cure or waiver of the Cured Default.
- (s) If there is any inconsistency between this Agreement and any terms of any other Finance Document (other than the Intercreditor Agreement) the terms of this Agreement shall prevail. If there is any inconsistency between this Agreement and any terms of the Intercreditor Agreement, the terms of the Intercreditor Agreement shall prevail.
- (t) Nothing which is permitted or permitted to be done under this Agreement shall be deemed to constitute a breach of any term of any other Finance Document and no representation, warranty or undertaking contained in, or provision of, any other Finance Document or any Transaction Security shall be breached or be deemed to be breached (and in no event shall such a thing constitute a breach or a Default or Event of Default) to the extent it conflicts with this Agreement or it prohibits something which would otherwise be permitted under this Agreement. The terms of any Transaction Security Document shall not operate or be construed so as to prohibit or restrict any Permitted Transaction or any other transaction, matter or other step not prohibited by the Finance Documents.

- (u) There shall be no restriction, covenant, representation, undertaking or Default applicable to or relating to any person who is not a member of the Group.
- (v) In relation to any joint venture or similar arrangement entered into by any member of the Group, the Company may (for the purposes of the Finance Documents and notwithstanding any other provision of this Agreement) elect whether or not such joint venture be treated as (and thereby deemed to be included as) a member of the Group and a Subsidiary of a member of the Group, provided that, without prejudice to the rights of the Company and the Group under any other provision of the Finance Documents, the Company may only so elect that such joint venture or similar arrangement be treated as a member of the Group and a Subsidiary of a member of the Group pursuant to this paragraph if such joint venture or similar arrangement is treated as a subsidiary and consolidated in the Annual Financial Statements of the Group, and provided further that any such election, once made, shall be continue unless there is a variance in the status of or in the ownership or control of the Group in relation to such joint venture or similar arrangement.

1.3 **Currency symbols and definitions**

"£" and "sterling" denote the currency of the United Kingdom.

1.4 **Exchange rate fluctuations and accruals**

- (a) Unless a contrary indication appears, a basket or monetary limit expressed in the Base Currency includes the equivalent of such basket or monetary limit in other currencies.
- (b) The Company (or the relevant member of the Group) shall be entitled to determine the currency equivalent of any amount on or by reference to the date of incurrence, commitment, transaction, calculation or determination (or in any manner contemplated by this Agreement) in such manner as it considers appropriate acting reasonably and in good faith, and no fluctuation in exchange rates subsequent to the first such determination of compliance will cause a breach of, or lessen capacity under, any basket or monetary limit.
- (c) Notwithstanding any other provision of this Agreement, no breach, misrepresentation, non-compliance, Default or Event of Default shall occur as a result of any redenomination of any amount with another currency or change in or fluctuation in the exchange or translation rate of, any currency or currencies (or currency-equivalent).

1.5 **Dutch terms**

In this Agreement, where it relates to a Dutch entity, a reference to:

- (a) "**The Netherlands**" means the European part of the Kingdom of the Netherlands;
- (b) a necessary action to authorise, where applicable, includes, without limitation:
 - (i) any action required to comply with the Dutch Works Council Act (*Wet op de ondernemingsraden*); and
 - (ii) obtaining positive or neutral advice (*advies*) from each competent works council, which, if conditional, contains conditions which, if complied with, do not cause a breach with any term of any of the Finance Documents;
- (c) a suspension of payments or a moratorium includes *surséance van betaling*;

- (d) admitting inability to pay includes, without limitation, a Dutch Obligor giving notice to the Dutch tax authorities under article 36 of the Dutch *Invorderingswet 1990* or article 60 of the Dutch *Wet Financiering Sociale Verzekeringen* in conjunction with article 36 of the Dutch *Invorderingswet 1990*;
- (e) a winding-up, administration or dissolution includes a Dutch entity being declared bankrupt (*failliet verklaard*) or dissolved (*ontbonden*);
- (f) an attachment includes a *beslag*;
- (g) reference to 'financial assistance' includes any act contemplated by Section 2:98c of the Dutch Civil Code (*Burgerlijk Wetboek*); and
- (h) reference to 'works council' includes each works council (*ondernemingsraad*) or central or group works council (*centrale of groeps ondernemingsraad*) having jurisdiction over that person.

1.6 **Personal liability**

Where any natural person gives a certificate or other document or otherwise gives a representation or statement on behalf of any of the parties to the Finance Documents pursuant to any provision thereof and such certificate or other document, representation or statement proves to be incorrect, the individual shall incur no personal liability in consequence of such certificate, other document, representation or statement being incorrect save where such individual acted fraudulently in giving such certificate, other document, representation or statement (in which case any liability of such individual shall be determined in accordance with applicable law).

1.7 **Investor Recourse**

No Finance Party will have any recourse to any Original Investor or shareholder or other person who is not a member of the Group under, or in respect of any term of, any Finance Document, and statement by or information provided by any such person, or otherwise.

1.8 **Non-wholly owned entities**

Any obligation in a Finance Document requiring Holdco, the Company, an Obligor or a member of the Group (the "**first person**") to ensure or procure certain things in relation to any other person or that any other person does or does not do something shall be construed as only being an obligation on the first person to ensure or procure to the extent that it is not illegal on the first person or such other person to do so or in breach of applicable law, regulation, constitution or fiduciary duties. Where any first person is required under any Finance Document to ensure or procure certain acts, events, circumstances or things in relation to any other person and such first person owns less than all of the issued voting shares of such other person, such first person shall only be obliged to use its commercially reasonable efforts, subject to all limitations and restriction on the influence it may exercise as a shareholder pursuant to any constitutional arrangement or agreement with other shareholders or investors or pursuant to contractual agreement or applicable law or regulation or constitution or fiduciary duties (or similar), and its obligation to ensure or procure shall be interpreted and construed accordingly, and shall not be construed as an assurance or guarantee for the compliance or for such acts, events or circumstances.

Notwithstanding any other term of the Finance Documents, prior to Completion:

- (a) a reference to the assets of or indebtedness or liabilities of an Obligor shall exclude the assets of or indebtedness or liabilities of any member of the Target Group; and
- (b) (except in the case of a member of the Target Group which has acceded to this Agreement as a Borrower and borrowed a Loan hereunder) no matter or circumstance in respect of, or breach by (or caused by), any member of the Target Group shall relate to an Obligor or otherwise be deemed to constitute or result in a breach of any representation, warranty, undertaking or other term in the Finance Documents, to have a Material Adverse Effect or to have a Default or Event of Default.

1.9 **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 paragraph (a) of Clause 41.4 (*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.

1.10 **Amendments to Finance Documents**

Each Party acknowledges that prior to Completion, the Original Investors and the Company will have had limited access to the Target Group and senior management of the Target Group. To the extent that, having reviewed the terms of the Finance Documents (including, but not limited to, any baskets, thresholds or the financial covenant level), the senior management of the Group or the Target Group reasonably believe that amendments to the Finance Documents are required to allow for the operation of the Target Group business in the usual course and consistent with the intended strategy for the Group, the Parties shall negotiate in good faith in respect of such proposed amendments to any of the Finance Documents.

Without prejudice to the rights of the Group hereunder, the Finance Parties will act reasonably and in good faith to consider and agree to any changes to the Acquisition Documents (or new, amended or replaced Acquisition Documents) (and, if applicable, complementary amendments to the Finance Documents) which the Company (acting reasonably and in good faith) considers to be necessary or desirable in order to complete the Acquisition.

1.11 **Calculations**

- (a) Any Relevant Metric to be calculated or determined in connection with a Relevant Transaction may, at the option of the Company, be calculated or determined as at the Relevant Test Date.
- (b) For the purposes of the foregoing such Relevant Metric may be calculated, determined or tested giving *pro forma* effect to such Relevant Transaction and (as the case may be) any other Relevant Transactions (provided that such calculation may, at the option of the

Company, exclude any non-recurring fees, costs, taxes and expenses attributable to any Relevant Transaction) and as may be adjusted in accordance with Clause 26.3 (*Financial testing*) and the provisions of this Agreement.

- (c) If compliance with a Relevant Metric is established and/or any Relevant Transaction is entered into, committed, incurred or made (or, as the case may be, not made) by any member of the Group in accordance with paragraph (a) above, such Relevant Metric shall be deemed to have been complied with (or satisfied) for all purposes (notwithstanding any subsequent change or fluctuation in such Relevant Metric, or any component thereof), and compliance with any Relevant Metric shall not be required to be determined or tested at any time after the Relevant Test Date for such Relevant Transaction and/or any actions or transactions related thereto (and any refinancing, renewal, extension or replacement thereof). In the event any Relevant Transaction is entered into, committed, incurred or made (or, as the case may be, not made) by any member of the Group based on a Relevant Metric or a calculation or determination as at any particular date, that Relevant Transaction shall not constitute, or be deemed to constitute, or result in, a breach of any provision of the Finance Documents if there is a subsequent change in the Relevant Metric, calculation or determination.

- (d) For the purposes of the foregoing:

"Measurement Period" means each period of approximately twelve months ending on any Test Date or such other date (or the most recent quarter end date) as the Company may elect for the purposes of calculating or determining a Relevant Metric in accordance with the provisions of this Agreement.

"Relevant Determination Date" means, in relation to a Relevant Transaction, at the Company's election:

- (i) the date of any letter, definitive agreement, instrument, put option, scheme of arrangement or similar arrangement in relation to such Relevant Transaction (unilateral, conditional or otherwise);
- (ii) the date that any commitment, offer, announcement, communication or declaration (unilateral, conditional, or otherwise) with respect to such Relevant Transaction is made or received;
- (iii) the date specified in any notice, which may be revocable or conditional, provided under this Agreement, including in any applicable certain funds notice or utilisation request or in respect of any incurrence (or commitment for or establishment of) any relevant indebtedness;
- (iv) the date that any notice, which may be revocable or conditional, of any repayment, repurchase or refinancing of any relevant indebtedness is given to the holders of such indebtedness;
- (v) the date of consummation, incurrence, payment or receipt of payment in respect of the Relevant Transaction;

- (vi) any other date determined in accordance with this Agreement; or
- (vii) any other date relevant to the Relevant Transaction determined by the Company in good faith.

"Relevant Metric" means any financial covenant or financial ratio or test, ratchet, basket, threshold or permission in any Finance Document (including, without limitation, any financial definition or component thereof and any calculation or determination of, and any financial ratio, test, ratchet, basket, threshold or permission (or related component or usage thereof) based on the calculation of Consolidated EBITDA, Total Consolidated Borrowings, Consolidated Net Borrowings, Consolidated Net Interest Charges or any other financial definition), any Default, Event of Default or other relevant breach or provision of a Finance Document.

"Relevant Reporting Date" means, as at any date of determination, at the Company's election:

- (i) if no Financial Statements have yet been delivered pursuant to this Agreement, the Closing Date, with such Relevant Metric determined by reference to the financial information set out in the Base Case Model and/or Original Financial Statements (or other information provided to Finance Parties on or prior to the Closing Date);
- (ii) the most recent Test Date for which Financial Statements have been delivered pursuant to the terms of this Agreement, with such Relevant Metric determined by reference to such Financial Statements; or
- (iii) the last day of the most recently completed Measurement Period for which the Group has sufficient available information to be able to determine such Relevant Metric, with such Relevant Metric determined by reference to such available information (and, for the avoidance of doubt, as if references to Testing Period and Test Date were to such Measurement Period and the last day of such Measurement Period accordingly).

"Relevant Test Date" means the Relevant Determination Date or, at the Company's election, the Relevant Reporting Date prior to any Relevant Determination Date.

"Relevant Transaction" means any investment, acquisition, disposition, sale, merger, joint venture, consolidation or other business combination transaction, indebtedness, loan, guarantee, incurrence, assumption, commitment, issuance, expenditure, payment, non-payment, repayment, repurchase or refinancing or any other Specified Transaction or other transaction or arrangement for which a Relevant Metric falls to be calculated, determined or tested.

- (e) Any basket, monetary limit, ratio, threshold, permission, exception, compliance, commitment, incurrence, usage, transaction, arrangement, activity, event, test, calculation, determination or financial definition (including where an element is set by or relied upon by reference to the Consolidated EBITDA, Leverage Ratio or the Interest Cover Ratio (or any similar metric)) may be made and determined by the Company (A) on the basis of and by reference to the most recent Annual Financial Statements or Half-Yearly Financial

Statements and related Compliance Certificate delivered to the Agent in respect of any Testing Period or, at the option of the Company, provided that it has sufficient information to do so, the most recent internally available financial statements and/or management accounts and applicable financial information in respect of any applicable Testing Period or 12-month period ending on the last day of a Month or financial quarter and/or (B) in accordance with the provisions of Clause 26 (*Financial Covenants*) and as otherwise contemplated by this Agreement.

- (f) For the avoidance of doubt:
- (i) notwithstanding any other provision of this Agreement, but without prejudice to any other rights of the Company and the Group under the Finance Documents, in respect of any transaction, activity, event, test, calculation, determination or arrangement, the Company (or the relevant member of the Group) may test and calculate permissibility, availability and capacity under any covenant, basket, monetary limit, ratio, threshold, permission or exception and/or compliance with the terms of this Agreement or any Finance Document (and whether a Default or Event of Default has or will occur) as at the date of activity, consummation, closing or incurrence, or as otherwise permitted by this Agreement, or as at the date of commitment, determination, establishment, classification, definitive agreement, entry into, designation or establishment (rather than the date of activity, consummation, closing or incurrence (as applicable));
 - (ii) in circumstances where paragraph (a) above applies, compliance with any covenant, basket, ratio, exception or permission (or similar) or any other terms of this Agreement or any Finance Document shall not be required to be tested again at the time of activity, consummation, closing or incurrence of such transaction or related transactions;
 - (iii) if any baskets, ratios, exceptions or permissions (or similar) are exceeded as a result of any fluctuation or change in any amount, usage, basket, ratio, exception or permission or in any financial definition, metric and/or calculation (including due to fluctuations in exchange rates, currency value, leverage, cash, revenues, net income or EBITDA of the Group or any other person) subsequent to such date of transaction, calculation or determination, such baskets, ratios, thresholds, exceptions or permissions (or similar) will not be deemed to have been breached or exceeded as a result of any such fluctuation or change for purposes of determining whether the transaction, usage or amount (and any refinancing, replacement, renewal or extension thereof) is permitted hereunder;
 - (iv) if any item or amount is validly incurred or outstanding under or allocated to any particular basket, ratio, exception or permission (or similar), any refinancing, replacement, renewal or extension of such item or amount shall itself be permitted notwithstanding any fluctuation or change of a type contemplated by paragraph (iii) above; and

- (v) on and at any time after any transaction, arrangement, activity or event is calculated pursuant to paragraph (a) above or *pro forma* effect is given to (or in relation to) any Specified Transaction that is, in each case, committed to or to be undertaken by the Group, such transaction, arrangement, activity or event (or Specified Transaction), and such *pro forma* effect, may continue and be included (including for the purposes of any further financial calculation or determination under this Agreement) at all times thereafter until (and without prejudice to any other term of this Agreement) such transaction, arrangement, activity or event is actually consummated or such commitment thereto is terminated.

1.12 **Baskets**

- (a) In the event that any amount or transaction meets the criteria of a basket, threshold, ratio, permission or exception, or more than one basket, threshold, ratio, permission or exception, then the Company may, in its sole discretion, classify, and may from time to time reclassify, that amount or transaction to a particular basket, threshold, ratio, permission or exception (or one or more particular baskets, thresholds, ratios, permissions or exceptions) and will only be required to include that amount or transaction in one of those baskets, thresholds, ratios, permissions or exceptions (and, for the avoidance of doubt, any amount or transaction may at the option of the Company be split between different baskets, thresholds, ratios, permissions or exceptions). The Company shall be entitled to divide, classify and reclassify an item (or any portion thereof) in more than one of the types, baskets, thresholds, ratios, permissions and exceptions.
- (b) Any unused amount of any basket or exception which is or is to be calculated on an annual, per annum or per financial year basis (or similar) (an "**Annual Basket**") may be carried forward to, and thereby increase the amount permitted to be utilised or relied upon in, the next annual period. In addition, the amount of any Annual Basket may be increased by an amount equal to any permitted amount in respect of any subsequent annual period (and to the extent so utilised and outstanding, the permitted amount available in such subsequent annual period shall be reduced by a corresponding amount).
- (c) Notwithstanding anything to the contrary:
 - (i) when establishing whether any action, transaction, commitment and/or incurrence (in each case, including any refinancing, replacement, renewal or extension thereof) is, was, and/or remains permitted under the terms of the Finance Documents, the Group shall be entitled to rely on the fact that such action, transaction, commitment and/or incurrence was permitted at the time originally taken, committed to or incurred (as the case may be);
 - (ii) in the event that any person is to become an Obligor in accordance with the terms of this Agreement (including so as to satisfy any accession or guarantor coverage requirement or similar), any applicable transaction or arrangement between any member of the Group and such person shall be permitted and may be deemed to be a transaction or arrangement between Obligors (and not a transaction or

arrangement involving a person which is not an Obligor) provided that such person becomes an Obligor within the time periods contemplated by this Agreement;

- (iii) in the event that any person which is not an Obligor becomes an Obligor, any applicable transaction or arrangement between any member of the Group and such person shall be permitted and may be deemed to be a transaction or arrangement between members of the Group, and any item or amount which, prior to such person becoming an Obligor, would have fallen within and/or reduce the amount of or capacity under any basket, threshold or exception as a result of such person not being an Obligor may, once such person has become an Obligor, be ignored for the purposes of calculating the amount available and capacity under the relevant basket, threshold or exception;
 - (iv) in the event that any person becomes a member of the Group, any applicable transaction or arrangement between any member of the Group and such person shall be permitted and may be deemed to be a transaction or arrangement between members of the Group, and any amount which, prior to such person becoming a member of the Group, would have fallen within and/or reduce the amount of or capacity under any basket, threshold or exception as a result of such person not being a member of the Group may, once such person has become a member of the Group, be ignored for the purposes of calculating the amount available and capacity under the relevant basket, threshold or exception.
- (d) The Company may, in its sole discretion, increase the amount of (and capacity under) any numeric basket, threshold, permission, exception or test in the definition of Permitted Financial Indebtedness or Permitted Guarantee by an amount equal to all or part of the unused capacity under the General Debt Basket at such time.

1.13 **The Company**

Any classification or determination to be made by an Obligor or a member of the Group under this Agreement or any other Finance Document may be made by the Company or an Authorised Officer, and any rights, powers, entitlements or discretions of any member of the Group, and any consents, determinations or decisions made or to be made by any member of the Group, may be exercised or made by the Company or an Authorised Officer.

1.14 **The Acquisition**

Subject to compliance with Clause 27.25 (*Conduct of Offer and/or Scheme*) and provided that the Acquisition is as described in the definition of "Acquisition", for the avoidance of doubt, it is understood, acknowledged and agreed that (i) nothing in any Finance Document shall prevent the Company from changing the form of the Acquisition (including to change from a Scheme to an Offer or from an Offer to a Scheme) and (ii) any change in the structure, form or timing of the Acquisition (including, without limitation, any change from a Scheme to an Offer or an Offer to a Scheme or in the terms of any Scheme or Offer) or in the timing or conditions relating to the Scheme, Offer or Acquisition or in the offer price, purchase price or consideration agreed, paid or payable or the manner in which purchase consideration is paid, shall (in each case) be permitted and shall not be regarded as being a material

condition or being material or adverse to the interests of any of the Finance Parties under this Agreement or any other Finance Documents.

2. THE FACILITIES

2.1 The Facilities

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

2.2 Finance Parties' rights and obligations

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of a Finance Party under or in connection with the Finance Documents are separate and independent rights and a debt arising under the Finance Documents to a Finance Party 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 a Borrower which relates to a Finance Party's participation in a Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by that Borrower.
- (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.

2.3 Additional Facilities

- (a) Subject to the terms of this Clause 2.3, the Company may, at any time and from time to time by delivering to the Agent a duly completed Additional Facility Notice that complies with paragraph (c) below, establish an Additional Facility by way of an additional tranche of, or increase in, any Facility or a previously incurred Additional Facility.
- (b) No consent of any Finance Party is required to establish an Additional Facility at any time (other than, in relation to an Additional Facility, the relevant Additional Facility Lender making available the applicable Additional Facility), provided that (unless otherwise agreed

by the Majority Lenders) the Additional Facility meets each Additional Facility Condition applicable to such Additional Facility.

- (c) An Additional Facility Notice shall not be regarded as having been duly completed unless it is signed by each party thereto and specifies the following matters in respect of such Additional Facility:
- (i) the proposed borrower(s) and guarantor(s) in respect of the Additional Facility;
 - (ii) the person(s) to become an Additional Facility Lender in respect of the Additional Facility and the amount of the commitments of such Additional Facility allocated to each Additional Facility Lender;
 - (iii) the aggregate amount of the commitments of the Additional Facility being made available and the currency and optional currencies which are available for utilisation under such Additional Facility;
 - (iv) the rate of interest applicable to the Additional Facility (including any applicable margin, basis and/or margin ratchet);
 - (v) the Additional Facility Commencement Date and Availability Period for the Additional Facility; and
 - (vi) the Termination Date, and any mandatory prepayment provisions (including whether the Additional Facility will share rateably or less than rateably in mandatory prepayments),

and such Additional Facility Notice shall be deemed to have been duly completed if it is signed by the Company and specifies the matters in paragraphs (i) to (vi) above in respect of such Additional Facility and prior to the applicable Additional Facility Commencement Date, without prejudice to the rights of the Agent or the Security Agent to request any other information which the Agent or Security Agent may reasonably require in relation to such Additional Facility.

- (d) Subject to each applicable Additional Facility Condition being satisfied, following receipt by the Agent of a duly completed Additional Facility Notice and with effect from the relevant Additional Facility Commencement Date (or any later date on which the conditions set out in paragraph (e) below are satisfied) the relevant Additional Facility shall come into effect and be established in accordance with its terms and:
- (i) the Additional Facility Lender participating in the relevant Additional Facility shall make available that Additional Facility in the aggregate amount set out in the Additional Facility Notice;
 - (ii) each of the Obligors and each Additional Facility Lender shall assume such obligations towards one another and/or acquire such rights against one another as the Obligors and such Additional Facility Lenders would have assumed and/or acquired had the Additional Facility Lenders been Original Lenders;
 - (iii) each Additional Facility Lender under the relevant Additional Facility and each of the other Finance Parties shall assume such obligations towards one another and

acquire such rights against one another as those Additional Facility Lenders and those Finance Parties would have assumed and/or acquired had the Additional Facility Lenders been Original Lenders; and

- (iv) the Commitments of the other Lenders shall continue in full force and effect.
- (e) The establishment of an Additional Facility will only be effective on:
 - (i) the execution of the Additional Facility Notice relating to such Additional Facility by the Company, the relevant Borrower(s) and the relevant Additional Facility Lender(s) and delivery of such executed notice to the Agent; and
 - (ii) in relation to an Additional Facility Lender which is not already a Lender, the performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that Additional Facility Lender making available an Additional Facility, the completion of which the Agent shall promptly notify to the Company,

and no Utilisation Request in relation to an Additional Facility shall be valid unless prior to (or simultaneously with) the delivery of the relevant Utilisation request in relation to such Additional Facility, the requirements of this Clause 2.3 have been satisfied.

- (f) Each Obligor irrevocably authorises the Company to sign each Additional Facility Notice.
- (g) Each Finance Party irrevocably authorises, empowers and instructs:
 - (i) the Agent (upon request of (and as reasonably requested by) the Company) as soon as reasonably practicable to acknowledge, execute and confirm acceptance of each Additional Facility Notice; and
 - (ii) the Agent and the Security Agent (upon request of (and as reasonably requested by) the Company) as soon as reasonably practicable to acknowledge, execute and confirm acceptance of each Additional Facility Lender Accession Notice and if applicable, the documentation required for the Additional Facility Lender to accede to the Intercreditor Agreement and to execute any necessary amendments, confirmations, supplements or revisions to any Finance Document (including, to the extent required or desirable, the execution of new Transaction Security Documents for the purpose of creating lower ranking security for the benefit of the Additional Facility over the assets subject to Transaction Security (subject to the Intercreditor Agreement)) as may be required to ensure the Additional Facility ranks, if legally possible, in accordance with the provisions set out in the Additional Facility Notice.
- (h) The Agent shall as soon as reasonably practicable send to the Company a copy of each executed Additional Facility Notice and, if applicable, Additional Facility Lender Accession Notice and if applicable, the documentation required for the Additional Facility Lender to accede to the Intercreditor Agreement.
- (i) Each Additional Facility Lender, by executing the relevant Additional Facility Notice confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any consent, release, waiver or amendment that has been approved by or on behalf of the

requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the relevant Additional Facility becomes effective and that it is bound by that decision and by the operations of any other provisions of this Agreement in relation to such consent, release, waiver or amendment.

- (j) The establishment or assumption of any Additional Facility Commitments in accordance with this Clause 2.3 and the payment of any fees contemplated by this Clause 2.3 will not require the consent of any Finance Party other than the relevant Additional Facility Lenders assuming the relevant Additional Facility Commitments.
- (k) An Additional Facility may be made available for any purpose (and the carrying out of such purpose shall be permitted for the purposes of the Finance Documents) and, if the Additional Facility Lenders providing such Additional Facility so agree, the availability of an Additional Facility shall be subject to such 'certain funds' conditionality as is set out in the relevant Additional Facility Notice, and Clause 4 (*Conditions of Utilisation*) and the relevant provisions of this Agreement may accordingly be disapplied or otherwise modified for such purpose.
- (l) For the avoidance of doubt, at the option of the Company and subject to paragraph (a) above (and without prejudice to the other rights of the Group hereunder):
 - (i) an Additional Facility may rank *pari passu* or junior to the Term Facility Loans; and
 - (ii) an Additional Facility may be made available on a secured or unsecured basis.
- (m) Nothing in this Clause 2.3 shall oblige any Lender to assume any Additional Facility Commitment (unless it has executed and delivered an Additional Facility Lender Accession Notice or otherwise become an Additional Facility Lender in respect of that Additional Facility). By signing an Additional Facility Notice as an Additional Facility Lender, each such entity agrees to commit the Additional Facility Commitments set out against its name in that Additional Facility Notice.
- (n) Clause 29.4 (*Limitation of responsibility of Existing Lenders*) shall apply *mutatis mutandis* in this Clause 2.3 in relation to an Additional Facility Lender, as if references in that Clause to:
 - (i) an "Existing Lender" were references to all the Lenders immediately prior to the relevant increase;
 - (ii) the "New Lender" were references to that "Additional Facility Lender"; and
 - (iii) a "re-transfer" and "re-assignment" were references to respectively a "transfer" and "assignment".

2.4 Increase

- (a) The Company may by giving prior notice to the Agent by no later than the date falling ten Business Days after the effective date of a cancellation of:
 - (i) the Available Commitments of a Defaulting Lender in accordance with Clause 11.7 (*Right of cancellation in relation to a Defaulting Lender*); or

- (ii) the Commitments of a Lender in accordance with Clause 11.1 (*Illegality*), request that the Commitments relating to that Facility be increased (and the Commitments under that Facility shall be so increased) in an aggregate amount of up to the amount of the Available Commitments or Commitments relating to that Facility so cancelled as follows:
- (A) the increased Commitments will be assumed by one or more Lenders or other banks, financial institutions, trusts, funds or other entities (each an "**Increase Lender**") selected by the Company and each of which confirms its willingness to assume and does assume all the obligations of a Lender corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Lender in respect of those Commitments;
 - (B) the Obligors and any Increase Lender shall assume obligations towards one another and/or acquire rights against one another as they 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;
 - (C) each Increase Lender shall become a Party as a "Lender" and any Increase Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Increase Lender and those Finance Parties would have assumed and/or acquired had the Increase Lender been an Original Lender in respect of that part of the increased Commitments which it is to assume;
 - (D) the Commitments of the other Lenders shall continue in full force and effect; and
 - (E) any increase in the Commitments relating to a Facility shall take effect on the date specified by the Company in the notice referred to above or any later date on which the conditions set out in paragraph (b) below are satisfied.
- (b) An increase in the Total Commitments will only be effective on the execution by the Agent of an Increase Confirmation from the relevant Increase Lender and, in relation to an Increase Lender which is not a Lender immediately prior to the relevant increase, the performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Lender, the completion of which the Agent shall promptly notify to the Company and the Increase Lender.
- (c) Each Increase Lender, by executing the Increase Confirmation, confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the increase becomes effective.

- (d) The Company may pay to the Increase Lender a fee in the amount and at the times agreed between the Company and the Increase Lender in a Fee Letter.
- (e) The Company shall promptly on demand pay the Agent and the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by either of them and, in the case of the Security Agent, by any Receiver or Delegate in connection with any increase in Commitments under this Clause.
- (f) Neither the 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.
- (g) Clause 29.4 (*Limitation of responsibility of Existing Lenders*) shall apply *mutatis mutandis* in this Clause 2.4 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 "**retransfer**" and "**reassignment**" were references to respectively a "**transfer**" and "**assignment**".

2.5 **Obligors' Agent**

- (a) Each Obligor (other than the Company), by its execution of this Agreement or an Accession Letter, irrevocably appoints the Company to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
 - (i) the Company 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 deliver any Additional Facility Notice, to execute on its behalf any Accession Letter, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor, notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and
 - (ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Company,

and, in each case, the Obligor shall be bound as though the Obligor itself had given the notices and instructions (including, without limitation, any 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) Each Term Facility Borrower shall apply all amounts borrowed by it under the Term Facility (directly or indirectly) towards financing, refinancing or replacing:
- (i) any existing debt, liabilities, obligations, loans, bonds, facilities, or financial accommodation of the Group and/or Target Group, including rollover and/or backstopping of such arrangements (together with any associated refinancing costs including accrued, unpaid or capitalised interest, underwriting or issuance costs, issue discount, break costs, prepayment fees, make-whole, non-call or other call protection or redemption amounts premia, waiver costs, discounts, catch-up payments and any analogous amounts (however described));
 - (ii) the Transaction (other than payment of cash consideration payable to shareholders in connection with the purchase of Target Shares pursuant to the Acquisition) and the Transaction Costs, and the amount of any swap costs, indemnification amounts, currency conversion amounts and any fees, costs, taxes and expenses incurred or otherwise payable in connection with the Transaction and/or which are payable by any member of the Group and/or Target Group and/or which are payable in connection with any transaction or arrangement referred to in paragraph (i) above (and rollover and/or backstopping of such arrangements), and any amount payable in connection with any fees or original issue discount (or any similar or analogous arrangement or amount) in connection with the Facilities;
 - (iii) any payment in connection with any debt incurrence or pushdown (including a Debt Pushdown); and
 - (iv) any payments, purposes or funding requirements contemplated in the Structure Memorandum, the sources and uses, the Funds Flow Statement and/or the Base Case Model.
- (b) The Revolving Facility Borrower shall apply all amounts borrowed by it under the Revolving Facility (directly or indirectly) towards financing, refinancing or replacing:
- (i) any existing debt, liabilities, obligations, loans, bonds, facilities (including any ancillary facilities), or financial accommodation of the Group and/or Target Group, including rollover and/or backstopping of such arrangements (together with any associated refinancing costs, including accrued, unpaid or capitalised interest, underwriting or issuance costs, issue discount, break costs, prepayment fees, make-whole, non-call or other call protection or redemption amounts premia, waiver

costs, discounts, catch-up payments and any analogous amounts (however described));

- (ii) working capital, capital expenditure and general corporate purposes of the Group and the Target Group (including, without limitation, the refinancing and/or replacement and/or repayment of existing revolving credit and existing receivables financing arrangements (including factoring, securitisation and other similar receivables financings)) and/or existing letter of credit or bank guarantee arrangements and the funding of (i) capital expenditure and related costs and expenses, (ii) acquisitions (including any deferred consideration or earn-out adjustments), joint ventures, any investments and related costs and expenses, (iii) operational restructurings and reorganisations of the Group and related costs and expenses, (iv) payments (including made to the vendors) in respect of working capital related adjustments (howsoever structured) relating to or arising in connection with any acquisition (including the Acquisition), (v) guarantees and collateral and the covering or guaranteeing of liabilities or operational exposures of the Group and/or (vi) payment of any refundable VAT on transaction costs, tax, OID, fees, flex and financing costs; and
 - (iii) any other purpose for which the Term Facility may be used.
- (c) Each Borrower shall apply all amounts borrowed by it under any Additional Facility in accordance with the relevant Additional Facility Notice.

3.2 **Monitoring**

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

3.3 **Existing debt**

Each Finance Party agrees that to the extent it or any of its Affiliates or Related Funds is a lender under the Existing Revolving Credit Facility and/or any existing Target Group debt, it will act reasonably and in good faith to procure and confirm that it and its Affiliates and Related Funds will not charge, claim or expect to receive any break costs, prepayment fee or premium (or similar) in connection with the repayment, prepayment or cancellation of any Existing Revolving Credit Facility and/or any existing Target Group debt pursuant to or in connection with the Facilities or the Transaction.

4. **CONDITIONS OF UTILISATION**

4.1 **Initial conditions precedent**

- (a) The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to any Utilisation if, on or before the Utilisation Date for that Utilisation the Agent has received (or waived the requirement to receive) all of the documents and other evidence listed in Part I of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Agent or the Arrangers (or, in the case of paragraph 6(b) thereof, the Super Majority Arrangers) (in each case, acting reasonably)), unless expressly provided otherwise in Part

I of Schedule 2 (*Conditions Precedent*). The Agent or the Mandated Lead Arrangers shall notify the Company and the Lenders promptly upon being so satisfied.

- (b) Other than to the extent that all the Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (a) above, all the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

4.2 **Further conditions precedent**

Subject to Clause 4.1 (*Initial conditions precedent*), the Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to a Utilisation (other than one to which Clause 4.4 (*Utilisations during the Certain Funds Period*) applies) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) in the case of any Utilisation (other than a Rollover Loan), no Event of Default is continuing or would result from the proposed Utilisation; and
- (b) in the case of any Rollover Loan, no Declared Default has occurred and is continuing.

4.3 **Maximum number of Utilisations**

- (a) A Borrower may not deliver a Utilisation Request under the Term Facility if as a result of the proposed Utilisation (other than in relation to any Debt Pushdown) if more than twelve Term Facility Loans would be outstanding, unless agreed otherwise with between the Company and the Agent (each acting reasonably and in good faith).
- (b) A Borrower may not deliver a Utilisation Request under an Additional Facility if as a result of the proposed Utilisation more than the maximum number of Loans or Letters of Credit under that Additional Facility (as specified in the related Additional Facility Notice) would be outstanding.
- (c) Any Separate Loan or a Loan in connection with a Debt Pushdown (including any splitting of Loans) shall not be taken into account in this Clause 4.3.

4.4 **Utilisations during the Certain Funds Period**

- (a) Subject to Clause 4.1 (*Initial conditions precedent*) and notwithstanding the provisions of Clause 4.2 (*Further conditions precedent*), during the Certain Funds Period, the Lenders will be obliged to comply with Clause 5.4 (*Lenders' participation*) if, on the proposed Utilisation Date:
 - (i) no Major Default has occurred and is continuing;
 - (ii) no Change of Control has occurred in respect of which the relevant Lender has exercised its rights under Clause 12.1 (*Exit*); and
 - (iii) no Illegality Event has occurred in respect of which the relevant Lender has notified the Company and the Agent and complied with its obligations under Clause 11.1 (*Illegality*),

and, in each case, the relevant Lender has exercised its related rights under this Agreement (and provided that any exercise of rights by any Lender shall not in any way affect the

obligations of any other Lender to make available the relevant Facilities in accordance with the provisions of this Clause 4.4).

- (b) During the Certain Funds Period (save in circumstances where, pursuant to paragraph (a) above, a Lender is not obliged to comply with Clause 5.4 (*Lenders' participation*) and subject as provided in Clause 11.1 (*Illegality*) and Clause 12.1 (*Exit*)), none of the 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 Utilisation to the extent to do so would prevent or limit the making of a Certain Funds Utilisation;
 - (v) cancel, accelerate or cause repayment or prepayment of any amounts owing under this Agreement or under any other Finance Document to the extent to do so would prevent or limit the making of a Certain Funds Utilisation;
 - (vi) take any other action or make or enforce any claim (in its capacity as a Lender) to the extent that such action, claim or enforcement would directly or indirectly prevent or limit the making of a Certain Funds Utilisation; or
 - (vii) declare that cash cover in relation to a Letter of Credit or an Ancillary Facility is immediately due and payable on demand,

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

4.5 **Conditions relating to Optional Currencies**

- (a) A currency will constitute an Optional Currency in relation to the Revolving Facility or an Additional Facility if:
- (i) it is sterling; or
 - (ii) it:
 - (A) is (subject to Clause 8.2 (*Unavailability of a currency*)) readily available in the amount required and freely convertible into the Base Currency in the Relevant Market at the Specified Time and on the Utilisation Date for that Utilisation; or
 - (B) has been approved by the Agent (acting on the instructions of all the Lenders (acting reasonably) participating in the relevant Facility (as the case may be)).

- (b) If the Agent has received a written request from the Company for a currency to be approved under paragraph (a)(ii) above, the Agent will confirm to the Company by the Specified Time whether or not the Lenders have granted their approval.

5. UTILISATION

5.1 Delivery of a Utilisation Request

A Borrower (or the Company on its behalf) may utilise a Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time (or such later time as the Agent may agree).

5.2 Completion of a Utilisation Request for Loans

- (a) Each Utilisation Request for a Loan is irrevocable and will not be regarded as having been duly completed unless it identifies:

- (i) the Facility to be utilised;
- (ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
- (iii) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*); and
- (iv) the proposed Interest Period complies with Clause 16 (*Interest Periods*).

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

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be:

- (i) in relation to the Term Facility, euro; and
- (ii) 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 Revolving Facility, a minimum amount of EUR 500,000 (or its currency equivalent) or, if less, the relevant Available Facility or, in the case of a Rollover Loan, the amount of such Rollover Loan; or
- (ii) for any Additional Facility, such minimum amounts and multiples stated in the Additional Facility Notice for that Additional Facility.

5.4 Lenders' participation

- (a) If the conditions set out in this Agreement have been met and subject to Clause 10 (*Repayment*), each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.

- (b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its relevant Available Commitment to the relevant Available Facility immediately prior to making the Loan.

- (c) The Agent shall:
 - (i) determine the Base Currency Amount of each Loan which is to be made in an Optional Currency; and
 - (ii) notify each Lender of the Base Currency Amount of each Loan, the amount of its participation in that Loan and, in the case of a Revolving Facility Loan and if different, the amount of that participation to be made available in cash, in each case, by the Specified Time.

5.5 **Cancellation of Commitment**

- (a) The Term Facility Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for the Term Facility.
- (b) The Revolving Facility Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for the Revolving Facility.
- (c) The Revolving Facility Commitments shall be immediately cancelled at the end of the Availability Period for the Term Facility if the Term Facility has not been utilised.
- (d) The Additional Facility Commitments relating to an Additional Facility which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for that Additional Facility.

6. **UTILISATIONS BY WAY OF LETTERS OF CREDIT**

6.1 **Letters of Credit**

- (a) The Revolving Facility may be utilised by way of Letters of Credit.
- (b) Clause 5 (*Utilisation*) does not apply to any utilisation by way of Letter of Credit.
- (c) The Obligors' Agent may, at any time during the Availability Period applicable to the Revolving Facility, by notice in writing to the Agent request that any person becomes an Issuing Bank. From the date of that notice such person will become an Issuing Bank, subject to the Agent having received notification in writing from the person so nominated that it agrees to become an Issuing Bank.
- (d) The Obligors' Agent and an Issuing Bank may from time to time agree limits on the maximum aggregate Base Currency Amount of Letters of Credit which that Issuing Bank can be required to issue under the Revolving Facility. Once notified to the Agent in writing by the Obligors' Agent and the relevant Issuing Bank, any such limit (as further amended from time to time by agreement between the Obligors' Agent and that Issuing Bank and notified to the Agent accordingly) shall become binding on the Group for all purposes under this Agreement.

6.2 **Delivery of a Utilisation Request for Letters of Credit**

- (a) A Borrower (or the Obligors' Agent on its behalf) may request a Letter of Credit or the renewal of an existing Letter of Credit by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time (or such later time as the Agent may agree).

- (b) In determining the amount of the Available Facility and a Lender's Letter of Credit Proportion of a proposed Letter of Credit for the purposes of this Agreement, the Available Commitment of a Lender will be calculated ignoring any cash cover provided for outstanding Letters of Credit.

6.3 **Completion of a Utilisation Request for Letters of Credit**

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

- (a) it specifies that it is for a Letter of Credit and specifies the identity of the Issuing Bank;
- (b) the proposed Utilisation Date is a Business Day within the Availability Period applicable to the Revolving Facility;
- (c) it specifies the name of the beneficiary of the Letter of Credit;
- (d) the beneficiary of the Letter of Credit is not identified on the most recent prohibited list of beneficiaries of the relevant Issuing Bank (unless otherwise agreed by such Issuing Bank);
- (e) the currency and amount of the Letter of Credit comply with Clause 6.4 (*Currency and Amount*);
- (f) the form of Letter of Credit is attached; and
- (g) the delivery instructions for the Letter of Credit are specified,

provided that in the case of a Utilisation Request for the renewal of a Letter of Credit the terms shall be the same in all material respects as those of the relevant Letter of Credit immediately prior to its renewal except that:

- (i) paragraph (f) above shall not apply, provided that the relevant Letter of Credit has the same terms and conditions in all material respects (other than in respect of the amount and Letter of Credit Term) as the Letter of Credit immediately prior to its renewal;
- (ii) its amount may be less than the amount of the Letter of Credit immediately prior to its renewal; and
- (iii) its Letter of Credit Term shall start on the date which was the Expiry Date of the Letter of Credit immediately prior to its renewal (or if a different date is specified, on that date) and shall end on the proposed Expiry Date specified in the renewal Utilisation Request.

6.4 **Currency and Amount**

The currency specified in a Utilisation Request in respect of a Letter of Credit must be the Base Currency or an Optional Currency.

6.5 **Issue of Letters of Credit**

- (a) If the conditions set out in this Agreement have been met, the relevant Issuing Bank shall:
 - (i) issue the Letter of Credit on the Utilisation Date; and

- (ii) if so requested amend, renew and/or reissue any Letter of Credit already issued.
- (b) In relation to any amendment to the terms of any Letter of Credit already issued hereunder (including any increase in the amount or extension of any existing Letter of Credit), such amendment shall be subject only to the relevant Issuing Bank being satisfied (acting reasonably) that if a new Letter of Credit was issued (rather than an amendment to the existing Letter of Credit) the conditions in relation to the issue of a new Letter of Credit would be satisfied (to the extent such conditions would not be satisfied, any amendment shall be subject only to the consent of the relevant Issuing Bank (such consent not to be unreasonably withheld or delayed)).
- (c) The amount of each Lender's participation in each Letter of Credit will be equal to the proportion borne by its Available Commitment to the Available Facility (in each case in relation to the Revolving Facility) immediately prior to the issue of the Letter of Credit or, to the extent of such increase, on the date upon which any Contingent Liability under a Letter of Credit is increased.
- (d) The Agent shall:
 - (i) determine the Base Currency Amount of each Letter of Credit which is to be issued in an Optional Currency; and
 - (ii) notify the relevant Issuing Bank and each Lender of the details of the requested Letter of Credit and its participation in that Letter of Credit,in each case by the Specified Time.

6.6 **Revaluation of Letters of Credit**

- (a) In relation to any Letter of Credit which is denominated in an Optional Currency and has a maturity of longer than 12 Months as at the date it was issued, the Agent shall, at 12 monthly intervals commencing on the first anniversary of the date of issue of such Letter of Credit, recalculate the Base Currency Amount of that Letter of Credit by notionally converting into the Base Currency the outstanding amount of that Letter of Credit on the basis of the Agent's Spot Rate of Exchange on the date of calculation (the consequent amount being hereafter referred to as the "**Current Base Currency Amount**").
- (b) After recalculation under paragraph (a) above, the Base Currency Amount of the relevant Letter of Credit will be the Current Base Currency Amount most recently calculated in relation to it.
- (c) The Obligors' Agent shall, if requested by the Agent (acting on the instructions of the Majority Lenders) within 10 Business Days of any calculation under paragraph (a) above which shows that, as a result of the revaluation of any Letter of Credit, the outstanding Base Currency Amount of all Revolving Utilisations exceeds by more than 5 per cent. the Total Revolving Facility Commitments, ensure that within 10 Business Days of such request sufficient Revolving Utilisations are prepaid to prevent the aggregate of the Base Currency Amounts of all Revolving Utilisations (which for a Letter of Credit shall be its Current Base Currency Amount) exceeding the Total Revolving Facility Commitments.

6.7 Existing Letters of Credit

A Borrower (or the Obligors' Agent on its behalf) may by notice in writing to the Agent request that any letter of credit, guarantee, bond, indemnity, documentary or like credit or any other instrument of suretyship or payment, issued, undertaken or made by any person which is a Lender under the Revolving Facility (or an Affiliate of such a Lender) on behalf or at the request of any member of the Group be deemed to be issued under this Agreement and with effect from the later of the date specified in such notice (being a date not less than 3 Business Days (or such shorter period as the Agent may agree) after the date such notice is delivered to the Agent) and the Closing Date:

- (a) such instrument (the "**Relevant Instrument**") shall be a Letter of Credit for all purposes under this Agreement; and
- (b) the Lender concerned (or, as the case may be, the Affiliate of the Lender concerned) will become an Issuing Bank with respect to each Relevant Instrument issued, undertaken or made by it,

in each case subject to the Agent having received notification in writing from the Lender concerned (or, as the case may be, the Affiliate of the Lender concerned) that it agrees to the Relevant Instrument being a Letter of Credit for all purposes under this Agreement.

6.8 Reduction of a Letter of Credit

- (a) If, on the proposed Utilisation Date of a Letter of Credit, any of the Lenders under the Revolving Facility is a Defaulting Lender and:

- (i) after having been requested to do so, that Lender has failed to provide cash collateral to the relevant Issuing Bank in accordance with Clause 7.12 (*Cash Collateral by Defaulting Lender*); and
- (ii) the relevant Borrower has not agreed or exercised its right to provide cash cover to the relevant Issuing Bank in respect of the participation of that Lender in that Letter of Credit,

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

- (b) The relevant Issuing Bank shall on request notify the Agent of each reduction made pursuant to this Clause 6.8.
- (c) This Clause 6.8 shall not affect the participation of each other Lender in the Letter of Credit, provided that:
 - (i) for the purpose of any amount payable by an Account Party under Clause 7.5 (*Fees payable in respect of Letters of Credit*), such amount is payable to the Agent for the account of the Lenders whose participation has not been excluded pursuant to paragraph (a) above ("**Participating Lenders**"), and the Letter of Credit Proportion

of any Participating Lender shall be calculated on the basis that the Letter of Credit Proportion shall be adjusted by multiplying it by the full amount of the Letter of Credit requested in the Utilisation Request and dividing it by the reduced amount of that Letter of Credit following the reduction of its amount in accordance with paragraph (a) above; and

- (ii) for the purposes of Clause 7.7 (*Indemnities*), a reference therein to a Lender shall be a reference to a Participating Lender, and the Letter of Credit Proportion of such Lender shall be adjusted in the manner set out in paragraph (i) above.

6.9 **Bilateral Letters of Credit**

(a) In addition to the right of the Group to require the issue of Letters of Credit, a Lender may at the request of a Borrower (or the Obligors' Agent on its behalf) agree to provide a letter of credit, guarantee, bond, indemnity, documentary or like credit or any other instrument of suretyship or payment on a bilateral basis in respect of all or any part of its Revolving Facility Commitment. For this purpose, a Borrower (or the Obligors' Agent on its behalf) may by notice in writing to the Agent request that any letter of credit, guarantee, bond, indemnity, documentary or like credit or any other instrument of suretyship or payment, issued, undertaken or made (or to be issued, undertaken or made) by any person which is a Lender under the Revolving Facility (or an Affiliate of such a Lender) (the "**Bilateral Issuing Bank**") on behalf or at the request of any member of the Group be deemed to be issued under this Agreement and with effect from the date specified in such notice (being a date not less than 2 Business Days (or such shorter period as the Agent may agree) after the date such notice is delivered to the Agent):

- (a) such instrument (the "**Relevant Bilateral Instrument**") shall be deemed issued by the relevant Bilateral Issuing Bank on a bilateral basis under the Revolving Facility; and
- (b) the Relevant Bilateral Instrument will be deemed to have been made available as if it were a Letter of Credit with the relevant Bilateral Issuing Bank being the Issuing Bank in respect of that Letter of Credit, provided that:
 - (i) no other Finance Party shall have any participation in the Relevant Bilateral Instrument;
 - (ii) any amounts payable in relation to the Relevant Bilateral Instrument will be paid solely for the account of the relevant Bilateral Issuing Bank;
 - (iii) any requirements under the Finance Documents in relation to issue of the Relevant Bilateral Instrument shall be deemed to have been satisfied; and
 - (iv) the Available Commitment of the Lender concerned shall be calculated on the basis that the Relevant Bilateral Instrument is a Utilisation outstanding under the Revolving Facility,

in each case subject to the Agent having received notification in writing from the Bilateral Issuing Bank concerned that it agrees to the Relevant Bilateral Instrument

being issued on a bilateral basis under the Revolving Facility for all purposes under this Agreement; and

- (b) Paragraph (b)(iii) of Clause 7.6 (*Claims under a Letter of Credit*) shall apply *mutatis mutandis* in this Clause 6.9 in relation to a Relevant Bilateral Instrument as if references in that Clause to:
 - (i) an "Issuing Bank" were references to the Lender issuing that Relevant Bilateral Instrument; and
 - (ii) the "Letter of Credit" were references to that Relevant Bilateral Instrument.
- (c) Notwithstanding the foregoing or anything to the contrary in the Finance Documents:
 - (i) the Obligors' Agent and a Lender under the Revolving Facility may agree any additional and/or alternative arrangements in relation to the provision of a letter of credit, guarantee, bond, indemnity, documentary or like credit or any other instrument of suretyship or payment on a bilateral basis in respect of all or any part of that Lender's Revolving Facility Commitment (including as regards a commitment to provide one or more such instrument from time to time); and
 - (ii) each Lender under the Revolving Facility shall be required to provide a letter of credit, bond, indemnity or any other instrument of suretyship or payment on a bilateral basis in respect of all or any part of its Revolving Facility Commitment as a Relevant Bilateral Instrument on the basis set out above if requested by a Borrower (or the Obligors' Agent on its behalf), in each case provided that the relevant conditions set out in Clause 4 (*Conditions of Utilisation*) and the procedures set out in Clause 6.3 (*Completion of a Utilisation Request for Letters of Credit*) would be satisfied if the applicable Relevant Bilateral Instrument had been a Letter of Credit issued under the Revolving Facility by an Issuing Bank (and the relevant Lender shall act reasonably and in good faith in determining satisfaction of the conditions and procedures set out in Clause 4 (*Conditions of Utilisation*) and Clause 6.3 (*Completion of a Utilisation Request for Letters of Credit*)).

If there is a conflict between the terms of any Finance Documents and any such additional or alternative arrangements, the terms of those additional or alternative arrangements will prevail.

6.10 **Adjustment for Bilateral Letter of Credit Arrangements upon acceleration**

- (a) This clause is a collateral agreement that is in addition to, and is not replaced or varied by, clause 18 (*Equalisation*) of the Intercreditor Agreement.
- (b) In this Clause 6.10:
 - (i) **"Revolving Outstandings"** means, in relation to a Lender, the aggregate of the equivalent in the Base Currency of:
 - (A) its participation in each Revolving Utilisation then outstanding (together with the aggregate amount of all accrued interest, fees and commission owed to it as a Lender under the Revolving Facility); and

- (B) (without double counting with amounts under paragraph (A) above) if such Lender or its Affiliate has provided a Relevant Bilateral Instrument pursuant to Clause 6.9 (*Bilateral Letters of Credit*) (the "**Relevant Bilateral Issuing Bank**"), the maximum liability at such time under each Relevant Bilateral Instrument (net of any cash cover and otherwise as reduced in accordance with its terms and by demands thereunder which have been reimbursed) provided by that Relevant Bilateral Issuing Bank (or by its Affiliate) (together with the aggregate amount of all accrued interest, fees and commission owed to it (or to its Affiliate) as a Relevant Bilateral Issuing Bank in respect of such Relevant Bilateral Instrument(s)) (the "**Relevant Bilateral LC Exposure**"); and
- (ii) "**Total Revolving Outstandings**" means the aggregate of all Revolving Outstandings.
- (c) If the Agent exercises any of its rights under Clause 28.14 (*Acceleration*) (other than declaring Utilisations to be due on demand), each Lender and each Relevant Bilateral Issuing Bank shall (subject to paragraph (h) 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 the amounts instructed by the Agent pursuant to paragraph (g) in respect of amounts outstanding to them under the Revolving Facility (including any Relevant Bilateral LC Exposure) to the extent necessary to ensure that after such transfers the Revolving Outstandings of each Lender bear the same proportion to the Total Revolving Outstandings as such Lender's Revolving Facility Commitment bears to the Total Revolving Facility Commitments, each as at the date the Agent exercises the relevant right(s) under Clause 28.14 (*Acceleration*).
- (d) If an amount outstanding under a Relevant Bilateral Instrument 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 (c) above, then each Lender and Relevant Bilateral Issuing Bank 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.
- (e) Any transfer of rights and obligations relating to Revolving Outstandings made pursuant to this Clause 6.10 shall be made for a purchase price in cash (without any discount), payable at the time of transfer, in an amount equal to those Revolving Outstandings.
- (f) The transfers required by this Clause 6.10 shall apply notwithstanding any restriction in Clause 29.2 (*Conditions of assignment or transfer*) and without payment of any fee under Clause 29.3 (*Assignment or transfer fee*), each of which shall be deemed not to apply for the purpose of this Clause 6.10. For the avoidance of doubt, such transfers shall not impact the underlying issuance of the Relevant Bilateral Instrument, which shall remain issued by the Relevant Bilateral Issuing Bank.

- (g) All calculations to be made pursuant to this Clause 6.10 shall be made by the Agent based upon information provided to it by the Lenders and the Relevant Bilateral Issuing Bank(s) and the Agent's Spot Rate of Exchange.
- (h) This Clause 6.10 shall not oblige any Lender to accept the transfer of a claim relating to an amount outstanding under a Relevant Bilateral Instrument which is not denominated in either the Base Currency, a currency which has been an Optional Currency for the purpose of any Revolving Utilisation or in another currency which is acceptable to that Lender.

7. LETTERS OF CREDIT

7.1 Immediately Payable

If a Letter of Credit or any amount outstanding under a Letter of Credit is expressed to be immediately payable, the Borrower that requested (or on behalf of which the Obligors' Agent requested) the issue of that Letter of Credit (the "**Account Party**") shall repay or prepay that amount within 10 Business Days of demand or, if payment is being funded by a Revolving Facility Loan or Rollover Loan or by a cash drawing under an Ancillary Facility, within 4 Business Days of demand.

7.2 Demands

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

7.3 Payments

- (a) The Account Party shall immediately on receipt of any notice from the Agent under Clause 7.2 (*Demands*) (unless the Account Party or the Obligors' Agent notifies the Agent otherwise) be deemed to have delivered to the Agent a duly completed Utilisation Request requesting a Revolving Facility Loan in an amount equal to the relevant Demand Amount which shall be drawn 3 Business Days following receipt by the Agent of notice from the relevant Issuing Bank under Clause 7.2 (*Demands*) and applied in discharge of the Demand Amount.
- (b) If the Account Party or the Obligors' Agent notifies the Agent pursuant to paragraph (a) above that a Loan is not to be drawn in accordance with the provisions of such paragraph, the Account Party shall within 3 Business Days after receipt of a notice from the Agent under Clause 7.2 (*Demands*) pay to the Agent for the account of the relevant Issuing Bank an amount equal to the relevant Demand Amount.
- (c) The Agent shall pay to the relevant Issuing Bank any amount received by it from the Account Party under paragraph (b) above.

7.4 Cash Cover

Each Issuing Bank is hereby irrevocably authorised by each Account Party following a demand under and in accordance with any Letter of Credit issued by that Issuing Bank to

apply all amounts of cash cover provided in respect of that Letter of Credit in satisfaction of that Account Party's obligations in respect of that Letter of Credit.

7.5 Fees payable in respect of Letters of Credit

- (a) Save in the case of a Bilateral Letter of Credit, if agreed between the Company and the applicable Issuing Bank, the Company or the Account Party shall pay to the Agent or the applicable Issuing Bank a fronting fee at the rate agreed between the Company and the applicable Issuing Bank prior to the appointment of that Issuing Bank on the outstanding amount which is counter-indemnified by the other Lenders (excluding that Issuing Bank and its Affiliates and Related Funds) of each Letter of Credit requested by it for the period from the issue of that Letter of Credit until its Expiry Date (or, if earlier, the date on which cash cover has been provided or the date of its replacement, prepayment or cancellation, if earlier). No fronting fee shall be payable in respect of any amount of any Letter of Credit which is repaid or prepaid or cash covered or collateralised or in relation to a Bilateral Letter of Credit or a Commitment established as an Ancillary Facility.
- (b) The Company or the Account Party shall pay to the Agent (for the account of each Lender with a Revolving Facility Commitment) a Letter of Credit fee in euro (or the currency of the relevant Letter of Credit) computed at the rate equal to 35 per cent. of the Margin applicable to a Revolving Facility Loan (or such other rate or amount as may be agreed between the Company and the relevant provider of such Letter of Credit) on the outstanding amount of each Letter of Credit (less any amount which has been repaid or prepaid) for the period from the issue of that Letter of Credit until its Expiry Date (or, if earlier, the date on which cash cover has been provided or the date of its replacement, prepayment or cancellation, if earlier). This fee shall be distributed according to each Lender's Letter of Credit Proportion of that Letter of Credit. No Letter of Credit fee shall be payable in respect of any amount of any Letter of Credit which is repaid or prepaid, cash covered or collateralised.
- (c) The accrued Letter of Credit fee on a Letter of Credit shall be payable quarterly falling at least three Months after the date of issue of that Letter of Credit (or such shorter period as shall end on the Expiry Date for that Letter of Credit) and on any date the Revolving Facility is cancelled in full and/or the Letter of Credit is repaid or prepaid in full (or as agreed between the Company and the relevant Lender), provided that:
 - (i) no Letter of Credit fee is payable if the Closing Date does not occur; and
 - (ii) no Letter of Credit fee is payable until the date falling 3 Business Days from the date on which the Agent notifies the Obligors' Agent in writing of the amount of the relevant Letter of Credit fee to be paid (such notification to include reasonable details of the calculation of the amount payable).
- (d) Notwithstanding anything to the contrary in the Finance Documents:
 - (i) no Letter of Credit fee shall accrue (or be payable) on the Letter of Credit Proportion of a Lender for any day on which that Lender is a Defaulting Lender; and
 - (ii) the Agent shall treat any reduction in the Letter of Credit fee pursuant to paragraph (i) above as reducing the amount payable to the relevant Defaulting Lender.

7.6 **Claims under a Letter of Credit**

- (a) Each Account Party irrevocably and unconditionally authorises each Issuing Bank to pay any claim made or purported to be made under a Letter of Credit issued by such Issuing Bank and requested by it (or requested by the Obligors' Agent on its behalf) and which appears on its face to be in order (a claim).
- (b) Each Account Party acknowledges that:
 - (i) no Issuing Bank is obliged to carry out any investigation or seek any confirmation from any other person before paying a claim;
 - (ii) each Issuing Bank deals in documents only and will not be concerned with the legality of a claim or any underlying transaction or any available set-off, counterclaim or other defence of any person; and
 - (iii) if an Issuing Bank, acting reasonably, informs the relevant Borrower or Borrowers not less than 2 Business Days prior to the issue of a Letter of Credit that the issue by it of a Letter of Credit would breach any law or regulation applicable to it, then such Issuing Bank will not be obliged to issue that Letter of Credit (provided that, for the avoidance of doubt, such Issuing Bank will remain an Issuing Bank for all other purposes under this Agreement and the Borrower will be free to request any other Lender to become the Issuing Bank in respect of that Letter of Credit).
- (c) The obligations of an Account Party under this Clause 7 will not be affected by:
 - (i) the sufficiency, accuracy or genuineness of any claim; or
 - (ii) any incapacity of, or limitation on the powers of, any person signing or delivering a claim.

7.7 **Indemnities**

- (a) Each Account Party shall immediately (save as referred to in Clause 7.1 (*Immediately Payable*)) on demand indemnify an Issuing Bank against any cost, loss or liability incurred by that Issuing Bank (otherwise than by reason of that Issuing Bank's negligence, wilful misconduct or breach of any term of the Finance Documents) in acting as the Issuing Bank under any Letter of Credit requested by (or on behalf of) that Account Party.
- (b) Each Lender shall immediately on demand indemnify the relevant Issuing Bank against such Lender's Letter of Credit Proportion of any cost, loss or liability incurred by such Issuing Bank (otherwise than by reason of that Issuing Bank's negligence, wilful misconduct or its breach of any term of the Finance Documents) in acting as the Issuing Bank under any Letter of Credit (unless the relevant Issuing Bank has been reimbursed by an Obligor).
- (c) Each Account Party shall immediately on demand reimburse any Lender for any payment it makes to an Issuing Bank under this Clause 7.7 in respect of any Letter of Credit requested by (or on behalf of) that Account Party (otherwise than by reason of that Issuing Bank's or that Lender's negligence, wilful misconduct or breach of any term of the Finance Documents).

- (d) The obligations of each Lender under this Clause 7.7 are continuing obligations and will extend to the ultimate balance of sums payable by that Lender in respect of any Letter of Credit, regardless of any intermediate payment or discharge in whole or in part.
- (e) The obligations of any Lender or Account Party under this Clause 7.7 will not be affected by any act, omission matter or thing which, but for this Clause 7.7, would reduce, release or prejudice any of its obligations under this Clause 7.7 (without limitation and whether or not known to it or any other person), including:
 - (i) any time, waiver or consent granted to, or composition with, any Obligor, any beneficiary under a Letter of Credit or any other person;
 - (ii) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor or any member of the Group;
 - (iii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce any rights against, or security over assets of, any Obligor, any beneficiary under a Letter of Credit or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - (iv) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor, any beneficiary under a Letter of Credit or any other person;
 - (v) any amendment (however fundamental) or replacement of a Finance Document, any Letter of Credit or any other document or security, unless in the case of amendments to a Letter of Credit, the Account Party had not provided its consent to such amendment(s);
 - (vi) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, any Letter of Credit (unless such obligation arose by reason of the relevant Issuing Bank's negligence, wilful misconduct or breach of any term of the Finance Documents) or any other security provided by an Obligor; or
 - (vii) any insolvency or similar proceedings.

7.8 **Rights of Contribution/Subrogation**

No Obligor will be entitled to any right of subrogation, contribution or indemnity from any Finance Party in respect of any payment it may make under this Clause 7 for so long as any sum remains payable or capable of becoming payable to any of the Finance Parties under the Finance Documents.

7.9 **Settlement Conditional**

Any settlement or discharge between a Lender and an Issuing Bank shall be conditional upon no security or payment to the Issuing Bank by a Lender or any other person on behalf of a Lender being avoided or reduced by virtue of any laws relating to bankruptcy, insolvency, liquidation or similar laws of general application and, if any such security or payment is so avoided or reduced, such Issuing Bank shall be entitled to recover the value

or amount of such security or payment from such Lender subsequently as if such settlement or discharge had not occurred.

7.10 Exercise of Rights

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

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

7.11 Lender as Issuing Bank

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

7.12 Cash Collateral by Defaulting Lender

- (a) If, at any time, a Lender under the Revolving Facility is a Defaulting Lender, the relevant Issuing Bank may, by notice to that Lender, request that Lender to pay and that Lender shall pay, on or prior to the date falling 3 Business Days after the request by the Issuing Bank, an amount equal to that Lender's Letter of Credit Proportion of any outstanding or proposed Letter of Credit and in the currency of that Letter of Credit to an interest-bearing account held in the name of that Lender with the Issuing Bank.
- (b) The Defaulting Lender to whom a request has been made in accordance with paragraph (a) above shall enter into a security document or other form of collateral arrangement over the account, in form and substance reasonably satisfactory to the Issuing Bank, as collateral for any amounts due and payable under the Finance Documents by that Lender to the Issuing Bank in respect of that Letter of Credit.
- (c) Until no amount is or may be outstanding under that Letter of Credit, withdrawals from the account may only be made to pay to the Issuing Bank amounts due and payable to the Issuing Bank by the Defaulting Lender under the Finance Documents in respect of that Letter of Credit.
- (d) Each Lender under the Revolving Facility shall notify the Agent, each Issuing Bank and the Obligors' Agent if it becomes a Defaulting Lender.
- (e) If a Lender who has provided cash collateral in accordance with this Clause 7.12:
 - (i) ceases to be a Defaulting Lender; and
 - (ii) no amount is due and payable by that Lender in respect of the relevant Letter of Credit,

that Lender may, at any time it is not a Defaulting Lender, by notice to the relevant Issuing Bank request that an amount equal to the amount of the cash provided by it as collateral in respect of that Letter of Credit (together with any accrued interest) standing to the credit of

the relevant account held with the Issuing Bank be returned to it and the Issuing Bank shall pay that amount to the Lender as soon as reasonably practicable after the request from the Lender.

7.13 Cash Cover by Obligor

- (a) If, at any time, a Lender under the Revolving Facility is a Defaulting Lender and fails to provide cash collateral (or notifies the relevant Issuing Bank that it will not provide cash collateral) in accordance with Clause 7.12 (*Cash Collateral by Defaulting Lender*) in respect of an outstanding Letter of Credit and the relevant Issuing Bank notifies the Obligors' Agent (with a copy to the Agent) that it requires the Obligors' Agent to procure that a member of the Group provides cash cover to an account with the Issuing Bank in an amount equal to the Defaulting Lender's Letter of Credit Proportion of that Letter of Credit and in the currency of that Letter of Credit, then, to the extent legally possible, the Obligors' Agent shall do so within 10 Business Days after the notice is given.
- (b) In the event that any member of the Group provides cash cover in respect of a Letter of Credit in accordance with this Clause 7.13, notwithstanding any other provision of the Finance Documents, if:
- (i) the relevant Issuing Bank is satisfied (acting reasonably) that the Defaulting Lender is no longer a Defaulting Lender; or
 - (ii) the Defaulting Lender's obligations in respect of the relevant Letter of Credit are transferred to a New Lender in accordance with the terms of this Agreement; or
 - (iii) another Lender has agreed to undertake the obligations in respect of the Defaulting Lender's Letter of Credit Proportion of the relevant Letter of Credit (including pursuant to Clause 2.4 (*Increase*),

that member of the Group may by notice to the relevant Issuing Bank request that an amount equal to the amount of the cash provided by it as cash cover in respect of that Letter of Credit (together with any accrued interest) standing to the credit of the relevant account held with the Issuing Bank be returned to it and the Issuing Bank shall pay that amount to that member of the Group within 3 Business Days after the request (and shall cooperate with the Group in order to procure that any relevant security or collateral arrangement is released and discharged).

- (c) To the extent that a member of the Group has complied with its obligations to provide cash cover in accordance with this Clause 7.13, the Defaulting Lender's Letter of Credit Proportion in respect of the relevant Letter of Credit will remain (but, for the avoidance of doubt, the Defaulting Lender's obligations in respect of the relevant Letter of Credit may be satisfied in accordance with paragraph (h)(ii) of Clause 1.2 (*Construction*)). However, the relevant Obligor's obligation to pay any fee in relation to that Letter of Credit (for the account of the Defaulting Lender) will be reduced proportionately as from the date on which it complies with the obligation to provide cash cover (and for so long as the relevant amount of cash cover continues to stand as collateral).

- (d) The relevant Issuing Bank shall promptly notify the Agent of the extent to which a member of the Group provides cash cover pursuant to this Clause 7.13 and of any change in the amount of the cash cover so provided.

8. OPTIONAL CURRENCIES

8.1 Selection of currency

A Borrower (or the Company on its behalf) shall select the currency (if other than the Base Currency) of the Utilisation in respect of a Facility in a Utilisation Request.

8.2 Unavailability of a currency

If, before the Specified Time:

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

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

9. ANCILLARY FACILITIES

9.1 Type of Facility

An Ancillary Facility may be by way of:

- (a) an overdraft facility or other current account facility;
- (b) a guarantee, bonding, documentary or stand-by letter of credit facility;
- (c) a short term loan facility;
- (d) a derivative facility;
- (e) a foreign exchange facility;
- (f) Bank Products;
- (g) Letter of Credit Arrangement;
- (h) Leasing Arrangements;
- (i) Treasury Transactions; or
- (j) any other facility or accommodation in the ordinary course of business or required in connection with the business of the Group and which is agreed to by a Borrower (or the Obligors' Agent on its behalf) with an Ancillary Lender.

9.2 **Availability**

- (a) Without prejudice to Clause 9.7 (*Affiliates of Lenders as Ancillary Lenders*) and Clause 9.8 (*Affiliates of Borrowers*), each Borrower (or the Obligors' Agent on behalf of a Borrower) may, at any time during the Availability Period applicable to the Revolving Facility, by notice in writing to the Agent request the establishment of an ancillary facility by the conversion of a Lender's unutilised Revolving Facility Commitment (or a part thereof) into an Ancillary Commitment (an "**Ancillary Facility**") with effect from the date (the "**Effective Date**") specified in such notice, provided that unless otherwise agreed by the Agent, each notice requesting the establishment of an Ancillary Facility shall be delivered to the Agent not later than 10.00 a.m. on the day falling 3 Business Days prior to the Effective Date for that Ancillary Facility.
- (b) An Ancillary Facility shall not be made available unless the Agent has first been provided with the notice and other information contemplated by Clause 9.3 (*Notification Process*).
- (c) Upon the Effective Date, the Lender concerned will become an Ancillary Lender and the Ancillary Facility will be available (subject to the Agent having received notification in writing from the Lender so nominated that it agrees to provide the proposed Ancillary Facility).
- (d) The Agent shall promptly notify the relevant Borrower and Ancillary Lender of the establishment of an Ancillary Facility.

9.3 **Notification Process**

Unless otherwise agreed by the Agent, not later than 10.00 a.m. on the day falling 3 Business Days prior to the Commencement Date for an Ancillary Facility, the relevant Borrower (or the Obligors' Agent on its behalf) shall deliver to the Agent a notice specifying:

- (a) the proposed Borrower (or Affiliates of a Borrower) which may use the Ancillary Facility;
- (b) the proposed 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 and the amount of that Ancillary Commitment specified as an amount in the Base Currency;
- (f) if the Ancillary Facility is a Multi-account Overdraft, its maximum gross amount (that amount being the "**Designated Gross Amount**") and its maximum net amount (that amount being the "**Designated Net Amount**"); and
- (g) the proposed currency or currencies of the Ancillary Facility.

9.4 **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 relevant Borrower (or the Obligors' Agent on its behalf).
- (b) However, 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 9.8 (*Affiliates of Borrowers*)) to use the Ancillary Facility;
 - (iii) may not allow the Ancillary Outstandings to exceed the relevant Ancillary Commitment; and
 - (iv) may not allow the Ancillary Commitment of a Lender to exceed the Available Commitment of that Lender with respect to the Revolving Facility (ignoring for this purpose any reduction in the Available Commitment arising out of such Lender providing an Ancillary Commitment).
- (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*) which shall not prevail for the purposes of calculating fees, interest or commission relating to an Ancillary Facility; and
 - (ii) where the relevant term of this Agreement would be contrary to, or inconsistent with, the law governing the relevant Ancillary Facility, in which case that term of this Agreement shall not prevail.
- (d) Subject to compliance with paragraph (b) above, no amendment or waiver of any term of an Ancillary Facility shall require the consent of any Finance Party other than the relevant Ancillary Lender.
- (e) Each Ancillary Lender agrees with and for the benefit of each Lender that:
- (i) the Ancillary Outstandings under any Ancillary Facility provided by that Ancillary Lender shall not exceed the Ancillary Commitment applicable to that Ancillary Facility and in the case of a Multi-account Overdraft, Ancillary Outstandings under that Ancillary Facility shall not exceed the Designated Net Amount in respect of that Ancillary Facility; and
 - (ii) where all or part of the Ancillary Facility is a Multi-account Overdraft, the Gross Outstandings shall not exceed the Designated Gross Amount applicable to that Ancillary Facility.

9.5 **Refinancing of Ancillary Facilities**

- (a) Subject to paragraph (b) below, unless otherwise agreed by the Obligors' Agent, no Ancillary Lender may demand repayment or prepayment of any amount under an Ancillary Facility prior to the scheduled expiry date of such 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; or
 - (ii) the Total Revolving Facility Commitments have been cancelled in full or all outstanding Utilisations under the Revolving Facility have become due and payable in accordance with the terms of this Agreement; or

- (iii) it becomes unlawful in any applicable jurisdiction for the relevant Ancillary Lender to perform any of its obligations as contemplated by this Agreement in respect of, or to fund, issue or maintain its participation in, such Ancillary Facility; or
 - (iv) the Ancillary Outstandings under that Ancillary Facility can be and are refinanced by a Revolving Facility Loan (and not less than 10 Business Days' notice is given to the relevant Borrower before payment becomes due).
- (b) If an Ancillary Facility expires in accordance with its terms, the relevant Ancillary Commitments shall be cancelled in full (and the available Revolving Facility Commitment of the Ancillary Lender shall be increased accordingly).
- (c) For the purpose of determining whether or not the Ancillary Outstandings under an Ancillary Facility can be refinanced by a Revolving Facility Loan (as referred to in paragraph (a)(iv) above), the available Revolving Facility Commitment of the Ancillary Lender will be increased by the amount of its Ancillary Commitment.
- (d) The share of the Ancillary Lender in a Revolving Facility Loan being used to refinance that Ancillary Lender's Ancillary Facility will be that amount which will result (so far as possible) in:
- (i) the proportion which its share of all outstanding Revolving Utilisations bears to the aggregate amount of all outstanding Revolving Utilisations,
- being equal to:
- (ii) the proportion which its Available Commitment with respect to the Revolving Facility bears to the Available Facility with respect to the Revolving Facility,
- in each case, assuming the repayment of the relevant Ancillary Facility has taken place. The share of the other Lenders in any such Revolving Facility Loan will be adjusted accordingly.

9.6 **Information**

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

9.7 **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 of such Lender's Revolving Facility Commitment under the relevant Revolving Facility transferred to or assumed by that Lender under this Agreement, to the extent (in each case) not cancelled, reduced or transferred by it under this Agreement. For the purposes of calculating a Lender's Available Commitment with respect to the Revolving Facility, that Lender's Commitment shall be reduced to the extent of the aggregate of the Ancillary Commitments of its Affiliates.

- (b) The relevant Borrower (or the Obligors' Agent on its behalf) shall specify any relevant Affiliate of a Lender in any notice delivered by it to the Agent pursuant to Clause 9.3 (*Notification Process*).
- (c) An Affiliate of a Lender which becomes an Ancillary Lender shall accede to the Intercreditor Agreement by delivery to the Agent of a duly completed Creditor Accession Undertaking.
- (d) If a Lender assigns all of its rights and benefits or transfers all of its rights and obligations to a New Lender, its Affiliate shall cease to have any rights or obligations under this 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.

9.8 **Affiliates of Borrowers**

- (a) Subject to the terms of this Agreement, an Affiliate of a Borrower may (with the approval of the relevant Ancillary Lender) become a borrower with respect to an Ancillary Facility.
- (b) A Borrower (or the Obligors' Agent on its behalf) shall specify any of its Affiliates which may utilise an Ancillary Facility in any notice delivered by it to the Agent pursuant to Clause 9.3 (*Notification Process*).
- (c) If a Borrower ceases to be a Borrower under this Agreement in accordance with Clause 30 (*Changes to the Obligors*), its Affiliates shall cease to have any right to utilise an Ancillary Facility (unless that Affiliate is also an Affiliate of another Borrower).
- (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 Borrower which requested that Ancillary Facility 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.
- (f) In the event that any Affiliate of a Borrower becomes a borrower of an Ancillary Facility in accordance with this Clause 9.8, for the purposes of the Finance Documents and without prejudice to any obligations of such Affiliate, that Borrower shall remain liable for any Ancillary Outstandings advanced to such Affiliate under the relevant Ancillary Facility (in each case only to the extent that to do so would not breach any applicable law or regulation or present a material risk of liability for any member of the Group and/or its officers or directors, or give rise to a material risk of breach of fiduciary or statutory duties by any director or officer).

9.9 Existing Ancillary Facilities

A Borrower (or the Obligors' Agent on its behalf) may by notice in writing to the Agent request that any Existing Ancillary Facility be deemed to be an Ancillary Facility established under the Revolving Facility and with effect from the later of the date specified in such notice (being a date not less than 2 Business Days (or such shorter period as Agent may agree) after the date such notice is delivered to the Agent) and the Closing Date, that Existing Ancillary Facility shall be an Ancillary Facility for all purposes under this Agreement, subject to the Agent having received notification in writing from the Lender concerned (or, as the case may be, the Affiliate of the Lender concerned) that it agrees to that Existing Ancillary Facility being an Ancillary Facility for all purposes under this Agreement.

For the avoidance of doubt and notwithstanding any other provision of this Agreement, any Existing Ancillary Facility to which this Clause 9.9 applies and the terms of such Existing Ancillary Facility shall be permitted by the terms of this Agreement and the Finance Documents and, unless otherwise agreed between the Company and the provider of such Existing Ancillary Facility, the terms of such Existing Ancillary Facility shall continue to apply.

9.10 Continuation of Ancillary Facilities

A Borrower and an Ancillary Lender may agree, as between themselves only, that any Ancillary Facilities will continue to remain available following the Termination Date relating to the Revolving Facility (or on any other earlier cancellation of the Revolving Facility Commitments) on a bilateral basis between such parties and not under (or subject to the terms of) the Finance Documents (in which case such Ancillary Facilities will be treated as repaid in full for all purposes under the Finance Documents).

9.11 Revolving Facility Commitment

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

- (a) each of its Ancillary Commitments; and
- (b) each Ancillary Commitment of each of its Affiliates.

10. REPAYMENT

10.1 Repayment of Term Facility Loans

The Company shall repay the aggregate outstanding Term Facility Loans in full on the Termination Date for the Term Facility.

10.2 Repayment of Revolving Facility Loans

- (a) Subject to paragraph (b) below:
 - (i) the Company shall repay each Revolving Facility Loan on the last day of its Interest Period; and
 - (ii) all Revolving Facility Loans outstanding on the Termination Date for the Revolving Facility shall be repaid in full on that date.
- (b) Without prejudice to the Company's obligation under paragraph (a) above, if one or more Revolving Facility Loans are to be made available to the Company:

- (i) on the same day that a maturing Revolving Facility Loan is due to be repaid by the Company; and
- (ii) in whole or in part for the purpose of refinancing that maturing Revolving Facility Loan,

the aggregate amount of the new Revolving Facility Loans shall be treated as if applied in or towards repayment of the maturing Revolving Facility Loan so that:

- (A) if the amount of the maturing Revolving Facility Loan exceeds the aggregate amount of the new Revolving Facility Loans:
 - (I) the Company will only be required to pay an amount in cash in the relevant currency equal to that excess; and
 - (II) each Lender's participation (if any) in the new Revolving Facility Loans shall be treated as having been made available and applied by the Company in or towards repayment of that Lender's participation (if any) in the maturing Revolving Facility Loan and that Lender will not be required to make its participation in the new Revolving Facility Loans available in cash; and
- (B) if the amount of the maturing Revolving Facility Loan is equal to or less than the aggregate amount of the new Revolving Facility Loans:
 - (I) the Company will not be required to make any payment in cash; and
 - (II) each Lender will be required to make its participation in the new Revolving Facility Loans available in cash only to the extent that its participation (if any) in the new Revolving Facility Loans exceeds that Lender's participation (if any) in the maturing Revolving Facility Loan and the remainder of that Lender's participation in the new Revolving Facility Loans shall be treated as having been made available and applied by the Company in or towards repayment of that Lender's participation in the maturing Revolving Facility Loan.
- (c) In any circumstances where the Revolving Facility is required to be repaid and cancelled in full, each Borrower will repay the Ancillary Facilities made available to it unless the relevant Ancillary Lender agrees to continue to provide such ancillary facilities on a bilateral basis (in which case such Ancillary Facilities will be treated as repaid in full for all purposes under the Finance Documents) as contemplated by Clause 9.10 (*Continuation of Ancillary Facilities*).
- (d) At any time when a Lender becomes a Defaulting Lender, the maturity date of each of the participations of that Lender in the Revolving Facility Loans then outstanding will be automatically extended to the Termination Date applicable to the Revolving Facility and will be treated as separate Revolving Facility Loans (the "**Separate Loans**").
- (e) A Borrower (or the Company on its behalf) may prepay a Separate Loan by giving not less than five Business Days' prior notice to the Agent. The Agent will forward a copy of a

prepayment notice received in accordance with this paragraph (e) to the Defaulting Lender concerned as soon as practicable on receipt.

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

10.3 **Repayment of Letters of Credit**

If the Expiry Date of a Letter of Credit extends beyond the Termination Date for the Revolving Facility, on such Termination Date the relevant Borrower will repay or prepay such Letter of Credit unless that Borrower and the relevant Issuing Bank agree that such Letter of Credit will remain outstanding on a bilateral basis between such parties and not under (or subject to the terms of) the Finance Documents (in which case such Letter of Credit will be treated as repaid in full for all purposes under the Finance Documents).

10.4 **Repayment of Additional Facility Loans**

Each Borrower shall repay all amounts borrowed by it under an Additional Facility in accordance with the terms set out in the Additional Facility Notice relating to that Additional Facility.

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

11.1 **Illegality**

If after the date of this Agreement (or, if later, the date the relevant Lender became a Party) it becomes unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in any Utilisation (an "**Illegality Event**"):

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event and the Agent shall notify the Company as soon as reasonably practicable after receiving such notice;
- (b) upon the Agent notifying the Company ("**Notice to the Company**"), the Available Commitment of that Lender will be immediately reduced or cancelled to the extent necessary to comply with applicable law or, (save in circumstances where it would be illegal for the relevant Utilisation to remain in place) at the Company's request, the Lender's Commitment shall be transferred to another person pursuant to Clause 41.7 (*Replacement of a Lender*); and
- (c) to the extent that the Lender's participations have not been transferred pursuant to Clause 41.7 (*Replacement of a Lender*), the relevant Borrower (or the Company on its behalf) shall repay that Lender's reduced and cancelled participation in the Utilisations on the last day of the Interest Period for each Utilisation occurring after the Agent has notified the Company or, if earlier, the date specified by the Lender

in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment(s) shall be immediately cancelled in the amount of the participations repaid.

11.2 **Illegality in relation to Issuing Bank or Ancillary Lender**

Issuing Bank: If, after the date of this Agreement (or, if later, the date the relevant Letter of Credit is issued), it becomes unlawful in any applicable jurisdiction for an Issuing Bank to issue or leave outstanding any Letter of Credit, then:

- (a) that Issuing Bank shall promptly notify the Agent upon becoming aware of that event and the Agent shall notify the Company as soon as reasonably practicable after receiving such notice;
- (b) upon the Agent notifying the Company:
 - (i) the Issuing Bank shall not be obliged to issue any Letter of Credit; and
 - (ii) the Company shall procure that the relevant Borrower shall use all reasonable endeavours to procure the release of each Letter of Credit issued by that Issuing Bank and outstanding at such time or provide cash cover in the amount of the Letter of Credit for that Issuing Bank.

Ancillary Lender: If, after the date of this Agreement (or, if later, the date the relevant Ancillary Facility is entered into between an Obligor and that Ancillary Lender or is designated an Ancillary Facility for the purposes of this Agreement), it becomes unlawful in any applicable jurisdiction for that Ancillary Lender to perform any of its obligations as contemplated by the applicable Ancillary Document relating to that Ancillary Facility or to fund, issue or maintain its participation in that Ancillary Facility, then:

- (a) that Ancillary Lender shall promptly notify the Agent upon becoming aware of that event and the Agent shall notify the Company as soon as reasonably practicable after receiving such notice;
- (b) upon the Agent notifying the Company:
 - (i) the Ancillary Commitment of that Ancillary Lender will be immediately reduced or cancelled to the extent necessary to comply with applicable law or, at the Company's request, shall be transferred to another person; and
 - (ii) (to the extent not transferred to another person) the Company shall procure that the relevant Obligor shall use all reasonable endeavours to procure the repayment, prepayment and/or release of such Ancillary Facility to the extent necessary to comply with applicable law,

in each case subject to and in accordance with the terms of the applicable Ancillary Document and unless otherwise agreed between the Ancillary Lender (or its Affiliate) and an Obligor (or the Company on its behalf).

11.3 **Voluntary cancellation**

The Company may, if it gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders of the relevant Facility may agree) prior notice, cancel the whole or any part (but, if in part, being a minimum amount of EUR 500,000) of any Available Facility. Any cancellation under this Clause 11.3 shall reduce the Commitments of the Lenders rateably under that Facility.

11.4 **Voluntary prepayment of Term Facility Loans**

(a) If a Borrower (or the Company on its behalf) gives the Agent not less than:

- (i) in the case of a Term Rate Loan, three Business Days' (or such shorter period as the Majority Lenders may agree) prior notice; or
- (ii) in the case of a Compounded Rate Loan, three RFR Banking Days' (or such shorter period as the Majority Lenders may agree) prior notice,

the relevant Borrower (or the Company on its behalf) may prepay the whole or any part of a Term Facility Loan (but, if in part, being an amount that reduces the amount of that Loan by a minimum amount of EUR 500,000 or such lesser amount as may be outstanding or such other amount as the Majority Lenders may agree).

(b) Notwithstanding any other provision in this Agreement, any voluntary prepayment shall be applied against such Term Facility Loans as the relevant Borrower (or the Company on its behalf) may direct (and shall reduce the participations of the Lenders under such Loan on a pro rata basis).

11.5 **Voluntary prepayment of Revolving Facility Loans**

(a) If a Borrower (or the Company on its behalf) gives the Agent not less than:

- (i) in the case of a Term Rate Loan, three Business Days' (or such shorter period as the Majority Lenders may agree) prior notice; or
- (ii) in the case of a Compounded Rate Loan, three RFR Banking Days' (or such shorter period as the Majority Lenders may agree) prior notice,

the relevant Borrower (or the Company on its behalf) may prepay the whole or any part of a Revolving Facility Loan (but, if in part, being an amount that reduces the amount of that Loan by a minimum amount of EUR 250,000 or such lesser amount as may be outstanding or such other amount as the Majority Lenders may agree).

(b) Notwithstanding any other provision in this Agreement, any voluntary prepayment shall be applied against such Revolving Facility Loans as the relevant Borrower (or the Company on its behalf) may direct.

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

(a) If:

- (i) any Lender becomes a Non-Consenting Lender;
- (ii) any Lender becomes a Competitor following the date upon which it becomes a Lender;

- (iii) any Lender gives notice under Clause 17.4 (*Market disruption*);
 - (iv) any sum payable to any Lender by the Company is required to be increased under paragraph (c) of Clause 19.3 (*Tax gross-up*); or
 - (v) any Lender or Issuing Bank claims indemnification from the Company under paragraph (a) of Clause 19.4 (*Tax indemnity*) or Clause 20.1 (*Increased Costs*),
the Company may, whilst the Lender continues to be a Non-Consenting Lender or a Competitor, the circumstance giving rise to the notification under Clause 17.4 (*Market disruption*) continues or the requirement for that increase or indemnification continues, give the Agent notice of:
 - (A) (if such circumstances relate to a Lender) cancellation of the Available Commitment of that Lender and its intention to procure the repayment of that Lender's participation in the Utilisations;
 - (B) (if such circumstances relate to the Issuing Bank) repayment of any outstanding Letter of Credit issued by it and cancellation of its appointment as an Issuing Bank under this Agreement in relation to any Letters of Credit to be issued in the future; or
 - (C) its intention to replace that Lender pursuant to Clause 41.7 (*Replacement of a Lender*) and in accordance with Clause 29 (*Changes to the Lenders*).
- (b) On receipt of a notice referred to in paragraph (a)(v)(A) above, the Available Commitment of that Lender shall immediately be reduced to zero.
 - (c) To the extent that the Lender's participations in the Utilisations have not been transferred pursuant to Clause 41.7 (*Replacement of a Lender*) on or prior to such date, on the last day of each Interest Period which ends after the Company has given notice under paragraph (a)(v)(A) above (or, if earlier, the date specified by the Company in that notice), the relevant Borrower (or the Company on its behalf) shall repay that Lender's participation in the Utilisations together with all interest and other amounts accrued under the Finance Documents.

11.7 Right of cancellation in relation to a Defaulting Lender

- (a) If any Lender becomes a Defaulting Lender, the Company may, at any time whilst the Lender continues to be a Defaulting Lender, give the Agent not less than three Business Days' notice of cancellation of each Available Commitment of that Lender.
- (b) On the notice referred to in paragraph (a) above becoming effective, each Available Commitment of the Defaulting Lender shall immediately be reduced to zero.
- (c) The Agent shall, as soon as practicable after receipt of a notice referred to in paragraph (a) above, notify all the Lenders.

12. MANDATORY PREPAYMENT

12.1 Exit

Upon the occurrence of a Change of Control or, following Completion, a Sale, the Company shall promptly notify the Agent upon becoming aware of that event and:

- (a) a Lender shall not be obliged to fund a Utilisation, except for a Rollover Loan; and
- (b) if a Lender so requires and notifies the Agent within 20 Business Days of the earlier of (i) the Company notifying the Agent of that event and (ii) the date on which that Lender becomes aware of the event:
 - (i) the Agent shall, by not less than 15 Business Days' notice to the Company, cancel the relevant Commitments of that Lender and declare the participation of that Lender in all outstanding Utilisations of that Lender, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Commitment of that Lender will be cancelled and all such outstanding Utilisations and amounts will become immediately due and payable; and
 - (ii) each Borrower will within 15 Business Days of receiving notice from the Agent, repay or procure the repayment of all sums advanced to it under any Ancillary Facility made available by that Lender (provided that a Borrower and an Ancillary Lender may agree, as between themselves only, that any Ancillary Facilities will continue to remain available on a bilateral basis between such parties and not under (or subject to the terms of) the Finance Documents).

12.2 Excess Cashflow

Subject to Clause 13.9 (*Application of prepayments*), the Company shall procure that the Borrowers prepay Utilisations, and cancel Available Commitments, and in the order of application contemplated by Clause 13.9 (*Application of prepayments*), within 20 Business Days after delivery of a Compliance Certificate in relation to each Test Date falling after the fourth anniversary of the Closing Date, in an amount equal to 100 per cent. of the relevant Excess Cashflow for the Testing Period ending on each such Test Date (provided that, in respect of the first such Test Date, such amount shall be reduced in proportion to the number of days in that Testing Period (if any) which fall prior to the fourth anniversary of the Closing Date).

12.3 General

- (a) Subject to paragraph (b) below, all prepayments referred to in this Clause 12 (other than prepayments made pursuant to Clause 12.1 (*Exit*)) are subject to permissibility under applicable law. The Company is not required to make a prepayment if and to the extent the relevant prepayment amount is not freely available and transferable to the Company or where such prepayment would be unlawful or is prohibited or restricted by applicable law or regulation or sanctions or any other matter (including, without limitation, rules relating to

financial assistance, exchange controls, corporate benefit and upstreaming of cash balances between members of the Group) or cannot be made without:

- (i) breaching a corporate benefit, financial assistance or other legal restriction (including as to lack of distributable reserves); or
 - (ii) the directors of a member of the Group incurring a material risk of any civil or criminal liability or breach of fiduciary or statutory duties or personal liability; or
 - (iii) incurring a Tax or cost (including any associated swap costs and currency conversion costs) of more than three per cent. of the amount to be prepaid.
- (b) The Company will use its reasonable endeavours to overcome any restrictions and/or minimise any costs of prepayment. If at any time those restrictions are removed, any relevant proceeds will be applied in prepayment of the Facilities at the end of the then current Interest Period.

13. RESTRICTIONS

13.1 Notices of cancellation or prepayment

Any notice of cancellation, prepayment, authorisation or other election given by any Party under Clause 11 (*Illegality, Voluntary Prepayment and Cancellation*) shall (subject to the terms of those Clauses) be irrevocable and, unless a contrary indication appears in this Agreement, any such notice 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 without premium or penalty.

13.3 No reborrowing of the Term Facility

The Company not may reborrow any part of the 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 repaid or prepaid may be reborrowed in accordance with the terms of this Agreement.

13.5 Prepayment in accordance with Agreement

The Company shall not repay or prepay all or any part of the Utilisations or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

13.6 No reinstatement of Commitments

Subject to Clause 2.3 (*Additional Facilities*) and Clause 2.4 (*Increase*), no amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

13.7 **Agent's receipt of notices**

If the Agent receives a notice under Clause 11 (*Illegality, Voluntary Prepayment and Cancellation*), it shall promptly forward a copy of that notice or election to either the Company or the affected Lender, as appropriate.

13.8 **Effect of repayment and prepayment on Commitments**

If (other than in connection with a Debt Pushdown) all or part of a Utilisation under a Facility is repaid or prepaid and is not available for redrawing (other than by operation of Clause 4.2 (*Further conditions precedent*) or Clause 4.4 (*Utilisations during the Certain Funds Period*)), an amount of the Commitments (equal to 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 **Application of prepayments**

- (a) Any voluntary prepayment of a Utilisation (other than a prepayment pursuant to Clause 11.1 (*Illegality*) or Clause 11.2 (*Illegality in relation to Issuing Bank or Ancillary Lender*) or Clause 11.6 (*Right of repayment and cancellation in relation to a single Lender*)) may be applied against all or any part of the Facilities and all or any part of the Loans or Utilisations as selected by the Company (or the applicable Borrower).
- (b) A prepayment of Utilisations made under Clause 12.2 (*Excess Cashflow*) shall be applied in the following order:
 - (i) first, *pro rata* in prepayment of Term Facility Loans;
 - (ii) secondly, *pro rata* in prepayment of Revolving Facility Loans; and
 - (iii) thirdly, in repayment of the Ancillary Outstandings.
- (c) Unless the Company makes an election under paragraph (d) below, the Borrowers shall prepay Loans in the case of any prepayment relating to an amount of Excess Cashflow required by Clause 12.2 (*Excess Cashflow*), within 20 Business Days of delivery of a Compliance Certificate in relation to each Test Date falling after the fourth anniversary of the Closing Date.
- (d) Subject to paragraph (e) below, the Company may elect that any prepayment of Excess Cashflow under Clause 12.2 (*Excess Cashflow*) be applied in prepayment of a Loan on the last day of the Interest Period relating to that Loan. If the Company 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.
- (e) If the Company has made an election under paragraph (d) above but an Event of Default has occurred and is continuing, that election shall no longer apply and a proportion of the Loan in respect of which the election was made equal to the amount of the relevant prepayment shall become immediately due and payable (unless the Majority Lenders otherwise agree in writing).

14. RATE SWITCH

14.1 Switch to Compounded Reference Rate

Subject to Clause 14.2 (*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 15.2 (*Calculation of interest – Compounded Rate Loans*) shall apply to each such Loan or Unpaid Sum.

14.2 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 15.1 (*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 15.2 (*Calculation of interest – Compounded Rate Loans*) shall apply to that Loan.

14.3 Notifications by Agent

- (a) Following the occurrence of a Rate Switch Trigger Event for a Rate Switch Currency, the Agent shall:
 - (i) promptly upon becoming aware of the occurrence of that Rate Switch Trigger Event, notify the Company and the Lenders of that occurrence; and
 - (ii) promptly upon becoming aware of the date of the Rate Switch Trigger Event Date applicable to that Rate Switch Trigger Event, notify the Company and the Lenders of that date.
- (b) The Agent shall, promptly upon becoming aware of the occurrence of the Rate Switch Date for a Rate Switch Currency, notify the Company and the Lenders of that occurrence.

14.4 Rate switch definitions

In this Agreement:

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

- (a) the date (if any) specified as such in the applicable Reference Rate Terms; or
- (b) any other date agreed as such between the Agent and the Company in relation to that currency.

"Rate Switch Currency" means a Term Rate Currency for which there are Reference Rate Terms applicable to Compounded Rate Loans.

"Rate Switch Date" means:

- (a) in relation to a Rate Switch Currency, the earlier of:
 - (i) the Backstop Rate Switch Date; and
 - (ii) any Rate Switch Trigger Event Date,
for that Rate Switch Currency; or
- (b) in relation to a Rate Switch Currency which:
 - (i) becomes a Rate Switch Currency after the date of this Agreement; and
 - (ii) for which there is a date specified as the "Rate Switch Date" in the applicable Reference Rate Terms,

that date.

"Rate Switch Trigger Event" means:

- (a) in relation to any Rate Switch Currency and the Primary Term Rate applicable to Loans in that Rate Switch Currency:
 - (i)
 - (A) the administrator of that Primary Term 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 Primary Term Rate is insolvent,

provided that, in each case, at that time, there is no successor administrator to continue to provide that Primary Term Rate;
 - (ii) the administrator of that Primary Term Rate publicly announces that it has ceased, or will cease, to provide that Primary Term Rate for any Quoted Tenor permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Primary Term Rate for that Quoted Tenor;
 - (iii) the supervisor of the administrator of that Primary Term Rate publicly announces that such Primary Term Rate has been or will be permanently or indefinitely discontinued for any Quoted Tenor; or
 - (iv) the administrator of that Primary Term Rate or its supervisor publicly announces that that Primary Term Rate for any Quoted Tenor may no longer be used; or

- (b) in relation to the Primary Term Rate for euro, the supervisor of the administrator of that Primary Term Rate publicly announces or publishes information stating that that Primary Term 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).

"Rate Switch Trigger Event Date" means, in relation to a Rate Switch Currency:

- (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 Primary Term 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)(ii), (a)(iii) or (a)(iv) of the definition of "Rate Switch Trigger Event", the date on which the relevant Primary Term 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 Primary Term 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 Primary Term Rate).

15. INTEREST

15.1 Calculation of interest – Term Rate Loans

The rate of interest on each Term Rate Loan for an Interest Period shall be the percentage rate per annum which is the aggregate of the applicable:

- (i) Margin; and
- (ii) Term Reference Rate,

provided that if such rate is less than zero, the interest rate shall be deemed to be zero.

15.2 Calculation of interest – Compounded Rate Loans

- (a) The rate of interest on each Compounded Rate Loan for any day during an Interest Period shall be the percentage rate per annum which is the aggregate of the applicable:

- (i) Margin; and
- (ii) Compounded Reference Rate for that day,

provided that if such rate is less than zero, the interest rate shall be deemed to be zero.

- (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.

15.3 **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 for that Loan (or, if later, the date falling three (3) Business Days after the date on which the Agent notifies the relevant Borrower in writing of the amount of the relevant interest to be paid).
- (b) If the Annual Financial Statements and related Compliance Certificate received by the Agent show a higher or lower Margin should have applied during a certain period, then the next payment of interest under the relevant Facility following receipt of the relevant Annual Financial Statements by the Agent shall be increased or reduced (as the case may be) by such amount as is necessary to put the Agent and the Lenders in the position that they should have been in had the appropriate rate of Margin been applied at the time (provided that (i) any such reduction shall only apply to the extent the Lender which received the overpayment of interest remains a Lender as at the date of such adjustment; (ii) with respect to payments to Lenders, such payments shall only apply to Lenders who were participating in the relevant Facility both at the time to which the adjustments relate and the time when the adjustments are actually made; and (iii) the calculations shall be made on the relevant Lenders' participations in the relevant Facility at the time the adjustments are actually made).

15.4 **Default interest**

- (a) If the Company 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 is 1 per cent. per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 15.4 shall be immediately payable by the Company on demand by the 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 the sum of 1 per cent. per annum and 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.

15.5 **Notification of rates of interest**

- (a) The Agent shall promptly notify the relevant Lenders and the relevant Borrower of the determination of a rate of interest relating to a Term Rate Loan.

- (b) The Agent shall promptly upon a Compounded Rate Interest Payment being determinable notify:
- (i) the relevant Borrower 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 of:
 - (A) each applicable rate of interest relating to the determination of that Compounded Rate Interest Payment and the Compounded Reference Rate for each such day;
 - (B) to the extent it is then determinable, the Market Disruption Rate (if any) relating to the relevant Compounded Rate Loan; and
 - (C) any other information that the relevant Borrower may reasonably request in relation to that Compounded Rate Interest Payment.

This paragraph (b) shall not apply to any Compounded Rate Interest Payment determined pursuant to Clause 17.5 (*Cost of funds*).

- (c) The Agent shall promptly notify the relevant Borrower (or the Company) of each Funding Rate relating to a Loan.
- (d) The Agent shall promptly notify the relevant Lenders and the Company of the determination of a rate of interest relating to a Compounded Rate Loan to which Clause 17.5 (*Cost of funds*) applies.
- (e) This Clause 15.5 shall not require the Agent to make any notification to any Party on a day which is not a Business Day.

16. **INTEREST PERIODS**

16.1 **Selection of Interest Periods and terms**

- (a) A Borrower (or the Company 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 Facility Loan and has already been borrowed) in a Selection Notice.
- (b) Each Selection Notice for a Term Facility Loan is irrevocable and must be delivered to the Agent by the relevant Borrower (or the Company on behalf of the relevant Borrower) not later than the Specified Time.
- (c) If the relevant Borrower (or the Company) fails to deliver a Selection Notice to the Agent in accordance with paragraph (b) above, the relevant Interest Period will be three Months.
- (d) Subject to this Clause 16, a Borrower (or the Company) may select an Interest Period of:
- (i) one (in relation to the Revolving Facility only), three or six Months (or, in relation to a Compounded Rate Loan, any period specified in the applicable Reference Rate Terms); or

- (ii) any other period agreed between the Company and the Agent (acting on the instructions of the Lenders in relation to that Facility).
- (e) Notwithstanding paragraph (d), the Company may select an Interest Period for a Loan under any of the Facilities of a period commencing on the applicable Utilisation Date and ending on any date falling on or before six Months thereafter. The Company may also select the final Interest Period for a Loan under any of the Facilities, such period being no greater than six Months unless agreed otherwise between the Company and the Agent (acting on the instructions of the Majority Lenders in relation to that Facility).
- (f) Notwithstanding paragraph (d) or (e), a Borrower (or the Company on its behalf) may select an Interest Period of any duration of up to six Months if necessary or desirable:
 - (i) to align an Interest Period to the end of a financial quarter, particular reporting or accounting date or the last calendar day or last Business Day of any Month;
 - (ii) to align an Interest Period with an Interest Period for any other Loan then outstanding or to an interest or coupon payment date in respect of any Permitted Financial Indebtedness;
 - (iii) to implement or facilitate any hedging in relation to any of the Facilities or any payment thereunder; or
 - (iv) to facilitate syndication of any Facility,
 or any other period agreed between the Company and the Agent, if less than six months, or the Company and the Lenders of the relevant Loan or Facility if more than six months.
- (g) An Interest Period for a Loan shall not extend beyond the applicable Termination Date.
- (h) Each Interest Period for a Term Facility Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.
- (i) A Revolving Facility Loan has one Interest Period only.

16.2 Non-Business Days

If a Loan or Unpaid Sum is a Compounded Rate Loan and there are rules specified as "Business Day Conventions" in the applicable Reference Rate Terms for that Loan or Unpaid Sum, those rules shall apply to each Interest Period for that Loan or Unpaid Sum.

17. CHANGES TO THE CALCULATION OF INTEREST

17.1 Interest calculation if no Primary Term Rate

- (a) *Interpolated Primary Term Rate*: If no Primary Term Rate is available for the Interest Period of a Term Rate Loan, the applicable Term Reference Rate shall be the Interpolated Primary Term Rate for a period equal in length to the Interest Period of that Loan.
- (b) *Reference Bank Rate*: If, after giving effect to paragraph (a) above, no Primary Term Rate is available for:
 - (i) the currency of a Term Rate Loan; or

- (ii) the Interest Period of a Term Rate Loan and it is not possible to calculate the Interpolated Primary Term Rate,

the applicable Term Reference Rate shall be the Reference Bank Rate as of the Specified Time for the currency of that Term Rate Loan and for a period equal in length to the Interest Period of that Term Rate 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 Term Reference Rate for that Term Rate Loan and Clause 17.5 (*Cost of funds*) shall apply to that Term Rate Loan for that Interest Period.

17.2 Calculation of Reference Bank Rate

- (a) Subject to paragraph (b) below, if a Term Reference Rate is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.
- (b) If at or about noon on the Quotation Day, none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period.

17.3 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 Compounded Rate Loan in the applicable Reference Rate Terms for that Compounded Rate Loan,

Clause 17.5 (*Cost of funds*) shall apply to that Compounded Rate Loan for that Interest Period.

17.4 Market disruption

- (a) If, in the case of a Term Rate Loan, before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receives notifications from a Lender or Lenders (whose participations in a Term Rate Loan exceed 35 per cent. of that Term Rate Loan) that its cost of funds relating to its participation in that Loan would be in excess of the Term Reference Rate, then Clause 17.5 (*Cost of funds*) shall apply to that Term Rate 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 applicable Reference Rate Terms for a Compounded Rate Loan; and
 - (ii) before the Reporting Time for that Loan the Agent receives notifications from a Lender or Lenders (whose participations in a Compounded Rate Loan exceed 35 per cent. of that Compounded Rate Loan) that the cost of funds relating to its

participation in that Compounded Rate Loan would be in excess of that Market Disruption Rate,

then Clause 17.5 (*Cost of funds*) shall apply to that Compounded Rate Loan for the relevant Interest Period.

17.5 Cost of funds

- (a) If this Clause 17.5 applies, the rate of interest on each Lender's share of the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
- (i) the Margin; and
 - (ii) the rate notified to the Agent by that Lender as soon as practicable and in any event:
 - (A) by close of business on the date falling one Business Day after the Quotation Day (or, if earlier, on the date falling one Business Day 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 the cost to the relevant Lender of funding its participation in that Loan from whatever source it may reasonably select.
- (b) If this Clause 17.5 applies and the Agent or the Company so requires, the Agent and the Company shall enter into negotiations (for a period of not more than 30 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, in consultation with the Lenders and the prior consent of the Company, be binding on all Parties.
- (d) If this Clause 17.5 applies pursuant to Clause 17.4 (*Market disruption*) and:
- (i) in relation to a Term Rate Loan:
 - (A) a Lender's Funding Rate is less than the relevant Term Reference Rate; or
 - (B) a Lender does not notify a rate to the Agent 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 the Term Reference Rate for that Loan; 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 Agent 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 the Market Disruption Rate for that Loan.

- (e) If this Clause 17.5 applies pursuant to Clause 17.1 (*Interest calculation if no Primary Term Rate*) but any Lender does not supply a quotation by the time specified in paragraph (a)(ii) above, the rate of interest shall be calculated on the basis of the quotations of the remaining Lenders.

17.6 **Notification to the Company**

If Clause 17.5 (*Cost of funds*) applies, the Agent shall, as soon as is practicable, notify the Company.

17.7 **Break Costs**

- (a) 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 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 only if an amount is specified as Break Costs in the applicable Reference Rate Terms.
- (c) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate in reasonable detail confirming the amount of (and providing reasonable details of the calculation of) its Break Costs for any Interest Period in respect of which they become, or may become, payable and the Agent shall provide a copy of each certificate to the Company.

18. **FEES**

18.1 **Commitment Fee**

- (a) Subject to paragraph (c) below and Clause 18.5 (*No deal no fee*), the Company shall pay (or procure payment) to the Agent (for the account of each Lender under the applicable Facility) a fee computed at the rate of:
 - (i) in respect of the Term Facility: 35 per cent. of the Margin applicable to the Term Facility and calculated on that Lender's Available Commitment under the Term Facility for the period from, and including, the Closing Date and ending on the last day of the Availability Period applicable to the Term Facility; and
 - (ii) in respect of the Revolving Facility: 35 per cent. of the Margin applicable to the Revolving Facility and calculated on that Lender's Available Commitment under the Revolving Facility for the period from, and including, the Closing Date and ending on the last day of the Availability Period applicable to the Revolving Facility; and
 - (iii) in respect of an Additional Facility: as specified in the relevant Additional Facility Notice in respect of such Additional Facility.
- (b) The accrued commitment fee payable under paragraphs (a)(i) and (a)(ii) above will be calculated on the aggregate undrawn and uncanceled amount of the relevant Facility and shall be payable on the last day of each successive period of three Months (starting on the

Closing Date) 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 under that Facility at the time the cancellation is effective.

- (c) No commitment fee is payable to the Agent (for the account of a Lender) on any Available Commitment of a Lender for any day on which such Lender is a Defaulting Lender.

18.2 **Upfront fees**

Subject to Clause 18.5 (*No deal no fee*), the Company shall pay to the Mandated Lead Arrangers upfront underwriting fees in respect of the Facilities in the amounts and at the times agreed in a Fee Letter.

18.3 **Agency fee**

Subject to Clause 18.5 (*No deal no fee*), the Company shall pay to the Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

18.4 **Security Agent fee**

Subject to Clause 18.5 (*No deal no fee*), the Company shall pay to the Security Agent (for its own account) the Security Agent fee in the amount and at the times agreed in a Fee Letter.

18.5 **No deal no fee**

- (a) Notwithstanding any other term of this Agreement or any other Finance Document, no fees, costs, taxes, commissions, make-whole amounts, prepayment fees, premiums, discounts, accruals and/or expenses (other than pre-agreed legal fees subject to an agreed cap) shall be due or payable under the Finance Documents unless the Closing Date and Completion (or, in the event the Acquisition is consummated by way of Offer, the Closing Date and Offer Completion Date) have occurred.
- (b) All fees, costs, expenses and any demand or amount payable by an Obligor shall be subject to receipt by the relevant Obligor of an invoice from the relevant person (or, as the case may be, from the Agent) in respect of such amount together with reasonable details and calculations of the amount demanded or invoiced (including, at the request of the Company or the Borrower, details and calculations of hours worked, rates charged and individuals involved (as applicable) and only to the extent the sharing of such information does not involve a breach of applicable law).
- (c) If any Finance Party enters into a Transfer Arrangement under the Finance Documents, no member of the Group shall be required to pay any fees, costs, expenses or other amounts relating to or arising in connection with that assignment or transfer (including, without limitation, any Taxes and any amounts relating to the perfection or amendment of the Transaction Security Documents).
- (d) Notwithstanding any other term of this Agreement or any other Finance Document, no fees shall be payable on any amounts of the Term Facility which are not utilised.

18.6 **Defaulting Lenders and Restricted Lender**

- (a) No fees or other amounts (excluding interest on drawn Loans which, save where such Lender is a Restricted Lender, shall continue as provided for in this Agreement) shall be

due or payable on or in respect of (or calculated by reference to) the participations or Commitments of a Defaulting Lender or any Lender who does not, or indicates that they will not, fund any Utilisation on the applicable Utilisation Date or whose Commitments are terminated.

- (b) No fees or other amounts (including interest) shall be due or payable on or in respect of (or calculated by reference to) the participations or Commitments of a Restricted Lender.

19. TAX GROSS-UP AND INDEMNITIES

19.1 Tax definitions

In this Agreement:

"Belgian Borrower" means a Borrower incorporated in Belgium and for the purposes of the tax provisions only, which is resident in Belgium for tax purposes.

"Belgian Income Tax Code" means the *Wetboek van de Inkomstenbelastingen 1992/Code des impôts sur les revenus 1992*, as amended from time to time.

"Belgian Non-Cooperative Jurisdiction" means a tax haven country, a low-tax jurisdiction or a non-cooperative jurisdiction within the meaning of article 307, §1/2 of the Belgian Income Tax Code or any successor provision.

"Belgian Non-Cooperative Jurisdiction Lender" means a Lender which:

- (a) is incorporated or having its place of effective management in or acting through a Facility Office, with which the relevant Loan under a Finance Document is effectively connected, situated in a Belgian Non-Cooperative Jurisdiction; or
- (b) uses for the purposes of the Finance Documents a bank account that is:
 - (i) managed or held by a person or persons incorporated, resident or established in a Belgian Non-Cooperative Jurisdiction or by a permanent establishment situated in a Belgian Non-Cooperative Jurisdiction, or
 - (ii) managed by, or opened with, (A) a financial institution incorporated, resident or established in a Belgian Non-Cooperative Jurisdiction or (B) a permanent establishment of a financial institution situated in a Belgian Non-Cooperative Jurisdiction.

"Borrower DTTP Filing" means an HM Revenue & Customs' Form DTTP2 duly completed and filed with HM Revenue and Customs by the Company, which:

- (a) where it relates to a Treaty Lender (UK) that is an Original Lender, contains the scheme reference number and jurisdiction of tax residence stated opposite that Lender's name in Part II of Schedule 1 (*The Parties*); or
- (b) where it relates to a Treaty Lender (UK) 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.

"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) in respect of Tax imposed by the Kingdom of Belgium: a Qualifying Lender (Belgium);
- (b) in respect of Tax imposed by the Netherlands: a Qualifying Lender (Netherlands); and
- (c) in respect of Tax imposed by the United Kingdom: a Qualifying Lender (UK).

"Qualifying Lender (Belgium)" means, in relation to a payment by or in respect of a Belgian Borrower under a Finance Document, a Lender which is beneficially entitled to interest payable to that Lender and which is:

- (a) a professional investor within the meaning of article 105, 3° of the Royal Decree implementing the Belgian Income Tax Code, which is a company resident for tax purposes in Belgium or which is acting through Facility Office located in Belgium with which the Loan is effectively connected, other than mentioned in (b) below;
- (b) a credit institution within the meaning of article 105, 1°, a) of the Royal Decree implementing the Belgian Income Tax Code which is a resident for tax purposes in Belgium or which is acting through a Facility Office established in Belgium;
- (c) a credit institution within the meaning of article 107, §2, 5, a), second dash of the Royal Decree implementing the Belgian Income Tax Code, that is acting through its head office and is resident for tax purposes in a country with which Belgium has entered into a double taxation agreement that is in force (irrespective of whether or not the double taxation agreement makes provision for exemption from tax imposed by Belgium) or in a country which is a member state of the European Economic Area;
- (d) a credit institution within the meaning of article 107, §2, 5, a), second dash of the Royal Decree implementing the Belgian Income Tax Code, that is acting through a permanent establishment which (i) itself qualifies as a credit institution within the meaning of the aforementioned article 107, §2, 5, a) second dash and (ii) is located in a country with which Belgium has entered into a double taxation agreement that is in force (irrespective of whether or not the double taxation agreement makes provision for exemption from tax imposed by Belgium) or in a country which is a member state of the European Economic Area; or
- (e) a Treaty Lender (Belgium).

"Qualifying Lender (Netherlands)" means a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:

- (a) able (otherwise than by reason of being a Treaty Lender (Netherlands)) to receive such interest payments in respect of that advance from the relevant Obligor without any Tax Deduction being imposed under the laws of the Netherlands (including, for the avoidance of doubt, by virtue of any applicable relief or exemption); or
- (b) a Treaty Lender (Netherlands).

"Qualifying Lender (UK)" 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 is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or
 - (ii) a Lender which is:
 - (A) a company resident in the United Kingdom for United Kingdom tax purposes;
 - (B) a partnership each member of which is:
 - (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; or
 - (iii) a Treaty Lender (UK); 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.

"Royal Decree implementing the Belgian Income Tax Code" means the *Koninklijk Besluit tot uitvoering van het Wetboek van de inkomstenbelastingen 1992/Arrêté royal d'exécution du Code des impôts sur les revenus 1992*, as amended from time to time.

"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;
 - (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
 - (iii) 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 the Company or an Obligor to a Finance Party under Clause 19.3 (*Tax gross-up*) or a payment under paragraph (a) of Clause 19.4 (*Tax indemnity*).

"Treaty" means:

- (a) in respect of Tax imposed by the Kingdom of Belgium: a Treaty (Belgium);
- (b) in respect of Tax imposed by the Netherlands: a Treaty (Netherlands); and
- (c) in respect of Tax imposed by the United Kingdom: a Treaty (UK).

"Treaty Lender" means:

- (a) in respect of Tax imposed by the Kingdom of Belgium: a Treaty Lender (Belgium);
- (b) in respect of Tax imposed by the Netherlands: a Treaty Lender (Netherlands); and
- (c) in respect of Tax imposed by the United Kingdom: a Treaty Lender (UK).

"Treaty Lender (Belgium)" means a Lender which:

- (a) is treated as a resident of a Treaty State (Belgium) for the purposes of the Treaty (Belgium);
- (b) does not carry on a business in Belgium through a permanent establishment with which that Lender's participation in the Loan is effectively connected; and
- (c) is entitled to be paid interest in respect of an advance under a Finance Document free of Belgium taxation by virtue of the Treaty (Belgium), subject to the completion of any procedural formalities.

"Treaty Lender (Netherlands)" means a Lender which:

- (a) is treated as a resident of a Treaty State (Netherlands) for the purposes of the Treaty (Netherlands);
- (b) does not carry on a business in the Netherlands through a permanent establishment with which that Lender's participation in the Loan is effectively connected; and
- (c) is entitled to be paid interest in respect of an advance under a Finance Document free of Netherlands taxation by virtue of the Treaty (Netherlands).

"Treaty Lender (UK)" means a Lender which:

- (a) is treated as a resident of a Treaty State (UK) for the purposes of the Treaty (UK);
- (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) is entitled to be paid interest in respect of an advance under a Finance Document free of United Kingdom taxation by virtue of the Treaty (UK).

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

"Treaty State (Netherlands)" means a jurisdiction having a double taxation agreement with the Netherlands (a **"Treaty (Netherlands)"**) which makes provision for full exemption from tax imposed by the Netherlands on interest.

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

"UK Non-Bank Lender" means:

- (a) an Original Lender listed in Part II of Schedule 1 (*The Parties*) as a UK Non-Bank Lender; and
- (b) 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.

19.2 Tax construction

Unless a contrary indication appears, in this Clause 19 a reference to "**determines**" or "**determined**" means a determination made in the discretion of the person making the determination, acting in good faith.

19.3 Tax gross-up

- (a) The Company shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Company shall, promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction), notify the Agent accordingly. Similarly, a Lender shall promptly notify the Agent on becoming so aware in respect of a payment payable to that Lender. In addition, a Lender shall promptly notify the Agent if (i) it ceases to be a Qualifying Lender, (ii) there is a change in the paragraph of the definition of Qualifying Lender within which it falls or (iii) in the case of a Treaty Lender, there is a change in the residence status, business details, Facility Office or similar of such Treaty Lender. If the Agent receives such notification from a Lender, it shall promptly notify the Company.
- (c) If a Tax Deduction is required by law to be made by the Company or an Obligor, the amount of the payment due from the Company or the 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 Kingdom of Belgium 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 on account of Tax imposed by the Kingdom of Belgium 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 Treaty Lender and the Company or an Obligor is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had the Lender complied with its obligations under paragraph (j) below.
- (e) A payment shall not be increased under paragraph (c) above by reason of a Tax Deduction on account of Tax imposed by the Netherlands, 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 on account of Tax imposed by the Netherlands 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 Treaty Lender and the Company or an Obligor is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had the Lender complied with its obligations under paragraph (j) below.
- (f) 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 on account of Tax imposed by the United Kingdom 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 (UK)" 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 Company or 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 (UK)" and:
 - (A) the relevant Lender has not given a Tax Confirmation to the Company; 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 Company, on the basis that the Tax Confirmation would have enabled the Company or the Obligor 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 Company or an Obligor is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had the Lender complied with its obligations under paragraph (j) or (k) (as applicable) below.
- (g) An Obligor will not be obliged to make a payment or increased payment pursuant to this Clause 19.3 with respect to a payment by it of a liability or amount due for payment by the Company or an Obligor to the extent that, had the payment been made by the Company or

that Obligor (as applicable), Tax would have been imposed on such payment for which the Company or that Obligor (as applicable) would not have been obliged to make a payment or increased payment pursuant to this Clause 19.3.

- (h) If the Company or an Obligor is required to make a Tax Deduction, the Company or the 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.
- (i) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Company shall deliver to the 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.
- (j)
 - (i) Subject to paragraph (ii) below, a Treaty Lender and the Company or an Obligor making a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for the Company or the Obligor to obtain authorisation to make the payment without a Tax Deduction.
 - (ii)
 - (A) A Treaty Lender (UK) 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 II of Schedule 1 (*The Parties*); and
 - (B) a Treaty Lender (UK) 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 Transfer Certificate, Assignment Agreement or Increase Confirmation which it executes on becoming a Party as a Lender,and, having done so, that Lender shall be under no obligation pursuant to paragraph (i) above.
- (k) If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with paragraph (j)(ii) above and:
 - (i) the Company making a payment to that Lender has not made a Borrower DTTP Filing in respect of that Lender; or
 - (ii) the Company making a payment to that Lender has made a Borrower DTTP Filing in respect of that Lender but:
 - (A) that Borrower DTTP Filing has been rejected by HM Revenue & Customs;

- (B) HM Revenue & Customs has not given the Company authority to make payments to that Lender without a Tax Deduction within 60 days of the date of the Borrower DTTP Filing; or
- (C) HM Revenue & Customs has given the Company authority to make payments to that Lender without a Tax Deduction, but such authority has subsequently been revoked or expired,

and in each case, the Company has notified that Lender in writing, that Lender and the Company shall co-operate in completing any additional procedural formalities necessary for the Company to obtain authorisation to make that payment without a Tax Deduction.

- (l) If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (j)(ii) above, the Company shall not make a Borrower DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Lender's Commitment(s) or its participation in any Utilisation unless the Lender otherwise agrees.
- (m) The Company shall, promptly on making a Borrower DTTP Filing, deliver a copy of that Borrower DTTP Filing to the Agent for delivery to the relevant Lender.
- (n) A UK Non-Bank Lender which is an Original Lender gives a Tax Confirmation to the Company by entering into this Agreement.
- (o) A UK Non-Bank Lender shall promptly notify the Company and the Agent if there is any change in the position from that set out in the Tax Confirmation.

19.4 **Tax indemnity**

- (a) Except as provided in paragraph (b) below, the Company shall (within five Business Days of demand by the Agent) pay (or procure payment) to a Protected Party an amount equal to any loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Finance Party:
 - (A) under the 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;
 - (B) under the law of the jurisdiction in which that Finance Party's office or offices through which it will perform its obligations under this Agreement or permanent establishment is located in respect of amounts received or receivable in that jurisdiction;
 - (C) under the law of any jurisdiction in which that Finance Party has a permanent establishment, branch or agency in respect of amounts attributable to that permanent establishment, branch or agency; or

- (D) under the laws of the Netherlands to the extent that such Tax becomes payable as a result of such Finance Party having a substantial interest (*aanmerkelijk belang*) in an Obligor as laid down in the Dutch Income Tax Act 2001 (*Wet inkomstenbelasting 2001*),

if, in each case, 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 19.3 (*Tax gross-up*);
 - (B) would have been compensated for by an increased payment under Clause 19.3 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in Clause 19.3 (*Tax gross-up*) applied;
 - (C) is compensated for under Clauses 19.7 (*Stamp Taxes*) or 19.8 (*VAT*), or would have been compensated for under one of those clauses but was not so compensated because one of the exclusions in the relevant clause applied;
 - (D) relates to a FATCA Deduction required to be made by a Party;
 - (E) is attributable to any Bank Levy (or any payment attributable to, or liability arising as a consequence of, a Bank Levy); or
 - (F) is suffered or incurred by a Lender as a result of an assessment or an additional tax assessment (*naheffingsaanslag*) pursuant to the Dutch Withholding Tax Act 2021 (*Wet bronbelasting 2021*) and would not have been suffered or incurred if such Lender had been a Qualifying Lender in relation to the relevant Obligor at the relevant time, unless that Lender was not a Qualifying Lender at the relevant time 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, rule, regulation or Treaty, or any published practice or published concession of any relevant taxing authority.
- (c) A Protected Party making or intending to make, a claim under paragraph (a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Company.
- (d) A Protected Party shall, on receiving a payment from the Company under paragraph (a) above, notify the Agent.

19.5 Tax Credit

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

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

the Finance Party shall pay an amount to the Company or the Obligor (as the case may be) 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 Company or the Obligor.

19.6 Lender status confirmation (Qualifying Lender)

- (a) Each Lender which becomes a Party to this Agreement after the date of this Agreement shall indicate in the Transfer Certificate, Assignment Agreement or Increase Confirmation which it executes on becoming a Party, which of the following categories it falls into:
 - (i) not a Qualifying Lender;
 - (ii) a Qualifying Lender (other than a Treaty Lender); or
 - (iii) a Treaty Lender.
- (b) Each Lender which becomes a Party to this Agreement after the date of this Agreement shall indicate in the Transfer Certificate, Assignment Agreement or Increase Confirmation which it executes on becoming a Party whether it is a Belgian Non-Cooperative Jurisdiction Lender.
- (c) Each Lender shall provide information to the Belgian Borrower reasonably demonstrating that it cannot be considered as an artificial construction within the meaning of article 198, §1, 10° of the Belgian Income Tax Code if it is a Belgian Non-Cooperative Jurisdiction Lender. The Lender shall provide such information within ten Business Days following the receipt of a demand of the relevant Belgian Borrower.
- (d) If a New Lender or Increase Lender fails to indicate its status in accordance with this Clause 19.6, then such New Lender or Increase Lender shall be treated for the purposes of this Agreement (including by the Company) as if it is not a Qualifying Lender until such time as it notifies the Agent which category applies (and the Agent, upon receipt of such notification, shall inform the Company). For the avoidance of doubt, a Transfer Certificate, Assignment Agreement or Increase Confirmation shall not be invalidated by any failure of a Lender to comply with this Clause 19.6.

19.7 Stamp Taxes

The Company shall pay (or procure payment of) and, within ten Business Days of written demand, indemnify each Finance Party against any cost, loss or liability that that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in relation to any Finance Document other than in connection with:

- (a) any such Tax which arises as a result of or in relation to an assignment, transfer, sub-participation, sub-contract or substitution of a party's rights under a Finance Document;
- (b) a Finance Document being voluntarily registered or appended to a document that requires mandatory registration, where such registration or filing is or was not required to maintain or preserve the rights of the Finance Party under the Finance Document; or
- (c) any breach of this Agreement or any Finance Document by any Finance Party.

19.8 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 sub-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 19.8 to any Party shall, at any time when such Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Section 43 of the Value Added Tax Act 1994, Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) or any other similar provision in any jurisdiction other than the United Kingdom or a member state of the European Union) so that a reference to a Party shall be construed as a reference to that Party or the relevant group or unity (or fiscal unity) of which that Party is a member for VAT purposes at the relevant time or the relevant representative member (or head) of that group or unity (or fiscal unity) at the relevant time (as the case may be).
- (e) In relation to any supply made by a 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.

19.9 **FATCA information**

- (a) Subject to paragraph (c) below, each Party shall, within 10 Business Days of a reasonable request by another Party:
 - (i) confirm to that other Party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party;
 - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
 - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to sub-paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Party to do anything which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.

- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with sub-paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

19.10 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Company and the Agent and the Agent shall notify the other Finance Parties.

20. INCREASED COSTS

20.1 Increased Costs

- (a) Subject to Clause 20.3 (*Exceptions*), the Company shall, within five Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:
 - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or
 - (ii) compliance with any law or regulation made after the date of this Agreement (or, if later, the date it became a Party) (but, in respect of any regulation not having the force of law, only to the extent the Finance Party or its Affiliate would be expected to comply or customarily complies with such directive as a matter of course).
- (b) In this Agreement:

"Basel II" means the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004.

"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;
- (ii) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency

requirement - Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and

- (iii) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III", including "Basel III: Finalising post-crisis reforms" published in December 2017.

"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 ("**CRR**"); and
- (ii) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC ("**CRD4**").

"EU CRD V" means:

- (i) Regulation (EU) No 2019/876 of the European Parliament and of the Council of 20 May 2019 amending CRR and Regulation (EU) No 648/2012 ("**CRR2**"); and
- (ii) Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending CRD4 ("**CRD5**").

"EU CRD VI" means:

- (i) Regulation (EU) No 2024/1623 of the European Parliament and of the Council of 31 May 2024 amending CRR; and
- (ii) Directive (EU) 2024/1619 of the European Parliament and of the Council of 31 May 2024 amending CRD4.

"EU Regulatory Capital Requirements" means EU CRD IV and EU CRD V.

"Regulatory Capital Requirements" means Basel III, any EU Regulatory Capital Requirements or any UK Regulatory Capital Requirements or any law or regulation that implements or applies Basel III, any EU Regulatory Capital Requirements or any UK Regulatory Capital Requirements.

"UK Regulatory Capital Requirements" means CRR and CRR2 (in each case as they form part of law or regulation of the United Kingdom).

"WAA" means the European Union (Withdrawal Agreement) Act 2020.

"Withdrawal Act" means the European Union (Withdrawal) Act 2018.

20.2 Increased Cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 20.1 (*Increased Costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Company.

- (b) Each Finance Party shall, as soon as practicable after a demand by the Agent or the Company, provide a certificate confirming the amount (and giving reasonable details of the circumstances giving rise to such claim and the calculation of the Increased Cost, **provided that** it does not extend to information and detail that the Finance Party is not legally allowed to disclose, is confidential or price-sensitive) of its Increased Costs, a copy of which shall be provided to the Company.

20.3 Exceptions

- (a) Clause 20.1 (*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 the Company;
 - (ii) compensated for by paragraph (a) of Clause 19.4 (*Tax indemnity*) (or would have been compensated for under paragraph (a) of Clause 19.4 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 19.4 (*Tax indemnity*) applied);
 - (iii) compensated for under Clause 19.7 (*Stamp Taxes*) or Clause 19.8 (*VAT*), or would have been compensated for under one of those clauses but was not so compensated because one of the exclusions in the relevant clause applied;
 - (iv) attributable to a FATCA Deduction required to be made by a Party;
 - (v) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation or the terms of any Finance Document;
 - (vi) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation;
 - (vii) attributable to the implementation or application of or compliance with Basel II, Basel III and/or CRD IV or any other law or regulation which implements Basel II, Basel III and/or CRD IV (whether such implementation, application or compliance is by a government, regulator, agency of state, Finance Party or any of its Affiliates);
 - (viii) attributable to the implementation or application of, or compliance with any Regulatory Capital Requirements or any other law or regulation which implements any Regulatory Capital Requirements, in each case in the form existing on the date of this Agreement or, if later, the date it became a Party (except to the extent such Lender could not have been aware of such Increased Costs on the date of this Agreement or, if later, the date it became a Party);
 - (ix) not notified by the relevant Finance Party to the Agent within six months of the event giving rise to the claim in accordance with Clause 20.2 (*Increased Cost claims*);
 - (x) one which would not have been incurred if the relevant Finance Party had been resident in the OECD;
 - (xi) attributable to any Bank Levy (or any payment attributable to, or liability arising as a consequence of, a Bank Levy).

- (b) In this Clause 20.3, "**Tax Deduction**" has the same meaning given to the term in Clause 19.1 (*Tax definitions*).

21. OTHER INDEMNITIES

21.1 Currency indemnity

- (a) If any sum due from the Company under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (i) making or filing a claim or proof against the Company; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Company shall as an independent obligation, within 10 Business Days of demand, indemnify the Secured Parties 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 (i) the rate of exchange used to convert that Sum from the First Currency into the Second Currency; and (ii) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) The Company 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.

21.2 Other indemnities

- (a) The Company shall, promptly and in any event within five Business Days of demand (which demand must be accompanied by reasonable details and calculations of the amount demanded), indemnify each Secured Party against any cost, loss or liability incurred by it as a result of:

- (i) the occurrence of any Event of Default;
- (ii) a failure by the Company 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 Utilisation requested by the Company 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 Utilisation (or part of a Utilisation) not being prepaid in accordance with an unconditional notice of prepayment given by the Company.

- (b) The Company shall, promptly and in any event within five Business Days of demand (which demand must be accompanied by reasonable details and calculations of the amount demanded), indemnify each Secured Party, each Affiliate of a Secured Party and each officer or employee of a Secured Party or its Affiliate (together, the "**Indemnified Persons**"),

against any cost, loss or liability incurred by that Indemnified Person 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).

- (c) The Company shall not be liable under paragraph (b) above for any cost, expense, loss or liability incurred by or awarded against an Indemnified Person to the extent that cost, expense, loss or liability is finally judicially determined to have resulted from:
 - (i) any breach by that Indemnified Person of any material provision of this Agreement or any document referred to herein or any confidentiality undertaking given by that Indemnified Person; or
 - (ii) the gross negligence or wilful misconduct of that Indemnified Person.
- (d) If any event occurs in relation to which indemnification will be sought from the Company under paragraph (b) above, the relevant Indemnified Person shall (provided that it is legally permitted to do so) notify the Company in writing within ten Business Days after the relevant Indemnified Person becomes aware of such event (provided that the failure to notify the Company shall not relieve the Company from any liability that the Company may have under paragraph (b) above except to the extent that the Company has been prejudiced through the forfeiture of substantive rights or defences by such failure), consult with the Company in good faith and promptly with respect to the conduct of the relevant claim, action or proceeding, conduct such claim, action or proceeding properly and diligently (to the extent permitted by law and without being under any obligation to disclose any information which it is not lawfully permitted to disclose) and not settle any claim, action or proceeding without the prior written consent of the Company (such consent not to be unreasonably withheld or delayed).
- (e) Each Indemnified Person may rely on this Clause 21.2 subject to Clause 1.9 (*Third party rights*) and the provisions of the Third Parties Act.

21.3 Indemnity to the Agent

The Company shall, promptly and in any event within three Business Days of demand (which demand must be accompanied by reasonable details and calculations of the amount demanded), indemnify the Agent against:

- (a) any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
 - (i) investigating any event which it reasonably believes is a Default;
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and
- (b) any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence, wilful misconduct or fraud) (or, in the case of any cost,

loss or liability pursuant to Clause 35.11 (*Disruption to payment systems etc.*) notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever, but not including any claim based on the fraud of the Agent) in acting as Agent under the Finance Documents.

22. MITIGATION BY THE LENDERS

22.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Company, take all reasonable steps to mitigate any circumstances which arise and which would result in any Facility ceasing to be available or any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 11.1 (*Illegality*), Clause 11.2 (*Illegality in relation to Issuing Bank or Ancillary Lender*), Clause 19 (*Tax Gross-up and Indemnities*) or Clause 20.1 (*Increased Costs*), or, despite the fact that the amounts payable have been duly reported by the relevant Belgian Borrower to the Belgian tax authorities and that the relevant Belgian Borrower has reasonably tried to establish that the amounts payable have been made in the framework of real and genuine business transactions and to entities other than artificial constructions within the meaning of article 198, §1, 10° of the Belgian Income Tax Code, in any amount payable under a Finance Document by the relevant Belgian Borrower not being deductible from that Borrower's taxable income for Belgian tax purposes by reason of that amount being to a Belgian Non-Cooperative Jurisdiction Lender, including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
- (b) Paragraph (a) above does not in any way limit the obligations of the Company under the Finance Documents.

22.2 Limitation of liability

- (a) The Company shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 22.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 22.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

23. COSTS AND EXPENSES

23.1 Transaction expenses

Subject to Clause 18.5 (*No deal no fee*), the Company shall promptly and in any event within ten Business Days of demand (which demand must be accompanied by receipts or invoices in respect of the amount demanded) pay the Agent, the Original Lenders, the Mandated Lead Arrangers and the Security Agent the amount of all reasonable pre-agreed third party costs and expenses (including legal fees subject to any pre-agreed fee arrangements), in each case as pre-approved by the Company, 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:

- (a) this Agreement and any other Finance Document; and

(b) any other Finance Documents executed after the date of this Agreement.

23.2 **Amendment costs**

Subject to Clause 18.5 (*No deal no fee*), if (a) the Company requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 35.10 (*Change of currency*) or is required by another term of this Agreement, the Company shall, within ten Business Days of demand (which demand must be accompanied by reasonable details and calculations of the amount demanded), reimburse each of the Agent and the Security Agent for the amount of all reasonable pre-agreed third-party costs and expenses (including legal fees subject to any pre-agreed fee arrangements) reasonably incurred by the Agent and the Security Agent (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

23.3 **Enforcement and preservation costs**

The Company shall, within five Business Days of demand, pay to the Secured Parties 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.

24. **REPRESENTATIONS**

24.1 **General**

Subject to Clause 4.4 (*Utilisations during the Certain Funds Period*), the Company and each Obligor makes the representations and warranties set out in this Clause 24, to the best of its knowledge and belief and subject to any information provided to the Finance Parties or which is publicly available to them, to each Finance Party at the times set out in Clause 24.22 (*Times when representations made*).

24.2 **Status**

- (a) It is a public or limited liability company, duly incorporated or registered and validly existing under the laws of its Relevant Jurisdiction.
- (b) It has the power to own its assets and carry on its business as it is being conducted, to the extent that failure to do so has or is reasonably likely to have a Material Adverse Effect.

24.3 **Binding obligations**

Subject to the Legal Reservations and the Perfection Requirements, 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.

24.4 **Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will 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 of its assets,

to the extent such has, or is reasonably likely to have, a Material Adverse Effect.

24.5 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is or will be a party and the transactions contemplated by those Finance Documents.

24.6 Validity and admissibility in evidence/Authorisations

(a) Subject to the Legal Reservations and 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 (or will at the required date be) obtained or effected, to the extent failure to do so would have a Material Adverse Effect.

(b) Subject to the Legal Reservations and Perfection Requirements, all Authorisations necessary for the conduct of the business of any Obligor have been (or will at the required date be) obtained or effected, to the extent failure to do so would have a Material Adverse Effect.

24.7 Governing law and enforcement

(a) Subject to the Legal Reservations and Perfection Requirements, the choice of governing law of the Finance Documents to which it is a party will be recognised and enforced in its Relevant Jurisdictions.

(b) Subject to the Legal Reservations and Perfection Requirements, 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

(a) No:

- (i) corporate action, legal proceeding or other formal procedure or formal step described in paragraph (a) of Clause 28.7 (*Insolvency proceedings*); or
- (ii) creditors' process described in Clause 28.8 (*Creditors' process*) for which the relevant grace period specified in that clause has expired,

has (subject to, save when this representation is made on the date of this Agreement or repeated under Clause 24.22 (*Times when representations made*), the relevant thresholds and exceptions set out in those Clauses) been taken or, to the knowledge of the Company, threatened in writing in relation to it.

(b) None of the circumstances described in Clause 28.6 (*Insolvency*) applies to it.

24.9 No proceedings pending or threatened

No litigation, arbitration or administrative proceedings of, or before, any court, arbitral body or agency have been started or (to the best of its knowledge and belief) formally threatened

in writing against it which are reasonably expected to be adversely determined and, if so adversely determined, would reasonably be expected to have a Material Adverse Effect.

24.10 No breach of laws

It has not breached any law or regulation which breach has or would reasonably be expected to have a Material Adverse Effect.

24.11 Deduction of Tax

Except as identified in any legal opinion delivered pursuant to this Agreement and subject to the Legal Reservations and Perfection Requirements, it is not required under the law of its jurisdiction of incorporation to make any Tax Deduction (as defined in Clause 19.1 (*Tax definitions*)) from any payment it may make under any Finance Document to a Lender which is a Qualifying Lender.

24.12 No filing or stamp Taxes

Subject to the Legal Reservations and Perfection Requirements, 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, documentary, registration, property transfer, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except:

- (a) any filing, recording or enrolling or any tax or fee payable which is or will be made or paid as soon as reasonably practicable after the date of the relevant Finance Document (including, without limitation, any registration fees in relation to any Transaction Security) but in any event by no later than the period allowed for by law, and subject to the Agreed Guarantee/Security Principles;
- (b) a stamp duty of EUR 0.15 that is payable for each original copy of an agreement containing a debt obligation, indebtedness or security interest for the benefit of banks that is signed or registered in Belgium; and
- (c) where the Finance Documents are voluntarily registered or subject to registration in accordance with a contractual obligation, where a fixed or an *ad valorem* registration duty will become payable.

24.13 No misleading information

Save as disclosed in writing to the Agent or the Original Lenders prior to the date of this Agreement:

- (a) to the best of the knowledge and belief of the Company, any material factual information contained in the Buyside Reports (taken as a whole) 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 that the information was provided;
- (b) the financial projections contained in the Base Case Model have been prepared in good faith on the basis of such recent historical information as was available to the Company, and on the basis of assumptions that, in the opinion of the Company,

were fair and reasonable as at the date they were made (it being understood that such projections are subject to significant uncertainties and contingencies which are beyond the Company's control and that no assurance can be given that the forecasts will be realised); and

- (c) to the best of knowledge and belief of the Company, nothing has occurred or been omitted from the Base Case Model or Buyside Reports and no information has been given or withheld that results in the information, opinions, intentions, forecasts or projections contained in the Base Case Model or Buyside Reports being untrue or misleading in any material respect.

24.14 Ranking

Subject to the Legal Reservations and the Perfection Requirements, its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

24.15 Good title to assets

It has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business (taken as a whole) as presently conducted, to the extent that failure to do so would have a Material Adverse Effect.

24.16 Legal and beneficial ownership

It is (save for any encumbrances or rights permitted by this Agreement) the sole legal and beneficial owner of the assets over which it grants or purports to grant fixed charge Transaction Security.

24.17 Shares

- (a) All shares in the Company which are subject to the Transaction Security are fully paid up and are not subject to any option to purchase or similar rights.
- (b) The constitutional documents of the Company do not and could not restrict or inhibit the creation, perfection or enforcement of the Transaction Security.
- (c) 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 of the Company's shares or loan capital (including any option or right of pre-emption or conversion).

24.18 Security and Financial Indebtedness

- (a) As at the date of this Agreement, no Security or Quasi-Security exists over all or any of its present or future assets other than as permitted by this Agreement.
- (b) As at the date of this Agreement, it does not have any Financial Indebtedness outstanding other than as permitted by this Agreement.

24.19 Sanctions and anti-corruption

- (a) It has conducted its business in compliance with applicable anti-bribery, anti-money laundering and anti-corruption laws and Sanctions.

- (b) On or before Completion (or as soon as reasonably practicable thereafter), it will have instituted and will maintain and enforce policies and procedures designed to ensure compliance with paragraph (a) above.
- (c) Neither it nor any of its directors and officers or, to the best of its knowledge, its employees:
 - (i) is a Designated Person; or
 - (ii) has received written notice of any claim, action, suit, proceedings or investigation involving it from a Sanctions Authority with respect to any actual or suspected violations of Sanctions.
- (d) No borrowing of the Facilities or use of proceeds thereof will violate Sanctions.
- (e) Any provision of this Clause 24.19 shall not apply to any person if and to the extent that it would result in a breach, by or in respect of that person, of breach of any applicable Blocking Law.

24.20 **Holding Companies**

Except in respect of any Permitted Holding Company Activity, the Company has not traded or incurred any liabilities or commitments (actual or contingent, present or future).

24.21 **Centre of main interests and establishments**

Solely in the case of a Borrower whose jurisdiction of incorporation is a member state of the European Union, for the purposes of Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) (the "**Regulation (recast)**"), its centre of main interest (as that term is used in Article 3(1) of the Regulation (recast)) is situated in its jurisdiction of incorporation or as otherwise disclosed to the Agent.

24.22 **Times when representations made**

- (a) All the representations and warranties in this Clause 24 are made by the Company on the Signing Date and the Closing Date.
- (b) The Repeating Representations are deemed to be made by the Company and where applicable, each Obligor on the date of each Utilisation, on the date of each Utilisation Request and on the first day of each Interest Period and by each Additional Obligor on the day on which it becomes (or it is proposed that it becomes) an Additional Obligor.
- (c) 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.
- (d) The representations made "to the best of the knowledge and belief" of the Company or an Obligor are made to the best of the knowledge and belief (having made due and careful enquiry) of the Group's management (which does not include for this purpose, the management of the Target Group until after Completion).
- (e) The representations and warranties contemplated in this Clause 24 and any other provision of the Finance Documents shall, in each case be made by reference to the facts and circumstances existing at the time they are made and shall be qualified and limited by any facts or information disclosed in, and the contents of, any publicly available information, any

syndication or marketing materials or investor presentations provided in connection with the Facilities, the Original Financial Statements, the Buyside Reports and/or any Transaction Document and any other information or disclosure made, delivered or otherwise provided to the Mandated Lead Arrangers, the Original Lenders or the Agent prior to the date of this Agreement.

- (f) Each representation or warranty made by the Company with respect to the Buyside Reports shall not require the Company to review or make enquiries in relation to matters exclusively within the technical or professional expertise of the advisors preparing the relevant Buyside Report.
- (g) Notwithstanding any other provision to the contrary, there shall be no obligation on any member of the Group at any time (or from time to time) to update any information previously given by (or on behalf of) any member of the Group, including in connection with any representation or warranty that is not repeated under the terms of this Agreement.

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*).

"Financial Statements" means the Annual Financial Statements or Half-Yearly Financial Statements (as applicable).

"Half-Yearly Financial Statements" means the semi-annual financial statements delivered pursuant to paragraph (a)(ii) of Clause 25.1 (*Financial statements*).

25.1 Financial statements

- (a) Provided that the Closing Date and Completion (or, in the event the Acquisition is consummated by way of Offer, the Closing Date and Offer Completion Date) has occurred, the Company shall supply to the Agent as soon as the same are available, but in any event:
 - (i) within 180 days after the end of each of its full Financial Years (commencing with the Financial Year ending at least six Months after Completion (or, in the event the Acquisition is consummated by way of Offer, the Offer Completion Date)), the audited (consolidated where applicable) financial statements of the Company (or, at the option of the Company, the audited consolidated financial statements of the Reporting Entity) for that Financial Year; and
 - (ii) within 90 days of the end of the first half of each of its Financial Years (commencing with the financial half year ending at least six months after Completion (or, in the event the Acquisition is consummated by way of Offer, the Offer Completion Date)), the unaudited (consolidated if applicable) financial statements or management

accounts of the Company (or, at the option of the Company, financial statements or management accounts of the Reporting Entity) for that financial half-year.

- (b) Notwithstanding anything to the contrary, Financial Statements required to be delivered pursuant to this Agreement may be prepared at the level of the Company, the Target or an Affiliate (a "**Reporting Entity**") and applicable requirements and provisions shall be interpreted and construed accordingly, provided that in the event the Company delivers.

25.2 **Provision and contents of Compliance Certificate**

- (a) The Company shall supply a Compliance Certificate to the Agent with each set of its Annual Financial Statements and each set of its Half-Yearly Financial Statements.
- (b) The Compliance Certificate shall set out (in reasonable detail) computations (or information, where relevant) as to:
 - (i) compliance with the Financial Covenants for the relevant Testing Period as at the date as at which those financial statements were drawn up;
 - (ii) confirmation that no Event of Default is continuing or, if an Event of Default is continuing, detail of the nature of that Default and steps (if any) being taken to remedy such Event of Default;
 - (iii) any calculations of Excess Cashflow in relation to each Test Date falling after the fourth anniversary of the Closing Date and any prepayments to be made from Excess Cashflow under Clause 12.2 (*Excess Cashflow*);
 - (iv) in the case of a Compliance Certificate supplied together with the Annual Financial Statements, confirmation as to compliance with the requirements of paragraph (b)(ii) of Clause 27.23 (*Guarantors*); and
 - (v) any new Project Companies designated as such in the relevant Testing Period.
- (c) Each Compliance Certificate shall be signed by an authorised signatory of the Company.

25.3 **Requirements as to financial statements**

- (a) Each set of Annual Financial Statements and Half-Yearly Financial Statements in each case of the Company delivered pursuant to Clause 25.1 (*Financial statements*):
 - (i) shall be certified by a director of the Company (or the Reporting Entity) as giving a true and fair view of (in the case of audited Annual Financial Statements), or fairly presenting (in other cases), its (or the Reporting Entity's) financial condition (consolidated if applicable) as at the date as at which those financial statements were drawn up;
 - (ii) shall be prepared using the Accounting Principles and/or IFRS and accounting practices and financial reference periods substantially consistent with those applied in the preparation of the Original Financial Statements or Base Case Model unless, in relation to any set of Financial Statements, the Company notifies the Agent that there has been a change in the Accounting Principles or the accounting practices and delivers to the Agent:

- (A) a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices upon which the Original Financial Statements or Base Case Model was prepared; and
 - (B) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 26 (*Financial Covenants*) has been complied with and to make an accurate comparison between the financial position indicated in those financial statements and the Original Financial Statements or Base Case Model.
- (b) Any reference in this Agreement to any financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements or Base Case Model was prepared.
- (c) It is recognised and agreed that financial statements (other than the Annual Financial Statements) and other information based upon or delivered in connection with such financial statements may be subject to customary year-end adjustments and to the extent appropriate in the context of interim or management accounts.

25.4 **Scope of information and alternative reporting**

Notwithstanding any other term of the Finance Documents (including this Clause 25):

- (a) delivery to the Agent of accounts and/or financial statements which comply with the requirements of any applicable stock exchange or any public or capital markets instrument issued by the Group (or any Holding Company); and/or
- (b) delivery of accounts or financial information consistent with that provided by Target to Lenders under the Existing Revolving Credit Facility or consistent with past practice of the Target Group; and/or
- (c) (in the event any member of the Group or a Holding Company is listed or any shares or other securities in or issued by any member of the Group or a Holding Company are listed or admitted to trading on any exchange) delivery to the Agent of accounts and/or Financial Statements for any period which are the same as those delivered to public shareholders or public investors in the relevant listed entity,

shall, in each case, satisfy (and be deemed to satisfy) the applicable requirements set out in this Clause 25, including as regards the form of, timing and requirements in relation to financial statements and any accompanying information, statements and management commentary, and no further documents, statements or information shall be required to be delivered pursuant to this Clause 25.

25.5 **Confidential information**

- (a) Notwithstanding any other term of the Finance Documents, all reporting and other information requirements on the Group shall be subject to any confidentiality, legal or regulatory restrictions relating to the supply of information or concerning the Group (or the relevant person to which such information relates) or otherwise binding on any member of the Group and/or its directors and/or shareholders (provided that such restrictions have not been entered into with a view to circumventing this requirement), and in no circumstances

shall any member of the Group be required to disclose any information that it considers in good faith to be confidential or commercially sensitive.

- (b) Neither the Company nor any other member of the Group shall be required to disclose any information to any Finance Party (and no breach, misrepresentation, Default or Event of Default shall occur as a result of any such non-disclosure) which is price sensitive or which constitutes material non-public information.

25.6 Public/private information

The Agent may (and shall if requested to do so by the Company) maintain public and private information barriers and ensure that any information provided pursuant to this Clause 25 or which contains look-forward non-public information or which is marked as 'material non-public information' or 'private side' (or similar) shall be made available only to those 'private side' Lenders who, in accordance with this Clause, request that such information be provided to them.

25.7 Information: Miscellaneous

The Company shall supply to the Agent:

- (a) promptly on request, such information as the Security Agent may reasonably require about the Charged Property and compliance of the Obligors and the Parent with the terms of any Transaction Security Documents;
- (b) promptly on request, such other information regarding the financial condition, business and operations of the Group as the Agent may reasonably request, provided that no more than one request may be made in any Financial Year unless an Event of Default is continuing; and
- (c) promptly upon becoming aware of them, the details of any litigation, arbitration, administrative or regulatory proceedings which are current, pending or formally threatened in writing against any member of the Group which are reasonably likely to be adversely determined, and which, if adversely determined, are reasonably likely to have a Material Adverse Effect.

25.8 Annual Presentation

Once in every Financial Year (commencing with the Financial Year starting 1 January 2026) a representative of the Company shall give a presentation to the Finance Parties about the on-going business and financial performance of the Group.

25.9 Budget

- (a) Starting with the Financial Year beginning 1 January 2026, the Company shall supply to the Agent an annual budget for each Financial Year as soon as the same becomes available within 90 days after the start of each relevant Financial Year.
- (b) The Company shall ensure that each budget:
 - (i) includes a projected consolidated profit and loss, balance sheet and cashflow statement for the Group for the Financial Year to which the budget relates;

- (ii) is prepared in accordance with the Accounting Principles and the accounting practices applied to financial statements under Clause 25.1 (*Financial statements*); and
- (iii) has been approved by the board of directors of the Company.

25.10 Notification of an Event of Default

- (a) The Company shall notify the Agent of any Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless the relevant Event of Default has been remedied before delivery of such notification was due and unless it is aware that a notification has already been made).
- (b) Promptly upon a request by the Agent, the Company shall supply to the Agent a certificate signed by two authorised signatories on its behalf certifying that no Event of Default is continuing (or if an Event of Default is continuing, specifying the Event of 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 the Company or the composition of the (direct or indirect) shareholders of the Company after the date of this Agreement; or
 - (iii) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of sub-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, the Company shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in sub-paragraph (iii) above, on behalf of any prospective new Lender) in order for the Agent, such Lender or, in the case of the event described in sub-paragraph (iii) above, any prospective new Lender to carry out and be satisfied with the results of all necessary "know your customer" or similar checks in relation to any relevant person pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to carry out and be satisfied with the results of all necessary "know your customer" or other similar checks on Lenders or prospective new Lenders pursuant to the transactions contemplated in the Finance Documents.

- (c) No Default or Event of Default or breach of any other term of a Finance Document will arise where the Company determines (acting reasonably and in good faith) that it has been or will be unable to comply with any "know your customer" requirement by any deadline provided in any Finance Document as a result of events or circumstances for which the Group is not primarily responsible (including the failure or delay of any Finance Party to notify, agree, complete or confirm satisfaction of any "know your customer" requirements).

25.12 **Delivery obligations**

- (a) In the event that any due date or period specified in this Clause 25 for the delivery of any accounts, financial statements, documents or other information falls or expires on a day which is not a Business Day, that date or period shall be extended so as to fall or expire on the next Business Day.
- (b) Notwithstanding anything to the contrary, any breach, Default or Event of Default arising as a result of any failure to deliver any information (including in any prescribed form) pursuant to this Clause 25 or any other provision of the Finance Documents shall be automatically remedied and cured (such that the relevant breach, Default or Event of Default will immediately and automatically cease to exist) upon the Company or any person delivering or otherwise making available the relevant information to the Agent.

26. **FINANCIAL COVENANTS**

26.1 **Financial definitions**

In this Agreement:

"Capital Expenditure" means any expenditure or obligation in respect of expenditure which, in accordance with the Accounting Principles, is treated as capital expenditure and including, for the avoidance of doubt, the capital element or any expenditure or obligation incurred in connection with a Capital Lease and refurbishment, replacement and upgrade capital expenditure.

"Capital Lease" means, at any time, a lease with respect to which the lessee is required concurrently to recognise the acquisition of an asset and the incurrence of a liability in accordance with IFRS prior to the introduction of IFRS 16.

"Capital Lease Obligation" means, with respect to any person and a Capital Lease, the amount of the obligation of such person as the lessee under such Capital Lease which would, in accordance with IFRS prior to the introduction of IFRS 16, appear as a liability on a balance sheet of such person (but excluding any operating lease).

Unless otherwise determined by the Company in accordance with the applicable Accounting Principles, the amount of indebtedness represented by a Capital Lease will be the capitalized amount of such obligation recognized on balance sheet of the Group (excluding any notes thereto) at the time any determination thereof is made (as determined in a manner consistent with the Accounting Principles and this Agreement) and the stated maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date on which such lease may be terminated without penalty.

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

- (a) adding the amount of any decrease (and deducting the amount of any increase) in Working Capital for that Testing Period;
- (b) adding the amount of any cash receipts (other than any amount provided for Transaction Costs (to the extent such amount is not an Exceptional Item)) and deducting the amount of any cash payments during that Testing Period in respect of any Exceptional Items not already taken account of in calculating Consolidated EBITDA for any Relevant Period;
- (c) adding the amount of any cash receipts (and deducting the amount of any cash payments) during that Testing Period in respect of any Exceptional Items not already taken account of in calculating Consolidated EBITDA for any Testing Period;
- (d) adding (to the extent not taken into account in determining Consolidated EBITDA) the amount of any dividends or other profit distributions received in cash by any member of the Group during that Testing Period from any entity which is itself not a member of the Group and deducting (to the extent not already deducted in determining Consolidated EBITDA) the amount of any dividends paid in cash during the Testing Period to minority shareholders in members of the Group which are not themselves members of the Group;
- (e) adding the amount of any cash paid to a member of the Group in the Testing Period that represents repayment of any loan made to a Joint Venture and deducting the amount of any cash paid by a member of the Group in the Testing Period that represents a payment or loan made to a Joint Venture;
- (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 Consolidated EBITDA;
- (g) deducting the amount of any Capital Expenditure actually made (or due to be made) during that Testing Period by any member of the Group and the aggregate of any cash consideration paid for, or the cash cost of, any business acquisitions and investments in Joint Ventures and Project Companies, except to the extent funded from Acceptable Funding Sources;
- (h) deducting any income or charge attributable to post-employment benefit scheme other than current service costs;
- (i) deducting any fees, cash costs or charges of a non-recurring nature relating to any equity offering, acquisitions, compensation payments to departing management, pensions items, MIP/MEP, MEP Payments, investments, items referred to in

paragraph (h) above, Treasury Transactions or Financial Indebtedness (in each case, whether or not successful); and

- (j) deducting (to the extent not already taken into account in determining Consolidated EBITDA) any realised losses and adding any realised gain on any hedging contract during such period,

so that no amount shall be added (or deducted) more than once.

"Consolidated EBITDA" means, at the time of any determination, the consolidated pre-tax operating profit on ordinary activities of the Group (ignoring profit derived from interests in Joint Ventures or Project Companies unless received in cash or as otherwise included as permitted pursuant to this Agreement), for the relevant Testing Period, in each case before deducting, charging or providing for (or after adding or adding back, as the case may be) (without double counting):

- (a) amounts attributable to minority interests and Permitted Payments made;
- (b) dividends and other distributions;
- (c) discount unwind relating to long-term landfill liabilities, deferred consideration and other provisions;
- (d) depreciation and amortization (including amortisation of issuance cost, capitalized expenditures, fees, costs and other charges, acquisition intangibles and goodwill), capital losses and other non-cash charges and expenses, provisions, impairments, write-downs and other similar items, and any amount attributable to disposal (other than in the ordinary course of trading), discontinuance or revaluation of assets;
- (e) Consolidated Net Interest Charges (but disregarding any exclusions or deductions pursuant to the definition thereof) and any other financial expense, interest expense and finance charges (howsoever described) (including, for the avoidance of doubt, receivables fees and charges relating to invoice discounting, receivables financing, factoring or similar arrangements, financing costs, discounts and the amortization thereof, cost and expense associated with hedging obligations, Letter of Credit Arrangements, and any lease expense (on a pre-IFRS 16 basis), and any deemed finance charge);
- (f) taxes paid or accrued during the relevant period;
- (g) pensions items and interest charges (or curtailment or settlement costs or charges) attributable to any liability for a pension scheme deficit or (as the case may be) income attributable to assets comprised in a pension fund surplus;
- (h) the amount of any holding company costs and expenses, director fees, exit or termination fees, and any management, monitoring, consulting, transactional, investor or advisory fees, cost, taxes and expenses (and, in each case, related taxes and expenses), and any related guarantees, indemnities and expenses (or, in each case, provisions or accruals or reversals relating to any such amount or arrangement);

- (i) movements on fair value on financial instruments;
- (j) charges for equity – settled share based payments;
- (k) Exceptional Items;
- (l) Transaction Costs;
- (m) any start-up, integration or set-up costs or expenses or losses (including in respect of new or acquired entities, contracts, facilities, businesses, business lines, ventures or services), any restructuring charges (or provision or accrual in respect thereof), integration cost or other business optimization expense or cost (including charges related to the implementation of cost-savings and group initiatives) and any cost, expense or losses of closed, disposed or discontinued operations or attributable to business or asset disposals (other than in the ordinary course of trading);
- (n) any costs, taxes, charges, expenses, payments or provisions relating to any MIP/MEP, MEP Payment, Management Advance, or management or employee compensation, termination, severance and other IFRS-qualified restructuring charges, bonus, benefit, equity or incentive arrangement or any share option or incentive scheme (or, in each case, provisions or accruals or reversals relating to any such amount or arrangement);
- (o) the impact of any retention payments, transitional services, management services, outsourcing, and deferred or contingent consideration, earn-outs and related payments made or to be made in connection with any acquisition, investment or disposal permitted by this Agreement (or, in each case, provisions or accruals or reversals relating to any such amount or arrangement);
- (p) fees, costs and expenses associated with acquisition-related litigation and settlements thereof (and any provisions, accruals or reversals in respect thereof);
- (q) after adding, to the extent not already included, at the option of the Company, any amounts received or receivable from or pursuant to (i) business interruption or other loss, liability and/or casualty insurance (or similar) (ii) any scheme or measures enacted by or supported by or on behalf of any governmental, central bank or supervisory or regulatory body (or similar) or agency of state and (iii) any indemnification, compensation or reimbursement provisions or right or claims (including contractual claims) against third parties (or similar);
- (r) any gain or loss arising from an upward or downward revaluation or impairment of an asset;
- (s) after adding (to the extent not otherwise included) (A) the operating profit of each member of the Group, calculated in accordance with this definition, as if such member of the Group were a wholly-owned member of the Group (on a fully-consolidated basis) and (B) any share in the profit of any person which is not a member of the Group and (without duplication) the amount of any dividends or other profit distributions or returns on investments received or receivable by the Group

from any Joint Venture or Project Company or any person which is not a member of the Group.

"Consolidated Net Borrowings" means Total Consolidated Borrowings of the Group which are required to be accounted for as debt in the Annual Financial Statements, less cash and Cash Equivalent Investments of the Group.

"Consolidated Net Interest Charges" means the aggregate amount of the interest (including, without limitation, capitalised interest expense and the interest element of Capital Lease Obligations), amounts in the nature of interest, discount charges and other finance incurred by the Group in respect of Financial Indebtedness as adjusted to reflect net amounts paid or received by the Group under any interest rate or other hedging agreements entered into by members of the Group, after deducting:

- (a) any interest receivable by the Group in respect of indebtedness (including from Project Companies or Joint Ventures) during the Testing Period; and
- (b) any interest payable in that Testing Period to any member of the Group (other than by another member of the Group) on any Cash or Cash Equivalent Investment,

and excluding:

- (i) any Transaction Costs and any arrangement, underwriting or other up-front costs and any amortisation of any such costs;
- (ii) any discount unwind relating to long-term landfill liabilities, deferred consideration or other provisions;
- (iii) any pensions items or interest charges or income attributable to any liability for a pension scheme deficit or income attributable to any assets comprised in a pension scheme surplus shown on the consolidated balance sheet of the Group;
- (iv) any movements on fair value on financial instruments for that period;
- (v) any such amounts attributable to an operating lease or Vehicle Lease or any item not included in the calculation of Consolidated Net Borrowings; and
- (vi) any capitalized or payment-in kind interest or amounts and any interest or amounts in respect of intra-Group debt or Subordinated Debt.

"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 Total Consolidated Borrowings and Consolidated Net Interest Charges (but without deducting (b) of that definition);
- (b) liabilities for Tax;
- (c) Exceptional Items and other non-operating items;
- (d) insurance claims;
- (e) liabilities in relation to dividends declared but not paid by a member of the Group in favour of a person which is not a member of the Group; and
- (f) liabilities for Capital Expenditure.

"Exceptional Items" means any items of an extraordinary, unusual, non-recurring or exceptional nature and any one-off items and start-up costs, and including, without limitation:

- (a) restructuring expenditure; and
- (b) any item which represents a cost or expense or gain or loss arising on or in respect of:
 - (i) extraordinary, one-time or one-off costs in connection with acquisitions and disposals, costs relating to any severance, retention, bonuses, relocation, recruiting and other employee-related costs, internal costs in respect of strategic initiatives and curtailment or modifications to pensions items and any pensions plans, systems or facilities development and establishment costs, future lease, licence, tender, concession, franchise or contractual commitments, and costs related to the opening and/or closure and/or consolidation of facilities and services and to exiting lines of business;
 - (ii) restructurings or reorganisations of the activities of an entity and reversals of any provisions for the costs of restructuring or reorganisation;
 - (iii) disposals of non-current assets;
 - (iv) write-downs or revaluations of non-current assets to recoverable amount, and reversals of such write-downs and revaluations;
 - (v) the disposal of assets associated with discontinued operations;
 - (vi) litigation settlements;
 - (vii) start-up, ramp-up, opening, closing, new entities, business lines, operations, contracts, plants, products, facilities, services or other assets or ventures,

integration, consolidation, business optimization and/or operating improvements or initiatives; and

(viii) Transaction Costs,

and in each case any cost, loss, tax, charge or expense or any charges, accruals, provisions or reserves relating thereto.

"Excess Cashflow" means, for any Testing Period, Cashflow for that Testing Period (to the extent realised in cash during such Testing Period) (without double counting) less (at the option of the Company, and except to the extent already deducted in calculating Cashflow, and without duplication):

- (a) Consolidated Net Interest Charges for that Testing Period (but disregarding any exclusions or deductions pursuant to the definition thereof) and any other financial expense, interest expense and finance charges (including, for the avoidance of doubt, financing costs and the amortization thereof, cost and expense associated with hedging obligations, Letter of Credit Arrangements and Leasing Arrangements, and any deemed finance charge) and any payment on or in respect of any obligation or liability in the nature of interest, fees, catch-up payments or debt service (howsoever described), and (without duplication) amounts payable on the entry into, amendment, close-out or termination of a Treasury Transaction, Leasing Arrangement or Letter of Credit Arrangement;
- (b) the amount of any Debt Reductions (other than in respect of revolving or redrawable debt) made during that period or after the last date of such period but prior to the date on which Excess Cashflow is being calculated or which are required or committed to be made;
- (c) to the extent otherwise included:
 - (i) the proceeds of any disposal or insurance claim (or similar);
 - (ii) the amount of any Financial Indebtedness, Acceptable Funding Sources and New Shareholder Injections;
 - (iii) any item or amount referred to in paragraphs (a) to (c), (e), or (h) to (s) of the definition of Consolidated EBITDA and any Pro Forma Adjustment;
 - (iv) the amount of any fees, costs, taxes or expenses or compensation payments (together with amounts payable under service contracts and any MIP/MEP), in each case to the extent permitted under this Agreement;
 - (v) any amount attributable to any minority shareholder in any member of the Group (and such that, in respect of any non-wholly-owned Subsidiary, the pro rata portion attributable to minority shareholdings may be deducted);
- (d) the amount of any upfront fees or costs, any agency or security agent fees, or any amount attributable to the amortisation of such fees or costs over time paid during that period;

- (e) Transaction Costs and other fees, costs, taxes and expenses paid or payable;
- (f) any Permitted Payments made during that period or to be made but which have not yet been paid (but which is made on or prior to the relevant calculation date or within the next 12 months thereafter);
- (g) any amount paid or contractually committed or designated to be paid in respect of any acquisition, investment, capital expenditure, operating expenditure or Specified Transaction, including where such event or expenditure is incurred, committed, designated, accrued, recognised or provisioned for (or was budgeted to have been paid during such Testing Period (including any amounts set out in the Base Case Model or Budget) but has not yet been paid during such Testing Period);
- (h) (without duplication) cash expenditure in respect of contract arrangements, tax, insurance, pensions items, environmental obligations, and long-term commitments or liabilities of the Group or pursuant to binding contracts or tax liabilities and any planned cash expenditure in the next Testing Period;
- (i) any amount included in Excess Cashflow in any prior period; and
- (j) (if so elected by the Company) an amount of up to the greater of (i) projected operating expenditure for the three months commencing on the relevant Test Date and (ii) EUR 10,000,000 and (iii) 6 per cent. of Consolidated EBITDA.

"Group Initiative" means any restructuring, reorganisation, cost saving, business optimization, strategic partnership or initiative, research and development, new, terminated or revised contract, project, license, concession, expenditure, investment, business, business line, process, system, product, facility, service or business (or curtailment of any of the forgoing), start-up, integration, operational changes, implementation, build-out or development or other Specified Transaction (or other similar or analogous transaction, program, action, initiative or measures), whether made, implemented, expected, designated, taken, committed or entered into or committed or planned to be made or taken or entered into by any member of the Group).

"Reporting Currency" means euros.

"Test Date" means each 31 March and 30 September (save as any such date may be adjusted by the Company to avoid a Test Date falling on a day which is not a Business Day and/or to ensure that Test Dates fall on the same day of the week).

"Testing Period" means each period of approximately twelve months ending on a Test Date, other than when used in relation to the calculation of Excess Cashflow, when it shall be each period of approximately six months ending on a Test Date.

"Total Consolidated Borrowings" means at any time the aggregate (without double counting) outstanding principal or capital amount of the following:

- (a) the outstanding principal amount of any moneys borrowed by the Company or any of its Subsidiaries;

- (b) any outstanding principal amount raised by acceptance by the Company or any of its Subsidiaries under any acceptance credit facility;
- (c) any outstanding principal amount raised by the Company or any of its Subsidiaries pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the capitalised element of any liability of the Company or any of its Subsidiaries in respect of any lease or hire purchase contract which would, in accordance with IFRS, prior to the introduction of IFRS 16, be treated as a finance or capital lease, but for the avoidance of doubt excluding any operating lease;
- (e) the outstanding principal amount of all moneys owed by the Company or any of its Subsidiaries in connection with the sale or discounting of receivables (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any principal amount raised under any other transaction (including any forward sale or purchase agreement or issue of redeemable preference shares) having the commercial effect of a borrowing;
- (g) any fixed or minimum premium payable on the repayment or redemption of any instrument referred to in paragraph (c) above; and
- (h) the outstanding principal amount of any indebtedness of any person (other than the Company or any of its Subsidiaries) of a type referred to in paragraphs (a) to (f) above which is the subject of a guarantee (to the extent of that guarantee) by the Company or any of its Subsidiaries,

in each case if and to the extent such item constitutes Financial Indebtedness of the Group and would be treated as a borrowing on the consolidated balance sheet of the Group (excluding notes thereto) prepared in accordance with the Accounting Principles as applied in the preparation of the Annual Financial Statements and provided that Total Consolidated Borrowings shall not include:

- (i) any items excluded from Financial Indebtedness pursuant to the definition thereof;
- (ii) any amount constituting or represented by shares or share capital or equity interests, except for shares redeemable mandatorily or at the option of the holder prior to the original stated Termination Date applicable to the Facilities;
- (iii) any operating lease, any Vehicle Lease, any non-recourse financings and amounts under or in connection with any hedging arrangement or Treasury Transaction;
- (iv) settlement of consideration and any amounts payable in connection with the Acquisition or any Permitted Acquisition,

and any guarantee or indemnity or other obligation or liability in respect of any item referred to in the paragraphs above (and for the avoidance of doubt, no amount, liability or obligation shall be included more than once).

Notwithstanding anything to the contrary, Capital Leases (and any Total Consolidated Borrowings attributable to leases or similar arrangements) may (to the extent they would otherwise be included in accordance with the terms hereof) be excluded from the calculations of Total Consolidated Borrowings, Consolidated Net Borrowings and Consolidate Net Interest Charges to the extent that the benefit and costs (including interest costs and other finance charges or expenses) associated or attributable to such arrangement are not added back to Consolidated EBITDA.

"Transaction Costs" means (i) any fees, costs, taxes, expenses, charges, payments, expenditure or other amounts incurred, paid or payable (including, without limitation, VAT, stamp, registration or other costs or taxes) in connection with the Transaction and/or the Transaction Documents and/or any Specified Transaction and/or any actual, proposed or aborted transaction or arrangement permitted by this Agreement (including, without limitation, any equity or debt offering, investment, acquisition, disposal, expenditure, indebtedness, Permitted Transaction or Specified Transaction (whether or not successful)) (ii) any extraordinary, unusual, non-recurring or exceptional loss, charge, penalty, item, cost or expense (including, without limitation, any loss, charge, penalty, item, cost or expense relating to an extraordinary, unusual, transformational or exceptional event) and (iii) any Acquisition Costs, restructuring expenditure or Refinancing Costs.

For the avoidance of doubt, references to Transaction Costs may include financing and legal, consulting or advisory fees, costs or expenses incurred in connection with any of the foregoing or in connection with related due diligence activities.

"Working Capital" means, on any date, Current Assets less Current Liabilities.

26.2 Financial condition

- (a) **Leverage:** the Company shall ensure that the ratio of Consolidated Net Borrowings on any Test Date to Consolidated EBITDA (the "**Leverage Ratio**") for the Testing Period ending on such Test Date is not greater than 4.50:1.00.
- (b) **Interest Cover:** the Company shall ensure that the ratio of Consolidated EBITDA to Consolidated Net Interest Charges (the "**Interest Cover Ratio**") for the Testing Period ending on such Test Date is not less than 1.30:1.00.

26.3 Financial testing

- (a) The financial covenants set out in Clause 26.2 (*Financial condition*) (the "**Financial Covenants**") shall be calculated on a consolidated basis in accordance with applicable Accounting Principles (except as expressly amended or permitted pursuant to the terms of this Agreement), and the Financial Covenants shall be tested:
 - (i) in accordance with sub-paragraph (ii) below, on a rolling basis in respect of each such Testing Period ending on each Test Date, commencing with the first Test Date

- to occur at least 6 months after Completion (or, in the event the Acquisition is consummated by way of Offer, the Offer Completion Date); and
- (ii) by reference to each of the Annual Financial Statements and Half-Yearly Financial Statements of the Group and associated Compliance Certificates delivered pursuant to paragraph (a) of Clause 25.1 (*Financial statements*) for the applicable Testing Period.
- (b) No item shall be taken into account more than once in any calculation and all intra-Group items shall be ignored.
- (c) For the purposes of determining Financial Indebtedness, Consolidated EBITDA, Consolidated Net Borrowings and Consolidated Net Interest Charges:
- (i) the Group may exclude any Project Company which any member of the Group has an interest in, the profits, income or other amounts attributable to such interests and any borrowings or investments by any such Project Companies (provided that, for the purposes of determining Consolidated EBITDA, amounts received from or attributable to such a Project Company may be included as contemplated by the definition thereof), and any reference to the Group or members of the Group (or to Subsidiaries of the Company) shall be interpreted and construed accordingly; and
 - (ii) the Group may elect to treat any Vehicle Lease as an operating lease, regardless of any accounting treatment in respect thereof, provided that, in the case of a Vehicle Lease which is itself a Capital Lease (and not an operating lease) (a "**Vehicle Capital Lease**") the maximum aggregate amount (by reference to capitalised value, to the extent capitalised on balance sheet) of all such Vehicle Capital Leases which the Group may elect to treat as an operating lease (and not as a Capital Lease) pursuant to and in reliance on this paragraph at such time may not exceed the greater of EUR 100,000,000 and 55 per cent. of EBITDA.
- (d) In respect of any Testing Period ending less than 12 months after the Closing Date, for the purposes of calculating the Interest Cover Ratio:
- (i) Consolidated Net Interest Charges shall be calculated on the basis of annualising the Consolidated Net Interest Charges from the Closing Date until the end of the Testing Period; and
 - (ii) any Total Consolidated Borrowings repaid, refinanced or replaced at any time prior to the end of such period (and any costs associated therewith) may be ignored.
- (e) In the event that:
- (i) any Test Date (or other accounting date or reference period) is adjusted by the Company to avoid such date or period falling or ending on a day which is not a Business Day and/or to ensure such date or period falls or ends on a particular day of the week; or
 - (ii) there is any adjustment to a scheduled payment date to avoid payments becoming due on a day which is not a Business Day,

if that adjustment results in any amount being paid in a period in which it would otherwise not have been paid, for the purpose of calculating any financial definition or ratio, the Company may treat such amount as if it was paid in the period in which it would have been paid save for any such adjustment.

- (f) In respect of any relevant period, calculation or determination, the exchange or transaction rates or methodology used shall (where appropriate) be determined by the Company consistent with the Accounting Principles and practices and/or consistent with the relevant rates or methodology applied in relation to the Base Case Model or the relevant Financial Statements or:
- (i) the exchange or translation rates (or average of such rates) used for determining Consolidated EBITDA for the relevant period;
 - (ii) the average annual foreign exchange rates for the relevant 12 months calculated in accordance with the Accounting Principles or IFRS;
 - (iii) the applicable spot rate of exchange on the relevant date (as selected and determined by the Company, acting reasonably);
 - (iv) the Agent's spot rate of exchange for the purchase of the relevant currency in the London foreign exchange market with the Reporting Currency at or about 11.00 a.m. on the day the relevant amount falls to be calculated; or
 - (v) if the amount is to be calculated on the last day of a financial period of the Company, the relevant rates of exchange used by the Company in, or in connection with, its financial statements for that period,

provided that if the Group has entered into currency hedging, the currency and amount of any indebtedness may be stated or calculated so as to take into account the hedging effect of any such currency hedging entered into.

- (g) Notwithstanding anything to the contrary, for the purposes of calculating (or, as applicable, determining or forecasting) EBITDA and any other financial covenant, ratio, financial definition (or component thereof), basket, threshold, incurrence, compliance, usage, ratchet or permission (other than for the purposes of calculating Excess Cashflow), the Company shall be permitted to (without duplication):
- (i) give *pro forma* effect to (1) the Transactions, (2) any acquisition, investment, capital expenditure, disposal, discontinued operations, joint venture arrangement, new, terminated or revised contract, project or asset, incurrence, Debt Reduction, reorganisation, restructuring or other transaction, activity or arrangement or Group Initiative (each a "**Specified Transaction**") and other actions, initiatives or measures (whether made, implemented, expected, designated, taken, committed or entered into or committed or planned to be made or taken or entered into by any member of the Group prior to, during or following such relevant period) as if such Specified Transaction, action, initiative or measures (and all related transactions and arrangements) has occurred and been implemented on (and the full impact thereof and any increases, benefits, synergies and savings were and had been

realised in full (at the full run rate effect) on and with effect from) the first day of the relevant period and for the full relevant period (or, at the option of the Company, from the date on which such Specified Transaction is actually made or entered into (as applicable)) and (3) any Pro Forma Adjustment;

- (ii) in relation to any acquisition of or investment in any person, property, business, operations, operating unit or material asset (or group of assets) by (or to be made by) the Group or a new or revised investment, business line or contract entered into by the Group (each an "**Acquired Entity or Business**"):
 - (A) include the earnings before interest, tax, depreciation, amortisation and impairment charges (calculated on the same basis as Consolidated EBITDA, *mutatis mutandis*) for the relevant period (including, at the option of the Company, any prior thereof occurring prior to such acquisition or investment, as applicable) of or attributable to any Acquired Entity or Business;
 - (B) include an adjustment equal to or less than the amount of the Pro Forma Adjustment consequent on such acquisition or investment or such Acquired Entity or Business; and/or
 - (C) exclude any non-recurring costs and other expenses arising directly or indirectly as a consequence of such acquisition or investment or such Acquired Entity or Business;
- (iii) in relation to any discontinued operations or sale or disposal or discontinuance by (or to be made by) the Group of any person, property, business, operations, operating unit or material asset (or group of assets) (each a "**Sold Entity or Business**"):
 - (A) eliminate the earnings before interest, tax, depreciation, amortisation and impairment charges (calculated on the same basis as Consolidated EBITDA, *mutatis mutandis*) for the relevant period (including, at the option of the Company, any prior thereof occurring prior to such acquisition, as applicable) of or attributable to any Sold Entity or Business;
 - (B) include an adjustment equal to or less the amount of the Pro Forma Adjustment consequent on such sale or disposal or such Sold Entity or Business; and/or
 - (C) exclude any non-recurring costs and other expenses arising directly or indirectly as a consequence of the sale or disposal or such Sold Entity or Business; and
- (iv) in relation to any Specified Transaction or Group Initiative and any other actions, initiatives or measures (whether made, implemented, expected, designated, taken, committed or entered into or committed or planned to be made or taken or entered into by any member of the Group prior to, during or following such relevant period):

- (A) include an adjustment in respect thereof equal to or less than the amount of the Pro Forma Adjustment consequent on such Specified Transaction or Group Initiative or the implementation thereof (or which the Company reasonably believes has been or will be reasonably achievable or realizable within 24 months thereafter); and/or
 - (B) exclude any non-recurring costs and other expenses arising directly or indirectly as a consequence of such Specified Transaction or Group Initiative or the implementation thereof;
- (v) give *pro forma* effect to:
- (A) in the event that the Group is incurring, assuming or guaranteeing any indebtedness, the use and application of the proceeds of any relevant indebtedness;
 - (B) any Debt Reduction made prior to or during such relevant period or subsequent to such relevant period but on or prior to the applicable calculation date or which is made in connection with the relevant transaction or arrangement (and, for the avoidance of doubt, with Consolidated Net Borrowings and Consolidated Net Interest Charges (as applicable) being reduced to reflect the assumption or repayment of Financial Indebtedness);
 - (C) any hedging entered into in relation to borrowings;
- (vi) exclude:
- (A) the impact of any purchase accounting (or similar) and the accounting impact of any cash movements (and related fees, costs, taxes and expenses) in connection with the Facilities, the Transactions and any acquisition or investment permitted by this Agreement;
 - (B) intra-group items and all or part of any expenditure or other negative item directly or indirectly relating to or resulting from tax referable to any payments, dividends or distributions made or received intra-Group;
 - (C) Transaction Costs and any non-recurring fees, cost, taxes and expenses arising directly or indirectly as a consequence of the Transactions, any Acquired Entity or Business, Sold Entity or Business, Specified Transaction or Group Initiative or the implementation thereof; and
- (vii) make, give effect to and include:
- (A) any and all calculations, classifications and/or adjustments (including any made on a *pro forma*, adjusted or indicative basis) set out in, or of the nature and/or type applied or used in connection with the preparation of (or taken into account or reflected in), the Base Case Model, the Transaction Documents, the Reports and any financing EBITDA, quality of earnings or diligence materials provided to Lenders, the Original Financial Statements, the Information Memorandum and/or any information or materials (including

in connection with syndication or marketing of the Facilities) provided to Finance Parties and/or in connection with any calculation of financing or structuring EBITDA, and any EBITDA adjustments included in such materials or consistent with past practice or the Accounting Principles, as applied in good faith by the Company, and any Pro Forma Adjustment;

- (B) any adjustment or amount confirmed or approved by the auditors or other accountancy firm of international standing.

For the purpose of this Agreement "**Pro Forma Adjustment**" shall mean the *pro forma* increase, incremental or improvement in Consolidated EBITDA projected by the Company in respect of any transaction, action, initiative or arrangement (including, for the avoidance of doubt, the Transactions, any Specified Transaction, Acquired Entity or Business, Sold Entity or Business or Group Initiative (or the implementation thereof)) after taking into account of (as the case may be):

- (i) such Transaction, Specified Transaction, Acquired Entity or Business, Sold Entity or Business or Group Initiative (or the implementation thereof);
- (ii) any actual and/or anticipated benefits, synergies, expense reductions, margin, income or operating improvements, cost savings and/or other similar items, adjustment or initiatives ("**synergies and savings**") (including in respect of any Group Initiatives) which the Company or an Authorised Officer reasonably believes have been or can be obtained, realised or achieved or are achievable (meaning first beginning to be achieved) at any time on or prior to the date falling 24 months after such calculation date or following the entry into or implementation of the relevant transaction, action, initiative or arrangement (including in connection with any transactions, actions, initiatives or arrangements entered into, expected, committed, designated or implemented during that period or as a consequence of such Acquired Entity or Business or Sold Entity or Business or Specified Transaction or as a result of implementing such Group Initiative) (which shall be permitted to be taken into account at full run-rate/incremental effect for the entire relevant period); and
- (iii) all projected EBITDA increases and revenues which the Company or an Authorised Officer reasonably believes have been or can be obtained, realised or achieved or are achievable (meaning first beginning to be achieved) within 24 months after such calculation date or following the entry into or implementation of the relevant transaction, action, initiative or arrangement in respect of or as a consequence of any such transaction, action, initiative or arrangement (including, for the avoidance of doubt, the Transactions, any Specified Transaction, Acquired Entity or Business, Sold Entity or Business or Group Initiative) (which shall be permitted to be taken into account at full run-rate/incremental effect for the entire relevant period),

provided that:

- (A) any such *pro forma* increase to Consolidated EBITDA shall be without duplication for savings, synergies or revenues actually realised during such period and already included in such Consolidated EBITDA;
- (B) for so long as any such increase, improvement, synergies and savings are or will be (or are reasonably believed or anticipated to be) realisable or achievable as contemplated by the foregoing, it may be assumed that they are and will be realisable during (and at full run rate effect for) the entire such period in respect of which such calculation is being made and at up to the maximum or full run-rate/incremental effect;
- (C) for the purposes of paragraph (ii) above, unless such adjustment is permitted other than pursuant to such paragraph, the Company has elected to include a Pro Forma Adjustment increase in Consolidated EBITDA in respect of projected (but not realised) synergies and savings pursuant to and in reliance on paragraph (ii) above to the extent such adjustment exceeds 20 per cent. of Consolidated EBITDA (calculated on a *pro forma* basis, taking into account all relevant transactions, actions and initiatives and any adjustments to be made in respect thereof), such adjustment must be supported by third party certification, diligence, commentary or verification provided by the auditors or an accounting firm or industry specialist; and
- (D) for the purposes of paragraph (ii) above, unless such adjustment is permitted other than pursuant to such paragraph, the Company may not elect to include a Pro Forma Adjustment increase in Consolidated EBITDA in respect of projected (but not realised) synergies and savings pursuant to and in reliance on paragraph (ii) above to the extent that such adjustment for projected (but not realised) synergies and savings pursuant to and in reliance on such paragraph would otherwise exceed 25 per cent. of Consolidated EBITDA (in each case, calculated on a *pro forma* basis taking into account all relevant transactions, actions and initiatives any adjustments to be made in respect thereof).

26.4 Cure rights

- (a) The Company may, in accordance with, and to the extent set out in this Clause 26.4, cure or prevent a breach of any of the Financial Covenants in Clause 26.2 (*Financial condition*) so that:
 - (i) in the case of a cure, the Event of Default which arose by virtue of such breach, if cured in accordance with this Clause 26.4, shall be deemed not to have arisen; or
 - (ii) in the case of a prevention, that Event of Default which otherwise would have arisen will not arise.
- (b) Subject to paragraph (g) below, a breach of a Financial Covenant in Clause 26.2 (*Financial condition*) may be prevented (a "**prevention**") or, as the case may be, shall be deemed cured (a "**cure**") by the receipt by the Company of the cash proceeds of an investment by way of Subordinated Indebtedness or New Shareholder Injections (an "**Cure Amount**") on

or prior to the date falling 20 Business Days after the due date for delivery of the Compliance Certificate in relation to such Testing Period (the "**Cure Deadline**").

- (c) At the option of the Company (at such times and for such parts of the relevant Testing Period as the Company shall specify from time to time), all or any part of any relevant Cure Amount may:
 - (i) in the case of a prevention or cure of the Financial Covenant in paragraph (a) (*Leverage*) of Clause 26.2 (*Financial condition*) be added to Consolidated EBITDA or deducted from Consolidated Net Borrowings; and/or
 - (ii) in the case of a prevention or cure of the Financial Covenant in paragraph (b) (*Interest Cover*) of Clause 26.2 (*Financial condition*) be added to Consolidated EBITDA or deducted from Consolidated Net Interest Charges.
- (d) The Company's entitlement to prevent or cure any breach of a Financial Covenant in Clause 26.2 (*Financial condition*) in accordance with this Clause 26.4 is subject to the Company not making any such election:
 - (i) more than three times in any rolling five year period; and
 - (ii) in respect of consecutive Testing Periods on more than two occasions.
- (e) There shall be no restriction on a Cure Amount being greater than the minimum amount needed to prevent or cure the Event of Default and there shall be no requirement to use all or part of any overcure amount in or towards prepayment of any Financial Indebtedness of the Group and such overcure amount may be retained by the Company for use in the business of the Group not prohibited under the Finance Documents.
- (f) For the avoidance of doubt, any Cure Amount and any application or calculation thereof under paragraph (c) may be taken into account in respect of the relevant Testing Period to which such Cure Amount relates until the next two Testing Periods.
- (g) Notwithstanding anything to the contrary in any Finance Document, but without prejudice to the rights of the Group under the paragraphs above:
 - (i) if a Financial Covenant under Clause 26.2 (*Financial condition*) has not been complied with or has been breached in respect of any period or calculation (the "**First Period**"), but it is or would be complied with when tested in respect of the next Testing Period (the "**Second Period**"); or
 - (ii) if at any time on or prior to the Cure Deadline a Debt Reduction is made such that (when recalculated *pro forma* for such Debt Reduction) the relevant Financial Covenant would be complied with if tested (or tested again) or would be complied with as at the next Test Date,

then the Company and the Group shall be deemed to have satisfied the requirements of Clause 26.2 (*Financial condition*) in respect of the First Period and any prior breach or failure to comply with a Financial Covenant and any breach, Default or Event of Default under or in relation to that Financial Covenant, Clause 26.2 (*Financial condition*) or Clause 28.2 (*Financial covenant*) shall (in each case) no longer be outstanding or continuing (and shall

be deemed remedied), unless prior to such date a Declared Default has occurred and is continuing as a result of that prior failure to comply with that Financial Covenant in respect of the First Period and such has not been cured, remedied, rescinded, satisfied or waived.

- (h) Any part of a Cure Amount applied to prevent or cure breaches of Financial Covenants pursuant to this Clause 26.4 shall not be taken into account for any other purpose under this Agreement or the Intercreditor Agreement, including calculating the Lock-Up Ratios, when calculating any basket or other threshold amount.

27. GENERAL UNDERTAKINGS

27.1 General

- (a) The undertakings set out 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.
- (b) Notwithstanding anything to the contrary, all transactions, arrangements and commitments entered into or in effect on or prior to, or as at, Completion and/or as contemplated by any Transaction Document shall be permitted for all purposes under and in connection with the Finance Documents (including, without limitation, for the purposes of this Clause 27 and Clause 28 (*Events of Default*)).

27.2 Authorisations

Subject to the Legal Reservations and Perfection Requirements, each Obligor shall promptly obtain, renew, comply with and do all that is necessary to maintain in full force and effect any Authorisations required under any law or regulation of a Relevant Jurisdiction to:

- (a) enable it to perform its obligations under the Finance Documents; and
- (b) ensure, subject to the Legal Reservations and the Perfection Requirements, the legality, validity, enforceability or admissibility in evidence of any Finance Document,

where failure to do so has or would reasonably be expected to have a Material Adverse Effect.

27.3 Compliance with laws

Each Obligor shall (and the Company shall procure that each other member of the Group will) comply in all respects with all laws and regulations to which it may be subject, if failure so to comply has or would be reasonably expected to have a Material Adverse Effect.

27.4 Environmental Compliance

Each Obligor shall (and, following Completion, the Company shall ensure that each member of the Group will) comply in all material respects with all Environmental Laws applicable to it, in each case, where failure to do so would have, or would reasonably be expected to have, a Material Adverse Effect.

27.5 Change of business

- (a) The Company shall ensure that no substantial change is made to the general nature of the business of the Group as a whole from that carried on at Completion.

- (b) For the avoidance of doubt, this Clause 27.5 shall not restrict the carrying out of any acquisition, disposal, reorganisation or Permitted Transaction otherwise permitted by this Agreement.

27.6 **Pari passu ranking**

Subject to the Legal Reservations and perfection, 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.

27.7 **Negative pledge**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall procure that no other member of the Group will) create or permit to subsist any Security for Financial Indebtedness over any of its assets.
- (b) Paragraph (a) above does not apply to any Security or (as the case may be) Quasi-Security which is Permitted Security or which comprises or is a consequence of a Permitted Disposal or Permitted Transaction.

27.8 **Arm's length basis**

- (a) Except as permitted by paragraph (b) below, no Obligor shall (and the Company shall procure that no other member of the Group will) enter into any transaction with its Affiliates (other than a member of the Group) except on arm's length terms or better.
- (b) The following transactions shall not be a breach of this Clause 27.8:
- (i) any loans from Affiliates or Subordinated Indebtedness;
 - (ii) any New Shareholder Injections;
 - (iii) transactions between members of the Group which are not prohibited by the terms of the Finance Documents;
 - (iv) Transaction Costs and fees, costs, taxes and expenses payable under or in respect of the Transactions or Transaction Documents;
 - (v) any transaction pursuant to or in connection with MIP/MEP or MEP Payment or Management Advance;
 - (vi) any Permitted Loan, or Permitted Payment or Permitted Transaction (including any debt purchase transaction permitted under the Finance Documents);
 - (vii) a Debt Purchase Transaction permitted under this Agreement;
 - (viii) any transaction, activity or arrangement permitted by Clause 27.21 (*Joint Venture and Project Company Investments*);
 - (ix) any transaction, activity or arrangement in the ordinary course of business activities or *de minimis* in nature; or
 - (x) any transaction or arrangement which, in the reasonable opinion of the Company or management of the relevant member of the Group, is advantageous to, or in the

best commercial interests of, the Obligors as a whole, provided that such transaction or arrangement does not breach any specific restriction or prohibition set out in this Agreement.

27.9 Dividends and share redemption

- (a) Except as permitted under paragraph (b) below, the Company shall not (and the Company shall procure that no other member of the Group shall):
- (i) 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 the Company's share capital (or any class of its share capital);
 - (ii) repay or distribute any dividend or share premium reserve of the Group;
 - (iii) pay any management, advisory or other similar fee to or to the order of the Parent or an Original Investor;
 - (iv) repay or prepay any amount (in cash or in kind) (including, without limitation, in respect of principal, interest, capitalised interest, commission, charges and fees) under any Subordinated Indebtedness owing to the Parent; or
 - (v) redeem, repurchase, defease, retire or repay any of the Company's share capital, each a "**Restricted Payment**", other than (A) in exchange for or payable solely in shares or other equity interests of the Company or Subordinated Indebtedness (B) on a non-cash basis in respect of a reorganisation of share capital, equity or reserves, (C) where such Restricted Payment is capitalised on a non-cash basis or (D) to a member of the Group.
- (b) Paragraph (a) above does not apply to a Permitted Payment or a Permitted Transaction.

27.10 Treasury Transactions

- (a) No Obligor shall (and the Company shall ensure that no other member of the Group will) enter into any Treasury Transaction, other than:
- (i) any Treasury Transaction entered into on or prior to (or pursuant to a contractual arrangement existing on) the Closing Date;
 - (ii) the hedging transactions documented by the Hedging Agreements;
 - (iii) Treasury Transactions entered into for the hedging of actual or projected real exposures arising in the ordinary course of day-to-day business of a member of the Group; or
 - (iv) any other Treasury Transaction, provided not for speculative purposes.
- (b) The Company shall ensure that, by no later than the date falling 90 days after Completion (the "**Initial Hedging Window**"), hedging will have been undertaken by the Company for floating rate interest payments in respect of all amounts outstanding under the Term Facility ("**Relevant Debt**") so that, at the end of the Initial Hedging Window, at least 70 per cent. of Relevant Debt (as reduced from time to time) is fixed rate or effectively bears a fixed rate (or maximum fixed rate) for a tenor of at least three years from the Closing Date (or, if earlier, the Termination Date applicable to the Term Facility).

27.11 Financial Indebtedness

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall procure that no member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
 - (i) Financial Indebtedness which is Permitted Financial Indebtedness or a Permitted Transaction; and
 - (ii) any Financial Indebtedness to the extent that the principal amount outstanding is covered by a Letter of Credit or a guarantee or similar instrument issued under an Ancillary Facility or otherwise pursuant to a Finance Document.

27.12 Sanctions and anti-corruption

- (a) No Obligor shall (and the Company shall procure that no other member of the Group will):
 - (i) engage in any transaction that violates any of the applicable prohibitions set forth in any applicable anti-bribery, anti-money laundering and anti-corruption laws applicable to the Company or any member of the Group;
 - (ii) contribute or otherwise make available all or any part of the proceeds of the Facilities, directly or indirectly, to, or for the benefit of, any person (whether or not related to any member of the Group) for the purpose of financing the activities or business of, other transactions with, or investments in, any Designated Person;
 - (iii) directly or knowingly (acting with due care and enquiry) indirectly engage in any transaction, activity or conduct that would violate Sanctions or that would cause any Finance Party to be in breach of any Sanctions or that would result in it or any Finance Party being designated as a Designated Person;
 - (iv) use funds or assets directly or knowingly (acting with due care and enquiry) indirectly derived from any transactions with Designated Persons or from transactions that violate applicable Sanctions in discharging any obligation due or owing to any Finance Party.
- (b) Any provision of this Clause 27.12 shall not apply to any person if and to the extent that it would result in a breach by or in respect of that person of any applicable Blocking Law.

27.13 Acquisitions

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall procure that no other member of the Group will):
 - (i) acquire a company or any shares or equity securities or a business or undertaking (or, in each case, any equity interest in any of them) in any person which is not a member of the Group; or
 - (ii) incorporate a company.
- (b) Paragraph (a) above does not apply to a Permitted Acquisition or a Permitted Transaction or an acquisition or investment of or in a member of the Group or any transaction or

arrangement permitted pursuant to Clause 27.21 (*Joint Venture and Project Company Investments*).

27.14 Disposals

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and shall procure that no other member of the Group will), by way of a single transaction or a series of transactions (whether related or not) dispose of any of its assets to any person which is not a member of the Group.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal which is a Permitted Disposal, a Permitted Transaction or a Permitted Payment.

27.15 Merger

No Obligor shall enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction other than a Permitted Reorganisation, Permitted Transaction or a Permitted Disposal.

27.16 Insurance

Each Obligor (or the Group) shall 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 a substantially similar, business, where failure to do so would have, or would be reasonably likely to have, a Material Adverse Effect.

27.17 Pensions

The Company shall ensure that no action or omission is taken by any member of the Group in relation to the Group's pension scheme which has or is reasonably likely to have a Material Adverse Effect (including, without limitation, the termination or commencement of winding up proceedings of any such pension scheme).

27.18 Loans

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall ensure that no member of the Group will) provide a loan of Financial Indebtedness to any person.
- (b) Paragraph (a) above does not apply to:
 - (i) a Permitted Loan;
 - (ii) a Permitted Guarantee;
 - (iii) a Permitted Payment; or
 - (iv) a Permitted Transaction.

27.19 No guarantees

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall ensure that no member of the Group will) grant a guarantee in respect of Financial Indebtedness of any other person.

- (b) Paragraph (a) above does not apply to a guarantee which is a Permitted Guarantee or which comprises or is a consequence of a Permitted Financial Indebtedness or Permitted Transaction.

27.20 **Preservation of assets**

Each Obligor shall (and the Company shall ensure that each Obligor will) maintain in good working order and condition (ordinary wear and tear excepted) all of its material assets necessary or desirable in the conduct of its business, save to the extent failure to do so would not reasonably be expected to have a Material Adverse Effect.

27.21 **Joint Venture and Project Company Investments**

- (a) Except as provided by paragraph (b) below, no Obligor shall, and the Company shall procure that no other member of the Group will:
 - (i) make any new investment in, or give any new guarantee in respect of the obligations of, any Joint Venture or Project Company which (in each case) is not a member of the Group; or
 - (ii) trade with or sell to or acquire assets from any Joint Venture which (in each case) is not a member of the Group otherwise than on arm's length terms.
- (b) Paragraph (a) above does not apply to any of the following (each and together, a "**Permitted Joint Venture/Project Company Investment**"):
 - (i) any Permitted Acquisition, Permitted Disposal, Permitted Guarantee, Permitted Loan, Permitted Security or Permitted Transaction or any such transaction or arrangement otherwise permitted under this Agreement (notwithstanding this Clause 27.21);
 - (ii) any transaction or investment to which the Majority Lenders have given their consent;
 - (iii) any transaction or investment which is expressly permitted by paragraphs (d) and (e) below;
 - (iv) any transaction, arrangement, commitment or investment in or relating to Existing Joint Ventures and Existing Project Companies or which is existing, or committed or arising pursuant to arrangements in place or effect as at, or incurred or entered into on or prior to, Completion;
 - (v) any transaction or investments (in addition to any investments referred to in the paragraphs above):
 - (A) funded directly or indirectly with, or in the amount of, Acceptable Funding Sources;
 - (B) in an unlimited amount, provided that the Lock-Up Ratios, when calculated on a *pro forma* basis after giving effect to such investments, are complied with (calculated on a *pro forma* basis as determined by the Company); or

- (C) where the amount invested pursuant to and in reliance on this subparagraph (C) does not exceed the greater of (i) EUR 100,000,000 (or its equivalent in other currencies) and (ii) 50 per cent. of Consolidated EBITDA in aggregate in any Financial Year *plus* the aggregate amount of any payments, distributions, asset transfers, profit, returns and other amounts, and any payment, repayment or release in respect of any loan, guarantee or other liability, received by a member of the Group from a Joint Venture or Project Company or received by a member of the Group in relation to any disposal of any interest in or asset of a Joint Venture or Project Company;
- (vi) any guarantee or indemnity given in respect of the obligations of a Joint Venture or Project Company, provided that such is a Permitted Guarantee, and any loan, deemed loan or other investment made in a Joint Venture or Project Company by the Group in order to meet (or as a result of meeting or in lieu of meeting) its obligations in respect of such guarantees and indemnities.
- (c) For the purposes of paragraphs (b)(iii), (iv) and (vi) above, an investment is made when a binding contract for that investment is made by any member of the Group (or, in the case of an increase in the amount of or consideration for an investment, when a binding contract for that increased amount is made by any member of the Group) or is otherwise provided for in this Agreement.
- (d) The Company must ensure that save for a Permitted Joint Venture/Project Company Investment:
 - (i) no member of the Group gives any form of legally binding assurance, undertaking or support to, or in respect of, any Project Company other than:
 - (A) as otherwise expressly permitted by this Agreement (including, without limitation, (I) the making of Permitted Joint Ventures/Project Company Investments and permitted Project Company Investments, (II) the giving of conventional representations, warranties, undertakings and indemnities in respect thereof; and (III) liabilities permitted by paragraph (d) above);
 - (B) any granted or entered into, provided that, at such time, the Lock-Up Ratios are complied with (calculated on a *pro forma* basis as determined by the Company) or which constitutes or is in connection with a Permitted Joint Venture/Project Company Investment; or
 - (C) where the recourse relates to a claim against one or more members of the Group under (or for breach of obligations owed under) any contractual agreement recording the terms upon which it makes such Project Company Investments, construction contracts or waste services contracts or other contracts for the supply of goods or services entered into by such member of the Group with the Project Company, and the recourse is not in respect of (a) a guarantee, indemnity or other assurance against financial loss not otherwise permitted by this Agreement provided to a person (other than the Project Company) in respect of the liabilities of such Project Company or (b)

an obligation undertaken in favour of such a person to ensure compliance by the Project Company with a financial ratio or other test of the Project Company's financial condition; and

- (ii) all or substantially all of the business of each Project Company (either directly or by way of Project Operating Companies in which it holds investments) is consistent with the general business of the Group.
- (e) If the Company delivers to the Agent:
- (i) a notice stating that a person or entity (the "**New Project Company**") is to be a Project Company (or a Subsidiary Project Company or Joint Venture Project Company, as the case may be, as set out in such notice); and
 - (ii) (if such person or entity was a member of the Group prior to designation pursuant to this paragraph) a pro forma Compliance Certificate confirming that:
 - (i) the Financial Covenants, when calculated on a pro forma basis after giving effect to such designation, are (or would be, if such New Project Company had been a Project Company during the relevant Testing Period or on that Test Date) complied with (calculated on a pro forma basis as is determined by the Company or an Authorised Officer); and
 - (ii) no Event of Default is outstanding or would result from the New Project Company becoming a Project Company,

then, on the date on which the Company delivers that notice and (if applicable) pro forma Compliance Certificate or, if later, the date specified in the notice (the "**Designation Date**"):

- (iii) the New Project Company will be a Project Company;
 - (iv) if applicable, the Margin shall be adjusted from the Designation Date on the basis of the pro forma Compliance Certificate delivered by the Company.
- (f) If the Company delivers to the Agent:
- (i) a notice stating that a then current Project Company (the "**Retiring Project Company**") is no longer to be a Project Company (or a Subsidiary Project Company or Joint Venture Project Company, as the case may be, as set out in such notice); and
 - (ii) a pro forma Compliance Certificate confirming that:
 - (A) the Financial Covenants, when calculated on a pro forma basis after giving effect to such designation, are (or would be, if such Retiring Project Company had not been a Project Company during the relevant Testing Period or on that Test Date) complied with (calculated on a pro forma basis as is determined by the Company or an Authorised Officer);;
 - (B) the Guarantor Coverage Test would have been complied with if it had been tested in relation to the most recently delivered Annual Financial Statements and the Retiring Project Company had not then been a Project Company

(and the Retiring Project Company may, subject to the terms of this Agreement, accede as a Guarantor for the purpose of satisfying this requirement); and

- (C) no Event of Default is outstanding or would result from the Retiring Project Company ceasing to be a Project Company,

then, on the date on which the Company delivers that notice and *pro forma* Compliance Certificate or, if later, the date specified in the notice (the "**Retirement Date**):

- (I) the Retiring Project Company will cease to be a Project Company;
 - (II) the Repeating Representations are deemed made by each Obligor and the Retiring Project Company by reference to the facts and circumstances then existing and as if the Retiring Project Company was not a Project Company; and
 - (III) if applicable, the Margin shall be adjusted from the Retirement Date on the basis of the *pro forma* Compliance Certificate delivered by the Company.
- (g) In relation to the preparation of the *pro forma* Compliance Certificate and related calculations for the purposes of paragraphs (e) and (f) above:
- (i) the balance sheet position of the Group, the Retiring Project Company or New Project Company (as applicable) (including its level of debt) may be taken as at the Retirement Date or Designation Date (as applicable) (notwithstanding that it may be different on the relevant Test Date to which the relevant Compliance Certificate is prepared); and
 - (ii) accordingly, compliance with the Financial Covenants and the Guarantor Coverage Test and the absence of any Default may be determined by reference to the financial position of the Group, the Retiring Project Company or New Project Company (as applicable) as at the Retirement Date or Designation Date (as applicable) and not the actual financial condition at any time during the relevant Testing Period.
- (h) For the avoidance of doubt, nothing in this Agreement or any Finance Document should restrict or regulate any activities, transactions or arrangements entered into or carried out as a Joint Venture or Project Company or the rights or obligations of any person who is not a member of the Group in relation thereto.

27.22 Further assurance

- (a) Subject to the Agreed Guarantee/Security Principles and the terms of the Transaction Security Documents, 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;

- (ii) following a Declared Default, to confer on the Security Agent or confer on the Finance Parties Security over any property and assets of each Obligor that is required to grant, and has granted, Transaction Security pursuant to this Agreement (as the case may be) 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) following a Declared Default, 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 Guarantee/Security Principles, at the reasonable request of the Security Agent, the Company shall (in respect of any Transaction Security granted by it) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.

27.23 Guarantors

- (a) To the extent legally possible and in compliance with the Agreed Guarantee/Security Principles (references therein to "security" to be read for this purpose as including guarantees), the following companies/partnerships shall provide guarantees in respect of the Facilities:
- (i) the Company; and
 - (ii) any member of Group that is required to become a Guarantor in accordance with paragraph (b) below,

provided that, notwithstanding anything to the contrary in the Finance Documents (1) no member of the Group which is not a wholly-owned member of the Group shall be required to become a Guarantor, (2) no member of the Target Group shall be required to provide any guarantees prior to the First Guarantor Accession Date, (3) no Joint Venture, Project Company or Project Holding Company shall be required to provide any guarantees, (4) no member of the Group shall be required to become a Guarantor if it is not required to do so in accordance with the Agreed Guarantee/Security Principles, and (5) no Guarantor shall be required to grant any Security.

- (b) In the case of a guarantee from a member of the Target Group which is an Existing Debt Guarantor, such guarantee shall be provided (subject to the Agreed Guarantee/Security Principles) within 120 days of the later of Completion (or, in the event the Acquisition is consummated by way of Offer, the Offer Completion Date and, in the event of a squeeze-out of Target Shares, completion and settlement thereof) and cancellation of the Target's issued shares from admission to trading on the London Stock Exchange and Euronext and re-registration of Target as a private limited company (such date, the "**First Guarantor**

Accession Date"). Further, subject to the Agreed Guarantee/Security Principles, the Obligors' Agent will procure that:

- (i) on or prior to the First Guarantor Accession Date, the Obligors (calculated on an unconsolidated basis and excluding all intra-Group items and disregarding the earnings from ordinary activities before interest, taxation, depreciation, amortisation and exceptional items (calculated on the same basis as Consolidated EBITDA, *mutatis mutandis*) ("**Entity EBITDA**") of any Guarantor that generates negative Entity EBITDA) account for at least 80 per cent. of Consolidated EBITDA of the Group (as determined by the Company (acting reasonably and based on such information as is available to it) and excluding from the denominator the Entity EBITDA of any member of the Group that is not required to become a Guarantor in accordance with paragraph (a) above or the Agreed Guarantee/Security Principles or which is not a wholly-owned member of the Group); and
- (ii) after the First Guarantor Accession Date, within 120 days of delivery of the Group's audited consolidated Annual Financial Statements delivered thereafter, the Obligors (calculated on an unconsolidated basis and excluding all intragroup items and disregarding the Entity EBITDA of any Guarantor that generates negative Entity EBITDA) account for at least 80 per cent. of the Consolidated EBITDA of the Group (calculated (i) by reference to such annual audited financial statements and (ii) excluding Entity EBITDA of any member of the Group that is not required to become a Guarantor in accordance with paragraph (a) above or the Agreed Guarantee/Security Principles or which is not a wholly-owned member of the Group) (the "**Guarantor Coverage Test**").
- (c) The Obligors' Agent will be able to procure that any member of the Group becomes a Guarantor without further consent by delivering an Accession Letter.
- (d) Any obligation under this Clause and any obligation to provide any guarantee and security is and shall be subject to the limitations and restrictions set out in the Agreed Guarantee/Security Principles.
- (e) Notwithstanding any other provision of this Agreement, the Parties agree no breach of this Clause 27.23 or any other provision or requirement of this Agreement (or Default or Event of Default) shall occur in the event the accession of any person as a Borrower or Additional Guarantor and/or the granting of any guarantee or Transaction Security is prevented or delayed by reason of acts or matters outside or beyond the control of the Group (including, without limitation, a Finance Party failing to notify, agree, complete or confirm satisfaction of any 'know your customer' requirements (or similar) or failing to provide required information or sign any required document (or similar)) and any such requirement on the part of the Group shall be deemed to have been satisfied.
- (f) Notwithstanding any other provision of this Agreement, any member of the Group or Target Group may be deemed to be a Guarantor for the purposes of any permission under this Agreement provided that it accedes to this Agreement as a Guarantor by the First Guarantor

Accession Date or if after the First Guarantor Accession Date, within 120 days of delivery of the Group's audited consolidated Annual Financial Statements delivered thereafter.

27.24 Condition subsequent

Subject to the Agreed Guarantee/Security Principles, on or prior to the First Guarantor Accession Date, the Company shall grant security over the Target Shares owned by it.

27.25 Conduct of Offer and/or Scheme

- (a) The Company shall comply in all material respects with the City Code (subject to any waiver or dispensation of any kind granted by, or as a result of any requirements of, any Relevant Regulator, any Applicable Securities Laws or any other relevant regulatory body, agency of state or applicable law or regulation) relating to the Acquisition, in each case where non-compliance would be materially prejudicial to the interests of the Lenders taken as a whole under the Finance Documents.
- (b) The Company shall not amend or waive any material term of the Scheme Circular or, as the case may be, Offer Document (in each case to the extent relating to the Acquisition and as compared to the position set out in the Announcement) in a manner or to the extent that would be materially prejudicial to the interests of the Lenders taken as a whole under the Finance Documents, other than any amendment or waiver:
 - (i) contemplated by the terms thereof (or by the terms of any Transaction Document);
 - (ii) made with the consent of the Majority Arrangers or Majority Lenders (acting reasonably and such consent not to be unreasonably withheld, conditioned or delayed);
 - (iii) required or requested by any Relevant Regulator, the Court or determined by the Company in good faith as being necessary or desirable to comply with any requirement or request of any Relevant Regulator, the Court, any Applicable Securities Laws or any other relevant court or regulatory body, agency of state or applicable law or regulation;
 - (iv) to change the timing of the Acquisition, including by way of any reduction or extension to the actual or anticipated Scheme Effective Date (including by reason of the adjournment of any meeting or court hearing), Offer Unconditional Date or offer period, provided that, for the avoidance of doubt, any extension of the periods described in the definition of "Certain Funds Period" shall be made in accordance with Clause 41 (*Amendments and Waivers*);
 - (v) relating to a term or condition which the Company determines in good faith that it would not be entitled, in accordance with City Code, to invoke so as to cause the Acquisition not to proceed, to lapse or to be withdrawn;
 - (vi) of a condition, or a declaration that a condition is or has been satisfied, in each case as may be required to enable a Scheme to be approved or to become effective or, as the case may be, an Offer to become or be declared wholly unconditional (provided that, save as required by any Relevant Regulator, the Court, any Applicable Securities Laws or any other relevant court or regulatory body, agency

of state or applicable law or regulation, nothing in this paragraph (vi) shall permit the Company to declare, accept, treat as satisfied or waive any condition of a Scheme or an Offer where the Company determines in good faith that the relevant condition is not actually satisfied or has not been complied with to the extent that doing so would be materially prejudicial to the interests of the Lenders taken as a whole under the Finance Documents);

- (vii) to facilitate the Acquisition being effected by way of an Offer instead of a Scheme or, as the case may be, by way of a Scheme instead of an Offer; or
 - (viii) contemplated or otherwise permitted by the terms of the Finance Documents.
- (c) The Company shall not take any action which would require the Company to make a mandatory offer for the Target Shares in accordance with Rule 9 of the City Code.
- (d) Subject always to the Companies Act 2006, any Applicable Securities Laws, any other applicable law or regulation (including any applicable listing rules), including having regard to compliance with the Court Order (if applicable) or guidance or rulings of any Relevant Regulator and to the extent practicable, in the case of:
- (i) a Scheme, within 60 days of Completion; and
 - (ii) an Offer, within 90 days of the date upon which the Company (directly or indirectly) owns Target Shares (excluding any shares held in treasury) in respect of which, when aggregated with all other Target Shares owned directly or indirectly by the Company, represent not less than 75 per cent. of the voting rights attributable to the capital of the Target (excluding any shares held in treasury),

where becoming entitled to do so, the Company shall use reasonable endeavours to:

- (A) cause the cancellation of the Target's issued shares from admission to trading on the main market of the London Stock Exchange; and
 - (B) as soon as reasonably practicable thereafter, procure that the Target is re-registered as a private limited company.
- (e) The Company shall use commercially reasonable efforts to provide the Agent with such material information as it may reasonably request regarding the status of the Acquisition (in each case subject to any confidentiality, regulatory, legal or other restrictions relating to the disclosure or supply of such information).
- (f) For the avoidance of doubt, in the event that:
- (i) the Company has issued a Scheme Circular, nothing in this Clause 27.24 shall prevent the Company from subsequently proceeding with an Offer; and
 - (ii) the Company has issued an Offer Document, nothing in this Clause 27.24 shall prevent the Company from subsequently proceeding with a Scheme.

28. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 28 is an Event of Default (save for Clause 28.14 (*Acceleration*) and Clause 28.15 (*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 payment is made within five Business Days of its due date.

28.2 Financial covenant

- (a) Any Financial Covenant set out in Clause 26.2 (*Financial condition*) is not satisfied when required to be tested in accordance with such Clause but, subject to Clause 26.4 (*Cure rights*), such that no Default shall occur until the end of the Cure Deadline.
- (b) Notwithstanding paragraph (a) above, any non-compliance with a Financial Covenant set out in Clause 26.2 (*Financial condition*) in respect of a Testing Period shall be deemed to have been remedied if, and when, the Company has, in respect of the next Test Date, delivered a Compliance Certificate evidencing compliance with that Financial Covenant set out in Clause 26.2 (*Financial condition*) as at such Test Date, unless a Declared Default has occurred before delivery of the Compliance Certificate in respect of such Test Date.

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*) or Clause 28.2 (*Financial covenant*)).
- (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 Agent giving written notice to the Company and (ii) the Company becoming aware of the failure to comply.

28.4 Misrepresentation

- (a) Any representation or warranty 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.
- (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 Agent giving written notice to the Company and (ii) the Company becoming aware of the misrepresentation.

28.5 Cross default and cross acceleration

- (a) Any Financial Indebtedness of an Obligor is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of an Obligor 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) No Event of Default will occur under this Clause 28.5 if the aggregate amount of Financial Indebtedness falling within paragraphs (a) to (b) above is less than or equal to the greater of (x) EUR 45,000,000 (or its equivalent in other currencies) and (y) 25 per cent. of

Consolidated EBITDA, provided that, in this paragraph (c) only, Financial Indebtedness in respect of any Treasury Transaction shall take into account the marked to market value after any applicable netting, and provided further that in the event the underlying Financial Indebtedness triggering a Default or Event of Default pursuant to paragraphs (a) or (b) above is paid in full (or the breach, event of default or non-payment in respect thereof is remedied, cured, rescinded, satisfied or waived) in each case within 20 Business Days of such Event of Default occurring under this Agreement, any such Default or Event of Default under this Agreement shall be regarded as having been cured, annulled and cease to have any effect.

- (d) No Financial Indebtedness covered by a Letter of Credit or similar instrument issued under an Ancillary Facility or otherwise pursuant to a Finance Document will be taken into account when calculating whether an Event of Default has occurred under paragraph (a) to (c) above.
- (e) For the purpose of this Clause 28.5, Financial Indebtedness shall not include Financial Indebtedness under a Finance Document or any Subordinated Indebtedness or any intra-Group indebtedness.

28.6 Insolvency

- (a) An Obligor:
 - (i) is unable or admits inability to pay its debts as they fall due or is deemed to or declared to be unable to pay its debts (other than debts owed by such entity to a member of the Group or its Holding Companies or solely by reason of a negative equity position or balance sheet liabilities exceeding balance sheet assets) under applicable law;
 - (ii) suspends making payments on any of its debts; or
 - (iii) commences negotiations with one or more groups of its creditors (other than Finance Parties or pursuant to the Finance Documents) with a view to rescheduling any of its indebtedness, in each case, by reason of actual or anticipated financial difficulties.
- (b) A moratorium is declared in respect of any indebtedness of the Company or a Borrower. 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 procedure or step is taken by an Obligor in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, judicial management, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Company or a Borrower;

- (ii) (by reason of actual or anticipated financial difficulties) a composition, compromise, assignment or arrangement with any class of creditors (other than any Finance Party in its capacity as such) of the Company or a Borrower; or
 - (iii) (other than in respect of a solvent liquidation or dissolution) the appointment of a liquidator, trustee in bankruptcy, receiver, administrative receiver, judicial manager, administrator, compulsory manager, voluntary administrator, receiver and manager or other similar officer in respect of the Company or a Borrower, or any of its assets.
- (b) Paragraph (a) above shall not apply to:
- (i) any proceeding or step which is being contested in good faith or is frivolous or vexatious and in each case is discharged, stayed or dismissed within 20 days of commencement or, if earlier, the date on which it is advertised; or
 - (ii) in respect of any such action, legal proceedings or step over or relating to assets the aggregate value of which does not exceed the greater of (x) EUR 45,000,000 (or its equivalent in other currencies) and (y) 25 per cent. of Consolidated EBITDA; or
 - (iii) any action, proceeding, procedure or event or circumstance constituting or in connection with any Permitted Reorganisation.

28.8 Creditors' process

- (a) Any expropriation, attachment, prejudicial attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of the Company or a Borrower, having an aggregate value of the greater of (x) EUR 45,000,000 (or its equivalent in other currencies) and (y) 25 per cent. of Consolidated EBITDA.
- (b) Paragraph (a) above shall not apply to any such process which is being contested in good faith or is frivolous or vexatious and is discharged or dismissed within 30 days.

28.9 Unlawfulness and invalidity

Subject to the Legal Reservations and Perfection Requirements:

- (a) it is or becomes unlawful for the Parent or any Obligor to perform its material obligations under the Finance Documents;
- (b) the material obligations of the Parent or an Obligor under any Finance Documents to which it is a party are not or cease to be legal, valid, binding or enforceable;
- (c) any Finance Document ceases to be in full force and effect or any Transaction Security ceases to be legal, valid, binding, enforceable or effective in any material respect (other than due to a Finance Party); or
- (d) any subordination under the Intercreditor Agreement ceases to be effective in any material respect or is alleged by a party (other than a Finance Party) to be ineffective or unlawful in any material respect,

and, in each case, (A) such cessation or unlawfulness is materially adverse to the interests of the Lenders under the Finance Documents (taken as a whole) in a manner having a

Material Adverse Effect and (B) such is not remedied within 20 Business Days from the earlier of (i) the Agent giving written notice to the Company and (ii) the Company becoming aware of the relevant circumstance.

28.10 Repudiation and rescission of agreements

Subject to the Legal Reservations and Perfection Requirements, the Parent or an Obligor rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document to which it is a party or any Transaction Security granted by it or evidences an intention to rescind or repudiate a Finance Document to which it is a party or any Transaction Security granted by it in each case which is materially adverse to the interests of the Lenders under the Finance Documents as a whole and is not remedied within 20 Business Days from the earlier of (i) the Agent giving written notice to the Company and (ii) the Company becoming aware of the relevant circumstance.

28.11 Cessation of Business

The Company or any Obligor suspends or ceases to carry on all or substantially all of its business which has or is reasonably expected to have a Material Adverse Effect.

28.12 Expropriation

The authority or ability of the Group (taken as a whole) to conduct its business is wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, agency of state, regulatory or other authority to the extent that this has, or would reasonably be expected to have, a Material Adverse Effect taking into account any compensation in relation thereto.

28.13 Intercreditor Agreement

Any party to the Intercreditor Agreement (other than a Finance Party, the Parent or an Obligor) fails to comply with the provisions of, or does not perform its obligations under, the Intercreditor Agreement and such failure to comply or perform (A) is materially adverse to the interests of the Lenders under the Finance Documents (taken as a whole) in a manner which has a Material Adverse Effect and (B) is not remedied within 20 Business Days of the earlier of (a) the Agent giving notice to the Company and (b) the Company becoming aware of the failure to comply.

28.14 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing, the Agent shall, if so directed by the Majority Lenders, by notice to the Company:

- (a) cancel all or any part of the Total Commitments and/or Ancillary Commitments, at which time they shall immediately be cancelled;
- (b) declare that all or part of the Utilisations, 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;
- (c) declare that all or part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities are immediately due and payable and/or payable on demand by the Agent acting on the instructions of the Majority Lenders;

- (d) declare that cash cover in respect of each Letter of Credit is immediately due and payable, at which time it shall become immediately due and payable;
- (e) declare that cash cover in respect of each Letter of Credit is payable on demand, at which time it shall immediately become due and payable on demand by the Agent on the instructions of the Majority Lenders;
- (f) declare that all or part of the Utilisations be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders; and/or
- (g) (following a Declared Default) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

28.15 Clean-Up Period

(a) For the purposes of, and notwithstanding any other provision of, the Finance Documents, until and including the Clean-Up Date:

- (i) a breach of the representations and warranties under Clause 24 (*Representations*) (other than Clause 24.8 (*Insolvency*)); or
- (ii) a breach of the undertakings specified in Clause 27 (*General Undertakings*); or
- (iii) a Default or an Event of Default under Clause 28 (*Events of Default*),

in each case to the extent that it relates to a member of the Target Group (or, in relation to a Permitted Acquisition, the target group of such Permitted Acquisition), will not be deemed to be a misrepresentation, breach of warranty, breach of covenant or a Default or an Event of Default (as the case may be) and will not have any consequences that such a misrepresentation, breach of warranty, breach of covenant or a Default or Event of Default would ordinarily have under this Agreement, if it would have been (if it were not for this provision) a breach of representation or warranty or a breach of covenant or a Default or an Event of Default only by reason of circumstances relating exclusively to any member of the Target Group (or, in relation to a Permitted Acquisition, a member of the target group of such Permitted Acquisition) (or any obligation to procure or ensure in relation to a member of the Target Group) if and for so long as the circumstances giving rise to the relevant breach of representation or warranty or breach of covenant or a Default or Event of Default:

- (A) have not been procured by or approved by the Company;
- (B) would not reasonably be expected to have a Material Adverse Effect;
- (C) is capable of remedy; and
- (D) has been remedied or does not exist by the end of the Clean-Up Period.

(b) For the avoidance of doubt, paragraph (a) above shall not restrict the Agent's right to give notice under Clause 28.14 (*Acceleration*) (i) with respect to any other Event of Default or (ii) after the Clean-Up Period. If the relevant circumstances are continuing after the end of the Clean-Up Period, there shall be a breach of representation or warranty, breach of covenant

or Event of Default, as the case may be, notwithstanding the above (and without prejudice to the rights and remedies of the Finance Parties).

28.16 Exchange rate fluctuations

Notwithstanding any other provision of this Agreement, no Event of Default shall be treated as having occurred, no representation shall be treated as being untrue or inaccurate and no undertaking shall be treated as having been breached if the relevant Event of Default, untruth or inaccuracy or breach would not have occurred but for any fluctuation in currency exchange rates.

28.17 Excluded Matters

- (a) Notwithstanding any other term or provision of this Agreement or any other Finance Document:
- (i) none of the transactions, actions, activities, steps or events or any other matter set out in or contemplated by the Transactions, the Transaction Documents or which constitutes a Permitted Transaction or is pursuant to a Transaction Document, or (in each case) the actions or intermediate steps necessary or desirable to implement any of those steps, actions or events;
 - (ii) none of the steps or actions required pursuant to the terms of the Finance Documents;
 - (iii) prior to the end of the Clean-Up Period, no breach of, or non-compliance with, or non-payment under (or default, event of default or termination event under (howsoever described)) or requirement to prepay, any existing financing arrangements of any member of the Group or the Target Group (including, without limitation, as a direct or indirect result of any member of the Group and, in the case of an acquisition or investment, the target group in respect thereof, entering into and performing its obligations under such existing financing arrangement or under the Transaction Documents or carrying out the Transactions or any indebtedness, guarantee, indemnity, security or undertaking or assurance given, or prepayment or other transactions under or in relation to all existing security arrangements and the repayment of amounts in connection therewith);
 - (iv) no Withdrawal Event;
 - (v) no breach of any representation, warranty, undertaking or other term of (or default or event of default under) an existing financing arrangement of the Target Group (or any document relating to an existing financing arrangement arising as a direct or indirect result of any member of the Group or Target Group entering into and/or performing its obligations under any Finance Document or otherwise, or carrying out the Transaction or any other transactions contemplated by the Transaction Documents;
 - (vi) other than in the case of a payment default under an Ancillary Document constituting an Event of Default under Clause 28.1 (*Non-payment*), no breach of

any representation, warranty, undertaking or other term of (or default or event of default under) an Ancillary Document,

shall (or shall be deemed to) direct or indirectly constitute, or result in, or be deemed to be, a breach of or non-compliance with any representation, warranty, undertaking or other term in the Finance Documents or result in or a Default or an Event of Default or give rise to any right of prepayment or cancellation under this Agreement, and shall, in each case, be expressly permitted under the terms of the Finance Documents.

- (b) Prior to Completion, there shall be no restrictions or obligations applicable to or in relation to any member of the Target Group (except in the case of a member of the Target Group which has acceded to this Agreement as a Borrower and borrowed a Loan hereunder) and any obligation to procure or ensure acts, omissions or compliance by, or circumstances in relation to, the Target Group shall be construed accordingly.
- (c) For the purposes of this Clause 28.17, "**Withdrawal Event**" means the withdrawal (or any governmental decision to withdraw or any vote or referendum electing to withdraw) of Scotland or any territory or jurisdiction from the United Kingdom.

29. CHANGES TO THE LENDERS

29.1 Assignments and transfers by the Lenders

- (a) Subject to this Clause 29 and as otherwise agreed with the Company in writing, a Lender (the "**Existing Lender**") may:
 - (i) assign any of its rights;
 - (ii) transfer any of its rights and obligations; or
 - (iii) grant any sub-participation in respect of any of its right or 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) Each New Lender must meet (and is responsible for meeting) all regulatory requirements applicable to it for lending or otherwise participating in a financing or carrying out credit transactions at the time it becomes a Party.

29.2 Conditions of assignment or transfer

- (a) Prior to Completion (or, in the event the Acquisition is consummated by way of Offer, the Offer Completion Date) or during a Certain Funds Period, the prior written consent of the Company (which may be given, withheld, conditioned or delayed in its absolute and sole discretion and shall not, under any circumstances, be deemed given) is required for any assignment, transfer or sub-participation or transaction or arrangement of similar effect (whether in a single transaction or series of related transactions) (each, a "**Transfer Arrangement**"), unless the Transfer Arrangement is a silent sub-participation pursuant to Clause 29.8 (*Sub-participation*).

Solely for the purposes of this paragraph (a), following the Closing Date and provided that Completion (or, in the event the Acquisition is consummated by way of Offer, the Offer

Completion Date) has occurred, a Certain Funds Period shall be deemed not to be in existence respect of a transfer or assignment by an Existing Lender of a drawn Term Facility Loan which is permitted and made in accordance with the paragraphs below.

- (b) In circumstances where paragraph (a) above does not apply, the prior written consent of the Company (in its absolute and sole discretion) must be obtained unless the Transfer Arrangement is:
 - (i) to another Lender or an Affiliate of a Lender;
 - (ii) if the Existing Lender is a fund, to a fund which is a Related Fund of the Existing Lender;
 - (iii) made at a time when an Event of Default under Clause 28.1 (*Non-payment*), Clause 28.6 (*Insolvency*) or Clause 28.7 (*Insolvency proceedings*) has occurred and is continuing;
 - (iv) to an entity named on the Approved List; or
 - (v) a silent sub-participation pursuant to Clause 29.8 (*Sub-participations*),and subject at all times to paragraph (d) below.
- (c) Subject to paragraphs (d) and (f) below, the consent of the Company under paragraph (b) above shall be deemed given after 10 Business Days of a written request for a Transfer Arrangement being delivered pursuant to paragraph (b) above if no reply or response is provided.
- (d) Notwithstanding the foregoing or any other provision of this Agreement or any Finance Document (including anything in the Approved List) to the contrary, no Transfer Arrangement may be made at any time unless the prior written consent of the Company (which may be given, withheld, conditioned or delayed in its absolute and sole discretion and shall not, under any circumstances, be deemed given) has been obtained where the Transfer Arrangement relates to undrawn Term Facility Commitments or where to or involving:
 - (i) a natural person;
 - (ii) a Defaulting Lender;
 - (iii) a Competitor;
 - (iv) a Distressed Debt Fund or Hedge Fund;
 - (v) a Restricted Party;
 - (vi) a Non-Consenting Lender;
 - (vii) an entity which is not a Qualifying Lender;
 - (viii) a Belgian Non-Cooperative Jurisdiction Lender; or

- (ix) in the case of the Revolving Facility only, an entity which is not a deposit taking financial institution authorised by a financial services regulator which holds a rating of BBB-/Baa3 or higher from at least one of Standard & Poor's, Fitch or Moody's.
- (e) For the avoidance of doubt, it shall not be unreasonable to withhold or delay consent where the Company has made reasonable requests for information about the proposed identity and/or shareholders of the assignee, transferee or sub-participant for the purposes of determining the identity of such assignee, transferee or sub-participant and that information has not been provided.
- (f) Notwithstanding any other provision of this Agreement or any other Finance Document:
 - (i) no Issuing Bank or Ancillary Facility Lender may (to the extent that such person has issued a Letter of Credit or provided an Ancillary Facility to the extent of their commitments in respect thereof) enter into a Transfer Arrangement in relation to their Commitments in the Revolving Facility relating to such issued Letter of Credit or Ancillary Facility without the consent of the Company (which may be given, withheld, conditioned or delayed in its sole and absolute discretion and shall not, under any circumstances, be deemed given);
 - (ii) a Transfer (whether requiring the consent of the Company or not) shall not be permitted unless the Existing Lender has first delivered a transfer notice to the Agent, the Company and the Original Investors by email at least five Business Days prior to the date of the relevant Transfer Arrangement;
 - (iii) in order to request the Company's consent to a Transfer Arrangement, the Existing Lender shall deliver to the Agent, the Company and the Original Investors, a request for consent in relation to such Transfer Arrangement, and any consent given shall only be valid for the Transfer Arrangement specified in such request (and any amendments to such shall require a further consent request); and
 - (iv) upon completion of a Transfer, the New Lender shall deliver to the Agent (and the Agent shall then deliver to the Company) confirmation of completion of the relevant Transfer Arrangement.
- (g) Where an Existing Lender has sub-participated, sub-divided or sub-allocated its rights under the Finance Documents for voting purposes (including pursuant to a derivative instrument or derivative transaction), that Existing Lender will, where such Existing Lender has entered into a sub-participation agreement, be required to promptly provide to the Company a written notice of the identity of the person ultimately determining the exercise of its voting rights under the Finance Documents and, subject to any confidentiality restrictions binding on such Existing Lender (negotiated on an arm's length basis), any other information in reasonable detail regarding any sub-participant at any time upon reasonable request, provided that a Lender shall not be required to disclose the identity of a sub-participant if that Lender retains exclusive control over all rights and obligations in relation to the commitments the subject of the relevant participation, including all voting rights (for the avoidance of doubt, free of any agreement or understanding pursuant to which it is required to or will consult with any other person in relation to the exercise of any such rights and/or obligations).

- (h) If an actual or purported assignment or transfer (or sub-participation which transfers any discretion with respect to the exercise of any voting rights) of a Lender's Commitments or outstandings takes place without the prior consent of the Company (where such consent is required) or otherwise in breach of the conditions set out in this Clause 29, the related commitments and participations shall not be included when ascertaining whether a certain percentage of total Commitments and/or participations has been obtained to an amendment or waiver.
- (i) Without prejudice to Clause 43.1 (*Supply of Lender details to the Company*), the Agent shall maintain a book entry assignment and transfer register (the "**Register**") for the purposes of all assignments and transfers made pursuant to this Clause 29. The Register shall be available for inspection by the Company from time to time upon reasonable prior notice. The entries in the Register shall be conclusive absent manifest error and the Company, the Agent and each Lender shall treat each person whose name is recorded in the Register as a Lender, notwithstanding any notice to the contrary.
- (j) Other than in the case of an assignment permitted by paragraph (b) of Clause 31.1 (*Permitted Debt Purchase Transactions*), an assignment will only be effective on:
 - (i) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Finance Parties and the other Secured Parties as it would have been under if it was an Original Lender;
 - (ii) the New Lender entering into the documentation required for it to accede as a party to the Intercreditor Agreement; and
 - (iii) the performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Lender and the New Lender.
- (k) A transfer will only be effective if the procedure set out in Clause 29.5 (*Procedure for transfer*) is complied with and the New Lender enters into documentation required for it to accede as a party to the Intercreditor Agreement.
- (l) If any transfer is executed (or purported to be executed) in breach of the provisions of this Clause 28 (including, for the avoidance of doubt, any purported transfer for which the Company's consent has been provided but which is purported to be effected on terms different to those disclosed to the Company):
 - (i) that transfer shall not be effective; and
 - (ii) any Lender which is party to the purported transfer (whether as an Existing Lender or a proposed New Lender) shall be a "**Transfer Defaulting Lender**".
- (m) If:

- (i) a Lender assigns or transfers or grants a sub-participation of 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 on which the assignment, transfer, sub-participation or change occurs, the Company would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 17.4 (*Market disruption*), Clause 19 (*Tax Gross-up and Indemnities*) or Clause 20 (*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, sub-participation or change had not occurred.

- (n) Any transfer by an Existing Lender (together with its Affiliates and Related Funds to the extent transferring to the same New Lender at the same time) shall be of a minimum amount of EUR 5,000,000 (in respect of the Term Facility) or EUR 2,500,000 (in respect of the Revolving Facility) and shall not be permitted if it would result in the aggregate Commitments of any Lender being less than EUR 10,000,000 (in respect of the Term Facility) or EUR 10,000,000 (in respect of the Revolving Facility) (and, if the Lender is a bank, such Lender's Commitment will be aggregated with the Commitment of such Lender's Affiliates, and if the Lender is a trust or fund, such Lender's Commitment will be aggregated with the Commitment of Related Funds) unless the Existing Lender assigns or transfers all of its Commitments in respect of each relevant Facility.
- (o) If the Existing Lender has consented to an amendment or waiver request which is outstanding at the time of assignment or transfer, the New Lender shall also be deemed to have consented to that request.
- (p) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.
- (q) The Existing Lender shall provide the Company with:
 - (i) the full legal name of the New Lender; and
 - (ii) a copy of the Confidentiality Undertaking entered into by the New Lender.
- (r) The Company and the Agent may, each acting reasonably, by agreement amend or revise the Approved List from time to time and, in addition, the Company may unilaterally remove up to five (5) names (and, in such case, their Affiliates, Related Funds and connected persons) from the Approved List in each Financial Year by notice to the Agent with immediate effect. The Lenders may propose replacement names (through the Agent) which the Company shall consider in good faith.

- (s) Any Existing Lender will ensure that any potential New Lender shall, prior to receiving from any Finance Party or any of its Affiliates any Confidential Information or information concerning the Group, the Target Group, the Facilities, the Acquisition or the Transaction, enter into a Confidentiality Undertaking or other confidentiality agreement in a form consistent with the LMA form and (prior to Completion) containing standstill or information barrier provisions (to the extent applicable to the syndication of the Facilities) (or, as the case may be, such other form as is approved by the Company in advance) which (i) must be capable of being relied upon by the Company without requiring its signature and (ii) may not otherwise be materially amended without the consent of the Company (which may be withheld in the Company's absolute discretion). A copy of each Confidentiality Undertaking and any amendments to it shall be provided to the Company.
- (t) Notwithstanding the terms of the Finance Documents, if a Lender makes or enters into any Transfer Arrangement on or prior to the Closing Date or during a Certain Funds Period (the "**Pre-Closing Transferred Commitments**"), the Existing Lender shall:
- (i) remain responsible and liable for all obligations under and in connection with the Facilities and the Finance Documents and in the event that any person or entity with whom any Transfer is made or entered into is or becomes a Defaulting Lender or Non-Consenting Lender or defaults on or otherwise does not fulfil (or evidences an intention that it will default on or not fulfil) its obligation to fund in full (and in the relevant currency) on the required utilisation date specified by the Company (or the relevant Borrower), or indicates that it will not do so, such Existing Lender shall remain on risk and agrees to and shall fund and provide on that utilisation date the amount (and in such relevant currency) that such person or entity was required to provide, including the Pre-Closing Transferred Commitments; and
 - (ii) retain exclusive and absolute control over all rights and obligations under and in connection with the Facilities, the Finance Documents and the Pre-Closing Transferred Commitments, including (without limitation) all rights with respect to exercises of discretion and voting, waivers, consents, approvals, modifications, amendments and other matters arising under or in connection with the Finance Documents (including, without limitation, with respect to confirmation and approvals as to satisfaction or waiver of conditions precedent and conditions to funding),

and any documentation in respect of any such Transfer Arrangement shall expressly include the matters referred to in paragraphs (i) and (ii) above for the benefit of (and which are able to be relied upon and enforced by) the Group; in each case unless expressly agreed by the Company in writing by reference to this paragraph (t).

29.3 **Assignment or transfer fee**

Unless the Agent otherwise agrees to waive such fees, the New Lender shall, on or before the date upon which an assignment or transfer to it takes effect pursuant to this Clause 29, pay to the Agent (for its own account) a fee of EUR 4,000.

29.4 **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 Finance Documents, the Acquisition Documents, the Transaction Security or any other documents;
 - (ii) the financial condition of the Company;
 - (iii) the performance and observance by the Company of its obligations under the Finance Documents, the Acquisition Documents or any other documents; or
 - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document, any Acquisition 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 the Company 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 Finance Document, any Acquisition Document or the Transaction Security; and
 - (ii) will continue to make its own independent appraisal of the creditworthiness of the Company 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 the Company of its obligations under the Finance Documents, the Acquisition Documents or otherwise.

29.5 **Procedure for transfer**

- (a) Subject to the conditions set out in Clause 29.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.

- (b) The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender upon its completion of all "know your customer" or similar checks under all applicable laws and regulations in relation to the transfer to such New Lender. The Company and the other Finance Parties irrevocably authorise the Agent to execute any Transfer Certificate on their behalf, without any consultation with them.
- (c) Subject to Clause 29.10 (*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, the Parent, the Company 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) the Parent, the Company and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as the Parent, the Company and the New Lender have assumed and/or acquired the same in place of the Parent, the Company and the Existing Lender;
 - (iii) the Agent, the Security Agent, the New Lender and the other Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, and the Security Agent 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.

29.6 Procedure for assignment

- (a) Subject to the conditions set out in Clause 29.2 (*Conditions of assignment or transfer*), an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
- (b) The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied that it has complied with all necessary "know your customer" or similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) Subject to Clause 29.10 (*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 29.6 to assign their rights under the Finance Documents (but not, without the consent of the Company or unless in accordance with Clause 29.5 (*Procedure for transfer*), to obtain a release by the Company from the obligations owed to the Company 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 (*Conditions of assignment or transfer*).

29.7 **Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to the Company**

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

29.8 **Sub-participations**

Subject to the terms of this Clause 29, a Lender may sub-participate (including by way of customary credit risk insurance with a credit risk insurer in the ordinary course as disclosed to the Company in advance) any or all of its obligations hereunder on a 'silent' and 'non-voting' basis provided that:

- (a) such Lender remains a Lender under this Agreement with all rights and obligations pertaining thereto and remains liable under this Agreement and the other Finance Documents in relation to those obligations; and
- (b) the Lender retains exclusive control over all rights and obligations in relation to the participations and Commitments that are the subject of the relevant agreement or arrangement, including all voting and similar rights (with the effect, inter alia, that (A) the other person will have no proprietary interest in the benefit of this Agreement or in any monies received by the relevant Lender under or in relation to this Agreement and (B) the other person will under no circumstances (x) be subrogated to, or substituted in respect of, the Lender's claims under this Agreement and (y) have otherwise any contractual relationship with, or rights against, the Borrower under or in relation to this Agreement), unless:
 - (i) the proposed sub-participant is a person to whom the relevant rights and obligations could have been assigned or transferred in accordance with the

terms of this Clause 29 and is not a person or entity to whom paragraph (d) of Clause 29.2 (*Conditions of assignment or transfer*) applies;

- (ii) such sub-participation requires that further sub-participation, transfer or assignments or Transfer Arrangement in relation thereto to be subject to the restrictions in this Clause 29 for the direct and legally enforceable benefit of the Company; and
 - (iii) prior to entering into the relevant agreement or arrangement the relevant Lender provides the Company with full details of that proposed sub-participation agreement and any voting, consultation or other rights (directly or indirectly) to be granted to the sub-participant; and
- (c) the relationship between the Lender and the sub-participant is that of a contractual debtor and creditor (including in the bankruptcy or similar event of the Lender or an Obligor).

29.9 **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 the Company, 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 (other than upon enforcement by the beneficiary of such charge, assignment or Security) 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 the Company 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.

29.10 **Pro rata interest settlement**

- (a) If the Agent has notified the Lenders that it is able to distribute interest payments on a "*pro rata* basis" to Existing Lenders and New Lenders, then (in respect of any transfer pursuant to Clause 29.5 (*Procedure for transfer*) or any assignment pursuant to Clause 29.6 (*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 29.10, have been payable to it on that date, but after deduction of the Accrued Amounts.
- (b) In this Clause 29.10, 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 29.10 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. **CHANGES TO THE OBLIGORS**

30.1 **Assignment and Transfers by Obligors**

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents, other than:

- (a) pursuant to a Debt Pushdown;
- (b) pursuant to any other transaction not prohibited by the terms of this Agreement; and/or
- (c) as otherwise contemplated or permitted by the terms of any Finance Document.

30.2 **Additional Borrowers**

- (a) At any time and notwithstanding that the Acquisition may not have completed, the Obligors' Agent may request that any member of the Group and/or the Target Group becomes an Additional Borrower. That member of the Group or the Target Group shall become an Additional Borrower if:

- (i) it is:
 - (A) with respect to an Additional Borrower under any Facility, incorporated in the same jurisdiction as an existing Borrower under that Facility or is a borrower under any existing debt of the Target Group as at the date of this Agreement;

- (B) incorporated in (x) England & Wales or Scotland, (y) the Netherlands or (z) Belgium;
 - (C) contemplated as being a borrower or incorporated in a jurisdiction which is contemplated as being a borrower jurisdiction in the Structure Memorandum;
 - (D) in the case of a member of the Group or the Target Group which will borrow under an Ancillary Facility only, approved by the relevant Ancillary Lender;
 - (E) in the case of a member of the Group or the Target Group which will borrow under an Additional Facility only, approved by the relevant Additional Facility Lenders; or
 - (F) otherwise approved by all the Lenders (for the avoidance of doubt, other than any Defaulting Lender) with a Commitment under the relevant Loan and/or Facility in respect of which it will become a Borrower;
- (ii) the Obligors' Agent delivers to the Agent a duly completed Accession Letter executed by the relevant Additional Borrower; and
 - (iii) subject to paragraph (g) and (h) below, if required by the Agent and not already a Guarantor, subject to the Agreed Guarantee/Security Principles, the Additional Borrower becomes an Additional Guarantor in accordance with Clause 30.4 (*Additional Guarantors*); and
 - (iv) the Agent has received (or waived the requirement to receive) all of the documents and other evidence listed in Part II of Schedule 2 (*Conditions Precedent*) in relation to that Additional Borrower, each in form and substance satisfactory to the Agent (acting reasonably).

For the avoidance of doubt, a Project Company may not accede as a Borrower under this Agreement unless (i) the Majority Lenders (or, in the case of an Additional Facility, the Lender of such Additional Facility) consent to such entity becoming a Borrower or (ii) simultaneously with becoming a borrower, such entity ceases to be a Project Company in accordance with the terms of this Agreement.

- (b) The Agent shall notify the Obligors' Agent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it, acting reasonably) all the documents and other evidence listed in Part II of Schedule 2 (*Conditions Precedent*).
- (c) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (b) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
- (d) Subject to paragraph (e) below, the Agent shall, as soon as reasonably practicable after receipt by it of a duly completed Accession Letter appearing on its face to comply with the terms of this Agreement, execute that Accession Letter. Each Party (other than the

Additional Borrower and the Obligors' Agent) irrevocably authorises the Agent to execute any duly completed Accession Letter.

- (e) If the accession of an Additional Borrower obliges the Agent or any Lender under the relevant Facility to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to the Agent or that Lender, the Agent shall only be obliged to execute an Accession Letter in respect of such Additional Borrower upon receipt of such documentation and other evidence as is reasonably requested by the Agent for it to comply with "know your customer" requirements under applicable laws (provided that, absent any change in applicable laws, the information requested pursuant to this paragraph (e) shall be no more extensive than the information provided to satisfy the condition precedent set out in paragraph 5(e) of Part I of Schedule 2 (*Conditions Precedent*)).
- (f) For the avoidance of doubt, the Agent may agree with the Company that the requirements under paragraph (a)(iv) above are to be delivered and/or satisfied at a date later than the date on which the relevant entity becomes an Additional Borrower.
- (g) It is acknowledged and agreed that a member of the Target Group may accede as an Additional Borrower at any time, including on or prior to the Closing Date, and that a member of the Target Group may choose to accede as a Borrower only and not as, and shall not be required to be or become, a Guarantor.
- (h) Notwithstanding anything to the contrary in this Agreement or any other Finance Document, if any member of the Target Group is or becomes a party to this Agreement as a Borrower only (as specified in the relevant Accession Letter), such member of the Target Group shall be a party to this Agreement solely for the purposes of borrowing (in its capacity as a Borrower) that amount of the Loans borrowed by it and shall not be, or be regarded as, a Guarantor or be required to give or provide any guarantee, and any guarantee, indemnity, security, obligations and liabilities of such member of the Target Group, including (without limitation) its obligations under and in connection with this Clause 30.2, shall be limited to the amounts of the Loans borrowed by such member of the Target Group hereunder and apply only insofar as such member of the Target Group is the Borrower of such liabilities.

30.3 **Resignation of an Obligor**

In this Clause 30.3, "**Third Party Obligor Disposal**" means the disposal of an Obligor, directly or indirectly, to a person which is not a member of the Group and/or the Target Group where that disposal is either permitted under Clause 27.14 (*Disposals*) or has been consented to by the Majority Lenders.

- (a) The Obligors' Agent may request that an Obligor ceases to be a Borrower by delivering a Resignation Letter to the Agent.
- (b) The Obligors' Agent may request that an Obligor ceases to be a Guarantor by delivering a Resignation Letter to the Agent if:

- (i) that Obligor is (directly or indirectly) the subject of a transaction, activity or arrangement permitted by this Agreement pursuant to which it will cease to be a member of the Group;
 - (ii) required in order to implement or facilitate a Permitted Transaction or a Structural Adjustment or to establish or facilitate the establishment of an Additional Facility or Permitted Additional Debt;
 - (iii) the Obligors' Agent confirms to the Agent that the Guarantor Coverage Test (based on the most recent Financial Statements or, at the option of the Company, such other financial statements for the most recently completed relevant period prior to the effective date of the proposed resignation, calculated on a *pro forma* basis taking into account such resignation and any other resignation or accession of any Obligor which has or will become effective on or prior to the date on which such resignation will become effective) will continue to be satisfied after that resignation becomes effective;
 - (iv) that Obligor is or becomes a Joint Venture or Project Company or Project Holding Company; or
 - (v) the Majority Lenders have consented to that Obligor ceasing to be a Guarantor.
- (c) The Agent shall accept a Resignation Letter and promptly notify the Obligors' Agent and the Lenders of its acceptance if:
- (i) in the case of an Obligor resigning as a Borrower, it is not (or will not be at the time it ceases to be a Borrower) under any actual or contingent obligations as a Borrower under any Finance Documents; or
 - (ii) in the case of an Obligor resigning as a Guarantor, no demand has been made on that Guarantor in respect of which a payment is due under clause 16 (*Guarantee and Indemnity*) of the Intercreditor Agreement and that Obligor is not a Borrower (unless it will also cease to be a Borrower at or prior to the time at which its resignation as a Guarantor becomes effective).
- (d) Upon notification by the Agent to the Obligors' Agent of its acceptance of the resignation of a Borrower and/or a Guarantor, that member of the Group shall cease to be a Borrower and/or a Guarantor (as the case may be) and shall have no further rights or obligations under the Finance Documents as a Borrower and/or a Guarantor (as applicable). For the avoidance of doubt, if an Obligor ceases to be a member of the Group pursuant to a transaction permitted by this Agreement, that Obligor shall automatically cease to be an Obligor and shall have no further rights or obligations under the Finance Documents as an Obligor.

30.4 Additional Guarantors

- (a) The Obligors' Agent may request that any member of the Group, which is not a member of the Target Group, become an Additional Guarantor.

- (b) Such member of the Group shall become an Additional Guarantor if:
- (i) the Obligors' Agent has delivered to the Agent:
 - (A) a duly completed Accession Letter; and
 - (B) to the extent that that member of the Group becoming a party to the Intercreditor Agreement would not breach any applicable law (or present a material risk of liability for any member of the Group and/or its officers or directors, or give rise to a material risk of breach of fiduciary or statutory duties by any director or officer), a duly completed Accession Letter; and
 - (ii) the Agent has received (or waived the requirement to receive) all of the documents and other evidence listed in Part II of Schedule 2 (*Conditions Precedent*) in relation to that Additional Guarantor, each in form and substance satisfactory to the Agent (acting reasonably).
- (c) The Agent shall notify the Obligors' Agent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to the Majority Lenders, acting reasonably) all the documents and other evidence listed in Part II of Schedule 2 (*Conditions Precedent*).
- (d) The Agent shall agree a limit on the amount of the liability of the potential Additional Guarantor or other changes to the Finance Documents which, in the opinion of the Agent, based on the advice of legal counsel, are necessary, customary or desirable to comply with the Agreed Guarantee/Security Principles.
- (e) Subject to paragraph (f) below, the Agent shall, as soon as reasonably practicable after receipt by it of a duly completed Accession Letter appearing on its face to comply with the terms of this Agreement, execute that Accession Letter. Each Party (other than the Additional Guarantor and the Obligors' Agent) irrevocably authorises the Agent to execute a duly completed Accession Letter.
- (f) If the accession of an Additional Guarantor obliges the Agent or any Lender under the Facilities to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to the Agent or that Lender, the Agent shall only be obliged to execute an Accession Letter in respect of such Additional Guarantor upon receipt of such documentation and other evidence as is reasonably requested by the Agent for it to comply with "know your customer" requirements under applicable laws (provided that, absent any change in applicable laws, the information requested pursuant to this paragraph (f) shall be no more extensive than the information provided to satisfy the condition precedent set out in paragraph 5(e) of Part I of Schedule 2 (*Conditions Precedent*)).
- (g) Notwithstanding anything to the contrary in this Agreement or any other Finance Document, if any member of the Target Group is or becomes a party to this Agreement as a Guarantor, such member of the Target Group shall be a party to this Agreement solely for the purpose of guaranteeing an amount of the Facilities in an amount not exceeding the amount of the Existing Revolving Credit Facility and/or any existing Target Group debt that is repaid and

discharged by the proceeds on the Facilities (the "**Guarantee Cap**"), and no member of the Target Group shall be, or shall be regarded as, a Guarantor of, or be required to give or provide any guarantee, indemnity, security or other assurance against loss or have any liability or obligation for an amount in excess of the Guarantee Cap, and any guarantee, indemnity, security, obligations and liabilities of any member of the Target Group, including (without limitation) its obligations under and in connection with this Clause 30.4, shall be limited accordingly.

30.5 **Repetition of Representations**

Delivery of an Accession Letter constitutes confirmation by the relevant member of the Group that the representations and warranties referred to in Clause 24 (*Representations*) that are deemed to be repeated on that date in accordance with paragraph (a) of Clause 24.22 (*Times when representations made*) are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

30.6 **Release of Security**

- (a) If requested by the Obligors' Agent in connection with any disposal or other transaction or arrangement permitted by the terms of this Agreement, the Security Agent shall, at the cost of the Obligors' Agent, release any undertaking or assets directly or indirectly the subject of that disposal from the Transaction Security and, if applicable, issue certificates of non-crystallisation.
- (b) If requested by the Obligors' Agent in connection with a Permitted Transaction or when establishing an Additional Facility or Permitted Additional Debt, the Security Agent shall, at the cost of the Obligors' Agent, release such assets from the Transaction Security as the Obligors' Agent may require in order to complete or facilitate that Permitted Transaction or, as the case may be, the establishment of that Additional Facility or Permitted Additional Debt and if required and where applicable, such release shall be coupled with the retaking of the relevant security in accordance with the terms of this Agreement.

30.7 **Miscellaneous**

Notwithstanding any other provision of this Agreement, the Company and the Agent (acting reasonably and in good faith) may and are hereby authorised and (in the case of the Agent) instructed to agree and make any appropriate changes to the tax provisions, the guarantee and indemnity provisions, the transfer provisions, the agency provisions and any mechanical, technical, administrative or other similar provisions or changes to this Agreement or any Finance Document as may be required by the Company or an Additional Obligor in respect of the accession of any Additional Obligor and/or an Additional Obligor being a Borrower and/or Guarantor of any Facility and/or to give effect to or reflect any provisions of the Agreed Guarantee/Security Principles.

30.8 **Debt Pushdown**

- (a) The Company shall be entitled to request the transfer, novation or pushdown (by way of assumption of debt, novation or any other form of transfer of the relevant rights and obligations) of any Loan, Utilisation, Facility or Commitment as of the Debt Pushdown Date

(such Facility, a "**Debt Pushdown Facility**") by the delivery of a Change of Borrower Notice to the Agent.

- (b) A Change of Borrower Notice shall not be regarded as duly completed unless it identifies:
 - (i) the amount of the Debt Pushdown Facility which is to be the subject of such Debt Pushdown (a "**Debt Pushdown Advance**");
 - (ii) the identity of the relevant person that is to become a Borrower (the "**Debt Pushdown Borrower**"), provided that the Debt Pushdown Borrower must be a member of the Group or the Target Group; and
 - (iii) the proposed Business Day on which the Debt Pushdown is to become effective (the "**Debt Pushdown Date**").
- (c) The relevant Debt Pushdown Borrower shall (if not already a Borrower) become a Borrower in respect of a Debt Pushdown Advance on the Debt Pushdown Date if the following conditions are fulfilled:
 - (i) no Event of Default is continuing; and
 - (ii) it has acceded as an Additional Borrower in accordance with Clause 30.2 (*Additional Borrowers*).
- (d) On the Debt Pushdown Date:
 - (i) the existing Borrower (the "**Existing Borrower**") of the Debt Pushdown Advance shall no longer be regarded as the Borrower of the Debt Pushdown Advance and will be released from further obligations towards the Lenders in respect of each Debt Pushdown Advance borrowed by it and such obligations of it shall be cancelled (being the "**Original Obligations**");
 - (ii) the Debt Pushdown Borrower shall assume obligations towards the Lenders in respect of each Debt Pushdown Advance which differ from the Original Obligations only insofar as the Debt Pushdown Borrower has assumed all the obligations of the Existing Borrower in respect of that Debt Pushdown Advance in place of the Existing Borrower;
 - (iii) any reference in any Finance Document to the Existing Borrower as a Borrower of a Debt Pushdown Advance shall thereafter be read as if each such reference were to the Debt Pushdown Borrower; and
 - (iv) the Existing Borrower may be released from all obligations and liabilities (or, as the case may be, all obligations and liabilities in respect of that Debt Pushdown Advance) under the Finance Documents.
- (e) For the avoidance of doubt, the Commitments under the Facilities shall not be reduced by the operations of this Clause 30.8 and no break costs or prepayment premium (or any other additional sums or amounts) shall be payable on or in respect of the Debt Pushdown Advances by reason of the Debt Pushdown and the operation of this Clause 30.8.

- (f) The Finance Parties shall do all such things as may reasonably be required by the Agent or the Company in connection with, and so as to assist in the carrying out of, such Debt Pushdown, and the Finance Parties shall be required to enter into any documentation required by the Company and/or take such other action (including the release and re-taking of Transaction Security) as may be required by the Company in order to facilitate or reflect any of the matters contemplated by this Clause 30.8. Each Finance Party and each Secured Party irrevocably authorises and instructs the Agent and the Security Agent to sign on its behalf any novations, transfers, releases and other documents as may be required by the Company in connection with any Debt Pushdown and/or take other such action on behalf of the Finance Parties and Secured Parties (and shall do so on the request of and at the cost of the Company).

31. DEBT PURCHASE TRANSACTIONS

31.1 Permitted Debt Purchase Transactions

- (a) The Company shall not, and shall procure that no other member of the Group shall (i) enter into any Debt Purchase Transaction other than in accordance with the other provisions of this Clause 31 or (ii) 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 member of the Group (a "**Debt Purchaser**") may purchase by way of assignment pursuant to Clause 29 (*Changes to the Lenders*) a participation in any Loan and any related Commitment where:
- (i) such purchase is made for a consideration of less than par;
 - (ii) such purchase is made using one of the processes set out in paragraphs (c) and (d) below; and
 - (iii) such purchase is made at a time when no Default is continuing and no Default would result from the making of such purchase.
- (c) 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:
- (i) prior to 11.00 a.m. on a given Business Day (the "**Solicitation Day**") the Company or a financial institution acting on its behalf (the "**Purchase Agent**") will approach at the same time each Lender which participates in the Term Facility to enable them to offer to sell to the relevant Debt Purchaser(s) an amount of their participation in the Term Facility. 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 that 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 Company on behalf of the relevant Debt Purchaser(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 Company) will communicate to the relevant Lenders which offers have been accepted by 12 noon on the third Business Day following such Solicitation Day. In any event by 11.00 a.m. on the third Business Day following such Solicitation Day, the Company shall notify the Agent of the amounts of the participations purchased through the relevant Solicitation Process and the average price paid for the purchase of participations in the Term Facility. The Agent shall disclose such information to any Lender that requests such disclosure.

- (ii) Any purchase of participations in the Term Facility pursuant to a Solicitation Process shall be completed and settled on or before the fifth Business Day after the relevant Solicitation Day.
 - (iii) In accepting any offers made pursuant to a Solicitation Process, the Company shall be free to select which offers and in which amounts it accepts but on the basis that in relation to a participation in the 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 the Term Facility it receives two or more offers at the same price it shall only accept such offers on a *pro rata* basis.
- (d) 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:
- (i) The Company (on behalf of the relevant Debt Purchaser(s)) may by itself or through another Purchase Agent place an open order (an "**Open Order**") to purchase participations in the Term Facility up to a set aggregate amount at a set price by notifying at the same time all the Lenders participating in the Term Facility 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 that 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 Company on behalf of the relevant Debt Purchaser(s) on or before such time by it communicating such acceptance in writing to the relevant Lender.
 - (ii) Any purchase of participations in the Term Facility pursuant to an Open Order Process shall be completed and settled by the relevant Debt Purchaser(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.
 - (iii) If, in respect of participations in the Term Facility, the Purchase Agent receives on the same Business Day two or more offers at the set price such that the maximum amount to which an Open Order relates would be exceeded, the Company shall only accept such offers on a *pro rata* basis.

- (iv) The Company shall, by 11.00 a.m. on the sixth Business Day following the date on which an Open Order is placed, notify the Agent of the amounts of the participations purchased through such Open Order Process. The Agent shall disclose such information to any Lender that requests the same.
- (e) For the avoidance of doubt, there is no limit on the number of occasions on which 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, 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 Facility Loans to which it relates shall either be extinguished or, at the election of the Company, remain outstanding subject to the conditions set out in paragraph (g) below;
 - (ii) such Debt Purchase Transaction and the related extinguishment referred to in subparagraph (i) above shall not constitute a prepayment of the Term Facility;
 - (iii) the member of the Group 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 (as defined in such Clause);
 - (iv) no member of the Group shall be deemed to be in breach of any provision of Clause 27 (*General Undertakings*) solely by reason of such Debt Purchase Transaction;
 - (v) Clause 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 Facility 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.
- (g) Unless otherwise agreed by the Agent (acting on the instructions of the Majority Lenders):
 - (i) no member of the Group which becomes a Lender under this Clause 30 (a "**Group Company Lender**") shall exercise any voting rights in respect of the Commitments held by it;
 - (ii) in ascertaining the Majority Lenders, or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents, any Commitments and/or participations of a Group Company Lender shall be deemed to be zero;
 - (iii) for the purposes of Clause 41.2 (*All Lender matters*) such Group Company Lender shall be deemed not to be a Lender;
 - (iv) no Group Company Lender shall be entitled to exercise any right it may have under this Agreement as a Lender to:

- (A) attend or participate in any meeting or conference call organised by the Finance Parties (or any of them) in relation to the Facilities; or
- (B) receive any communication or document prepared by, or on the instructions of, a Finance Party for the benefit of the Lenders (excluding, for the avoidance of doubt, interest rate notifications and other communications or documents of an administrative nature);
- (v) no Group Company Lender shall be entitled to sell, assign, transfer or otherwise dispose of any of its rights, benefits or obligations in respect of the Facilities pursuant to Clause 29 (*Changes to the Lenders*) to any person other than another member of the Group;
- (vi) a Group Company Lender shall not be entitled to any payment or prepayment pursuant to Clause 12 (*Mandatory Prepayment*), Clause 19 (*Tax Gross-up and Indemnities*) and/or Clause 20 (*Increased Costs*);
- (vii) the Commitment of a Group Company Lender shall not benefit from any Transaction Security; and
- (viii) in the event of any insolvency of the Company constituting an Event of Default, any liquidation, distribution or other return received by a Group Company Lender in such capacity shall be paid to the Agent for application towards amounts due to the Lenders (other than any Group Company Lender) in accordance with Clause 35.6 (*Partial payments*).

31.2 Disenfranchisement on Debt Purchase Transactions entered into by a Sponsor Affiliate

- (a) For so long as a Debt Purchaser, the Parent or a Sponsor Affiliate (i) beneficially owns or is able to exercise control over a Commitment or (ii) has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated:
 - (i) in ascertaining the Majority Lenders or Super Majority Lenders or whether any given percentage of the Total Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote or to give instructions under the Finance Documents, such Commitment shall be deemed to be zero; and
 - (ii) for the purposes of Clause 34.6 (*Exceptions*), such Sponsor Affiliate or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Lender (unless in the case of a person not being a Sponsor Affiliate it is a Lender by virtue otherwise than by beneficially owning or being able to control the relevant Commitment).
- (b) Paragraph (a) above does not apply to any request for a consent, waiver, amendment or other vote or instruction under the Finance Documents:

- (i) in respect of any Structural Adjustment which affects its Loans, Facilities, participations or commitments;
 - (ii) in respect of any decision, amendment, vote, waiver or change that requires the consent of all Lenders (or, as the case may be, the Lenders in the applicable loan, tranche, facility, commitment or utilisation); or
 - (iii) which would result in the Commitment of the relevant Sponsor Affiliate under a Facility being treated in any manner which is less favourable to it (in its capacity as a Lender) than the treatment proposed to be applied to any Commitment of another Lender under that Facility.
- (c) Each Lender shall, unless such Debt Purchase Transaction is an assignment or transfer, promptly notify the Agent in writing if it knowingly enters into a Debt Purchase Transaction with a Sponsor Affiliate (a "**Notifiable Debt Purchase Transaction**"), such notification to be substantially in the form set out in Part I of Schedule 9 (*Forms of Notifiable Debt Purchase Transaction Notice*).
- (d) A Lender shall promptly notify the Agent if a Notifiable Debt Purchase Transaction to which it is a party:
- (i) is terminated; or
 - (ii) ceases to be with a Sponsor Affiliate,
- such notification to be substantially in the form set out in Part II of Schedule 9 (*Forms of Notifiable Debt Purchase Transaction Notice*).
- (e) Each Sponsor Affiliate that is a Lender agrees that:
- (i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, it shall not attend or participate in the same unless the Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and
 - (ii) in its capacity as Lender, unless the Agent otherwise agrees, it shall not be entitled to receive any report or other document prepared at the request of, or on the instructions of, the Agent or one or more of the Lenders (save for interest rate notifications, interest period notifications, prepayment notices and other communications or documents relating to the administration of the Loans under this Agreement).

32. **ROLE OF THE AGENT, THE MANDATED LEAD ARRANGERS AND OTHERS**

32.1 **Appointment of the Agent**

- (a) Each of the Mandated Lead Arrangers and the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Mandated Lead Arrangers and the Lenders authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and

discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

- (c) Each of the Lenders hereby releases, to the extent legally possible, the Agent from any restrictions on self-dealing under any applicable law. A Lender which cannot grant such exemption (as a matter of law or fact) shall notify the Agent accordingly.

32.2 Instructions

- (a) The Agent shall:
 - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
 - (A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision;
 - (B) the Super Majority Lenders if the relevant Finance Document stipulates the matter is a Super Majority Lender decision; and
 - (C) in all other cases, the Majority Lenders; and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with sub-paragraph (i) above.
- (b) The Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties save for the Security Agent.
- (d) The Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
- (e) In the absence of instructions, the Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- (f) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (f) shall not apply to any legal or arbitration proceeding relating to the perfection,

preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.

32.3 Duties of the Agent

- (a) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- (c) Without prejudice to Clause 29.7 (*Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to the Company*), paragraph (b) above shall not apply to any Transfer Certificate, any Assignment Agreement or any Increase Confirmation.
- (d) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy, validity or completeness of any document it forwards to another Party.
- (e) If the Agent receives notice from a Party referring to a Finance Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent or the Security Agent) under this Agreement, it shall promptly notify the other Finance Parties.
- (g) The Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

32.4 Role of the Mandated Lead Arrangers

Except as specifically provided in the Finance Documents, the Mandated Lead Arrangers have 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 Agent or the Mandated Lead Arrangers as a trustee or fiduciary of any other person.
- (b) None of the Agent, the Security Agent or any Mandated Lead Arranger 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 members of the Group

The Agent and the Mandated Lead Arrangers 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 Agent may:
 - (i) rely on any:

- (A) representation, communication, notice or document (including, without limitation, any notice given by a Lender pursuant to paragraph (b) or (d) of Clause 31.2 (*Disenfranchisement on Debt Purchase Transactions entered into by a Sponsor Affiliate*)) believed by it to be genuine, correct and appropriately authorised;
 - (B) statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify;
- (ii) assume that:
- (A) any instructions received by it from the Majority Lenders, any Lenders or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
- (iii) rely on a certificate from any person:
- (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,
- as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
- (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 28.1 (*Non-payment*));
 - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised; and
 - (iii) no Notifiable Debt Purchase Transaction:
 - (A) has been entered into;
 - (B) has been terminated; or
 - (C) has ceased to be with a Sponsor Affiliate.
- (c) The Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be desirable.

- (e) The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Agent may act in relation to the Finance Documents through its officers, employees and agents and the Agent shall not:
 - (i) be liable for any error of judgement made by any such person; or
 - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,
 unless such error or such loss was directly caused by the Agent's gross negligence or wilful misconduct.
- (g) Unless a Finance Document expressly provides otherwise, the Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (h) Without prejudice to the generality of paragraph (g) above, the Agent:
 - (i) may disclose; and
 - (ii) on the written request of the Company or the Majority Lenders shall, as soon as reasonably practicable, disclose the identity of a Defaulting Lender to the Company and to the other Finance Parties.
 - (iii) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Mandated Lead Arrangers are obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (i) Notwithstanding any provision of any Finance Document to the contrary, the Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

32.8 Responsibility for documentation

Neither the Agent nor any Mandated Lead Arranger is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, the Mandated Lead Arrangers, the Company, or any other person in or in connection with any Finance Document, the Buyside 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 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 Agent), the Agent will not be liable (including, without limitation, for negligence or any other category of liability whatsoever) for:

- (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct;
- (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Transaction Security; or
- (iii) without prejudice to the generality of sub-paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction, including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or

systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent, in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent may rely on this Clause subject to Clause 1.9 (*Third party rights*) and the provisions of the Third Parties Act.
- (c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Agent or the Mandated Lead Arrangers to carry out:
 - (i) any "know your customer" or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender,

on behalf of any Lender and each Lender confirms to the Agent and the Mandated Lead Arrangers that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Mandated Lead Arrangers.

- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Agent's liability, any liability of the Agent arising under or in connection with any Finance Document or the Transaction Security shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent at any time which increase the amount of that loss. In no event shall the Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent has been advised of the possibility of such loss or damages.

32.11 **Lenders' indemnity to the Agent**

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 35.11 (*Disruption to payment systems etc.*) notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim

based on the fraud of the Agent) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by the Company pursuant to a Finance Document).

- (b) Subject to paragraph (c) below, in the event that a Lender makes a payment to the Agent pursuant to paragraph (a) above and the Company has failed to reimburse the relevant Lender or the Agent for the full amount of such payment when due and payable in accordance with Clause 21.2 (*Other indemnities*) or Clause 21.3 (*Indemnity to the Agent*), the Company shall immediately on demand reimburse the relevant Lender for the amount outstanding in relation to such payment to the Agent.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Agent to the Company.

32.12 **Resignation of the Agent**

- (a) The Agent may (after consultation with the Company) resign and appoint one of its Affiliates acting through an office in the United Kingdom or the European Union as its successor by giving notice to the Lenders and the Company.
- (b) Alternatively, the Agent may resign by giving 30 days' notice to the Lenders and the Company, in which case the Majority Lenders (after consultation with the Company) may appoint a successor Agent.
- (c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the Agent (after consultation with the Company) may appoint a successor Agent acting through an office in the United Kingdom.
- (d) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (e) The Agent's resignation notice shall only take effect upon the appointment of a successor.
- (f) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (d) above) but shall remain entitled to the benefit of Clause 21.3 (*Indemnity to the Agent*) and this Clause 32 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:

- (i) the Agent fails to respond to a request under Clause 19.9 (*FATCA information*) and the Company or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
 - (ii) the information supplied by the Agent pursuant to Clause 19.9 (*FATCA information*) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
 - (iii) the Agent notifies the Company and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date,
- and (in each case) the Company or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and the Company or that Lender, by notice to the Agent, requires it to resign.

32.13 Replacement of the Agent

- (a) The Majority Lenders (after consultation with the Company) may, by giving 30 days' notice to the Agent (or, at any time the Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Lenders) replace the Agent by appointing a successor Agent acting through an office in the United Kingdom.
- (b) The retiring Agent shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Lenders) make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (c) The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Lenders or the Company (as applicable) to the retiring Agent. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) above) but shall remain entitled to the benefit of Clause 21.3 (*Indemnity to the Agent*) and this Clause 32 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).
- (d) Any successor Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

32.14 Resignation of an Issuing Bank

- (a) An Issuing Bank may, with the consent of the Obligors' Agent (such consent not to be unreasonably withheld), resign, provided that a resigning Issuing Bank shall remain an Issuing Bank for the purposes of this Agreement with regard to all Letters of Credit issued by it until such time as all such Letters of Credit are repaid or prepaid in full.
- (b) A resigning Issuing Bank shall, at its own cost, make available to any successor Issuing Bank such documents and records and provide such assistance as that successor Issuing Bank may reasonably request for the purposes of performing its functions as an Issuing Bank under the Finance Documents.

32.15 Confidentiality

- (a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division, which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Mandated Lead Arrangers are obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

32.16 Relationship with the Lenders

- (a) Subject to Clause 29.10 (*Pro rata interest settlement*), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
 - (i) entitled to or liable for any payment due under any Finance Document on that day; and
 - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

- (b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 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 sub-paragraph (a)(ii) of Clause 37.6 (*Electronic communication*) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

32.17 Credit appraisal by the Lenders

Without affecting the responsibility of the Company for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Agent that it has been, and will continue to be, solely responsible for making its own independent

appraisal and investigation of all risks arising under or in connection with any 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 has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security or the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (d) the adequacy, accuracy and/or completeness of the Buyside Reports or any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

32.18 Deduction from amounts payable by the Agent

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents, that Party shall be regarded as having received any amount so deducted.

32.19 Reliance and engagement letters

Each Finance Party and Secured Party confirms that each of the Mandated Lead Arrangers and the Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Mandated Lead Arrangers or the Agent) the terms of any reliance letter or engagement letters relating to the Buyside Reports or any reports or letters provided by accountants, auditors or providers of due diligence reports in connection with the Finance Documents or the transactions contemplated in the Finance Documents and to bind it in respect of those Buyside Reports, those reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

33. **CONDUCT OF BUSINESS BY THE FINANCE PARTIES**

No provision of this Agreement will:

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

34. **SHARING AMONG THE FINANCE PARTIES**

34.1 **Payments to Finance Parties**

(a) If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from the Company 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 Agent;
- (ii) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 35 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (iii) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 35.6 (*Partial payments*).

(b) Paragraph (a) above shall not apply to any amount received or recovered by an Issuing Bank or an Ancillary Lender in respect of any cash cover provided for the benefit of that Issuing Bank or that Ancillary Lender (as applicable).

34.2 **Redistribution of payments**

The Agent shall treat the Sharing Payment as if it had been paid by the Company 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 the Company to the Sharing Finance Parties.

34.3 **Recovering Finance Party's rights**

On a distribution by the Agent under Clause 34.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from the Company, as between the Company and

the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by the Company.

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 Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "**Redistributed Amount**"); and
- (b) as between the Company and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by the Company.

34.5 **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 occurrence of a Declared Default.
- (b) Following the occurrence of a Declared Default, 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.

34.6 **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, have a valid and enforceable claim against the Company.
- (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.

35. **PAYMENT MECHANICS**

35.1 **Payments to the Agent**

- (a) On each date on which the Company or a Lender is required to make a payment under a Finance Document, the Company or that Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London) with such bank as the Agent specifies.

35.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 35.3 (*Distributions to the Company*) and Clause 35.4 (*Clawback*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London).

35.3 Distributions to the Company

The Agent may (with the consent of the Company or in accordance with Clause 36 (*Set-Off*)) apply any amount received by it for the Company in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Company under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

35.4 Clawback

- (a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) Unless paragraph (c) below applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.
- (c) If the Agent is willing to make available amounts for the account of the Company before receiving funds from the Lenders then if and to the extent that the 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 the Company:
 - (i) the Agent shall notify the Company of that Lender's identity and the Company shall, as soon as reasonably practicable following a demand, refund it to the Agent; and
 - (ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Company, shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the 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 Agent becomes an Impaired Agent, the Company or a Lender which is required to make a payment under the Finance Documents to the Agent in accordance with Clause 35.1 (*Payments to the Agent*) may instead either pay that amount direct to the required recipient or pay that amount to an interest-bearing account held with an Acceptable Bank within the meaning of paragraph (b) of the definition of "Acceptable Bank" and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Company or the Lender making the payment and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents. In each case, such payments must be made on the due date for payment under the Finance Documents.
- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the beneficiaries of that trust account *pro rata* to their respective entitlements.
- (c) A Party which has made a payment in accordance with this Clause 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 Agent in accordance with Clause 32.13 (*Replacement of the Agent*), each Party which has made a payment to a trust account in accordance with this Clause 35.5 shall give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution in accordance with Clause 35.2 (*Distributions by the Agent*).

35.6 Partial payments

- (a) If the Agent receives a payment for application against amounts due in respect of any Finance Documents that is insufficient to discharge all the amounts then due and payable by the Company under those Finance Documents, the Agent shall apply that payment towards the obligations of the Company under those Finance Documents in the following order (but subject to paragraph (g) of Clause 31.1 (*Permitted Debt Purchase Transactions*)):
 - (i) *first*, in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Agent and the Security Agent under those Finance Documents;
 - (ii) *secondly*, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under those Finance Documents;
 - (iii) *thirdly*, in or towards payment *pro rata* of any principal due but unpaid under those Finance Documents and any amount due but unpaid under Clause 7.6 (*Claims under a Letter of Credit*) and Clause 7.7 (*Indemnities*); and
 - (iv) *fourthly*, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in subparagraphs (a)(ii) to (a)(iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by the Company.

35.7 **No set-off by the Company**

All payments to be made by the Company under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim, save that the Company may set-off any matured obligation due from a Defaulting Lender against any matured obligation owed by the Company to that Defaulting Lender under the Finance Documents (and in such circumstances, the Agent shall treat such set-off as reducing only payments due to the relevant Defaulting Lender).

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 the Company under any Finance Document.
- (b) A repayment of a Utilisation or Unpaid Sum or a part of a Utilisation or Unpaid Sum shall be made in the currency in which that Utilisation or Unpaid Sum is denominated, 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 Agent (after consultation with the Company); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).

- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Company) 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 Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Company that a Disruption Event has occurred:

- (a) the Agent may, and shall if requested to do so by the Company, consult with the Company with a view to agreeing with the Company such changes to the operation or administration of the Facilities as the Agent may deem necessary in the circumstances;
- (b) the Agent shall not be obliged to consult with the Company in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Agent and the Company 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 Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation, for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 35.11; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

36. **SET-OFF**

If an Event of Default is continuing, a Finance Party may set off any matured obligation due from the Company under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Company, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

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, subject to Clause 37.6 (*Electronic communication*), may be made by email, fax or letter.

37.2 Addresses

The address, email address and/or 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 an Original Obligor, that identified under their respective names in the signature pages to this Agreement;
- (b) in the case of each Lender, each Issuing Bank, each Ancillary Lender and each Additional Obligor, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and
- (c) in the case of the Agent or the Security Agent, that identified under their respective names below,

or any substitute address, email address or fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

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 Agent or the Security Agent will be effective only when actually received by the Agent or Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's or Security Agent's signature below (or any substitute department or officer as the Agent or Security Agent shall specify for this purpose).
- (c) All notices from or to the Parent or the Company shall be sent through the Agent.
- (d) Any communication or document which becomes effective in accordance with paragraph (a) to (c) above after 5.00 pm in the place of receipt shall be deemed only to be effective on the following day.

37.4 Notification of address, email address and fax number

Promptly upon receipt of notification of an address, email address or fax number or change of address, email address or fax number pursuant to Clause 37.2 (*Addresses*) or changing its own address, email address or fax number, the Agent shall notify the other Parties.

37.5 Communication when Agent is Impaired Agent

If the Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Agent, communicate with each other directly and (while the Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Agent has been appointed.

37.6 Electronic communication

- (a) Any communication or document to be made or delivered by one Party to another under or in connection with the Finance Documents may be made or delivered 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 or delivery as specified in paragraph (a) above to be made between or delivered by the Company (on the one hand) and a Finance Party (on the other hand) 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 or delivery.
- (c) Any such electronic communication or document as specified in paragraph (a) above made or delivered by one Party to another will be effective only when actually received (or made available) in readable form and in the case of any electronic communication or document made or delivered by a Party to the Agent or the Security Agent only if it is addressed in such a manner as the Agent or Security Agent shall specify for this purpose.
- (d) Any communication or document which becomes effective, in accordance with paragraph (a) to (c) above, after 5.00 pm in the place of receipt 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 be effective on the following day.
- (e) Any reference in a Finance Document to a communication being sent or received or a document being delivered shall be construed to include that communication or document being made available in accordance with this Clause 37.6.
- (f) The Company may satisfy its obligation under this Agreement to deliver any information to a Lender by delivering that information directly to that Lender in accordance with this Clause to the extent that Lender and the Agent agree to this method of delivery.

37.7 **English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Agent (acting reasonably), accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

37.8 **Copies to Lenders**

For the avoidance of doubt, if the Company is required to deliver a document to the Agent in sufficient copies for the Lenders (or similar phrase), such requirement shall be deemed to be satisfied if a single copy of such document has been delivered electronically (in accordance with Clause 37.6 (*Electronic communication*)).

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 (or by an Issuing Bank as to the amount paid out by that Issuing Bank in respect of any Letter of Credit) is, in the absence of manifest error, *prima facie* evidence of the matters to which it relates.

38.3 **Day count convention**

- (a) Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.
- (b) Subject to paragraph (c) below, the amount of interest, commission or fee which accrues in respect of any day during an Interest Period for a Loan (or of any amount equal to that interest, commission or fee) shall be rounded to 2 decimal places.
- (c) To the extent that an Interest Period for a Loan contains any Block Rounding Period (as defined below):
 - (i) the aggregate amount of any accrued interest, commission or fee which accrues in respect of each Block Rounding Period (or of any amount equal to that interest, commission or fee) shall be rounded to 2 decimal places; and
 - (ii) the amount of interest, commission or fee which accrues in respect of each day in a Block Rounding Period (or of any amount equal to that interest, commission or fee) shall (to the extent reasonably practicable for the Finance Party performing the

calculation, taking into account the capabilities of any software used for that purpose) be calculated without rounding.

- (d) To the extent that an RFR Banking Day "**bd**" during an Interest Period for a Loan is followed by a day during that Interest Period which is not an RFR Banking Day, the period from, and including, that RFR Banking Day "**bd**" up to, but excluding, the following RFR Banking Day shall be a "**Block Rounding Period**" for the purposes of this Agreement.

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 **Required consents**

- (a) Subject to Clause 41.2 (*All Lender matters*), Clause 41.3 (*Transaction Security Documents*) and Clause 41.4 (*Other exceptions*), any term of the Finance Documents may be amended or waived with the consent of the Company and the Majority Lenders and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 41.

41.2 **All Lender matters**

Subject to Clause 41.5 (*Replacement of RFR*), 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", "Designated Person", "Majority Lenders", "Super Majority Lenders" or "Sanctions", "Sanctioned Country", "Sanctions Authority" or "Sanctions List" in Clause 1.1 (*Definitions*) or this Clause 41;
- (b) subject to any Structural Adjustment, any change in the currency of payment of any amount under the Finance Documents;

- (c) any requirement that a cancellation of Commitments reduces Commitments of the Lenders rateably under the relevant Facility;
- (d) any provision which expressly requires the consent of all the Lenders;
- (e) any change to the identity of the Company;
- (f) Clause 2.2 (*Finance Parties' rights and obligations*), Clause 11.1 (*Illegality*), Clause 12.1 (*Exit*), Clause 24.19 (*Sanctions and anti-corruption*), Clause 27.12 (*Sanctions and anti-corruption*), Clause 29 (*Changes to the Lenders*) (to the extent imposing additional restrictions on the ability of Existing Lenders to transfer their Loans or Commitments), Clause 34 (*Sharing Among the Finance Parties*), Clause 45 (*Governing Law*), Clause 46.1 (*Jurisdiction of English courts*) or this Clause 41;
- (g) the governing law or jurisdiction clauses of the Intercreditor Agreement; or
- (h) any amendment to the order of priority or subordination under the Intercreditor Agreement or the manner in which the proceeds of enforcement of Transaction Security are distributed (in each case which would adversely affect the interests of the Lenders and other than resulting from any new Subordinated Indebtedness), other than as a result of a Structural Adjustment or incurrence of Permitted Additional Debt,

other than any amendment, waiver, change, consent or release which is expressly permitted by the other provisions of this Agreement or the Intercreditor Agreement or which is or is consequential on, or to evidence implement, reflect or effect, any Permitted Transaction, Structural Adjustment, Additional Facility, Permitted Additional Debt, Permitted Refinancing Debt and/or any increase pursuant to Clause 2.4 (*Increase*) (to the extent otherwise permitted by this Agreement), or which is permitted or approved in accordance with the Intercreditor Agreement, shall not be made, or given, without the prior written consent of all the Lenders.

41.3 **Transaction Security Documents**

Subject to Clause 41.4 (*Other exceptions*), save as otherwise contemplated by this Agreement or in the Intercreditor Agreement, an amendment, waiver or consent in respect of any term of any Finance Document which has the effect of changing or which relates to:

- (a) the nature or scope of the Charged Property;
- (b) the release of a guarantee of a Guarantor; or
- (c) the release of any Transaction Security,

in each case other than as contemplated by, or permitted pursuant to, any other provision of the Finance Documents, shall not be made without the consent of the Super Majority Lenders.

41.4 **Other exceptions**

- (a) No consent from any Finance Party shall be required in connection with the implementation of any Permitted Structural Adjustment, an Additional Facility, any Permitted Additional Debt or other Permitted Financial Indebtedness or Permitted Refinancing Debt (in each case if

committed or incurred in accordance with the terms of this Agreement), including (in each case) without limitation any consequential amendment required by or desirable to the Company (acting reasonably) to any Finance Document (including to reflect the ranking of and restrictions on payments of such debt) or any release, amendment, confirmation or other dealing with any Transaction Security Document, and any such amendment, release or action will be binding on all Parties. Each Finance Party instructs and authorises the Agent and the Security Agent to give any such amendment, waiver or consent and to enter into any document or take any such action in connection thereto.

- (b) The Agent and Security Agent shall, and are irrevocably authorised, empowered and instructed by the Finance Parties to, release, or make or effect any amendment, consent, waiver, confirmation or change to or in respect of, any guarantee and indemnity granted under any Finance Document or any Accession Letter (including by way of executing a Resignation Letter) and any Transaction Security and/or Transaction Security Document (including any amendment, consent or waiver to or change in the nature and scope of the Transaction Security constituted by the Transaction Security Documents):
- (i) contemplated by, and permitted, in accordance with the provisions of this Agreement, the Intercreditor Agreement or any other Finance Document (including pursuant to clause 21 (*Permitted Additional Debt*) or clause 11 (*Non-Distressed Disposals*) of the Intercreditor Agreement);
 - (ii) as contemplated by, or required in connection with any resignation, release, amendment, consent, waiver or change carried out in accordance with, Clause 30 (*Changes to the Obligors*) or this Clause 41 or any other provision of this Agreement; or
 - (iii) in connection with an Additional Facility, Permitted Additional Debt, Permitted Reorganisation, Permitted Transaction or Structural Adjustment or any sale or disposal, designation or other transaction or arrangement permitted by this Agreement or any other Finance Document or which has been consented to by the Majority Lenders in accordance with the Finance Documents,

and to, promptly on request by the Company, execute and agree any document or other item relating to, consequential on, or required to evidence, implement, reflect or effect, such release, amendment, consent, waiver or change. Otherwise, the release of any guarantee and indemnity granted under any Finance Document or any Transaction Security (or any change to the nature and scope of the Transaction Security) constituted by the Transaction Security Documents without a retaking or replacement or a corresponding, equivalent or replacement guarantee or security being granted, shall, unless otherwise permitted under this Agreement or any other Finance Document, require the consent of the Majority Lenders.

The Agent and Security Agent shall (and are irrevocably authorised and instructed by the Finance Parties to), promptly on the request of the Company, do all such things as may be required by the Company to evidence, implement, reflect or effect any resignation or release contemplated by or permitted pursuant to this paragraph or any other provision of this Agreement.

- (c) In addition, the Agent and/or the Security Agent, as the case may be, shall and are hereby authorised and instructed to enter into such agreement or amendments with the Obligors and/or the holders of liabilities and/or to take any action (subject to the Agreed Guarantee/Security Principles) as is necessary or desirable pursuant to, or as may be required in order to give effect to the terms of or facilitate the establishment of, any Permitted Additional Debt or Additional Facility, Permitted Refinancing Debt, Permitted Structural Adjustment or other Permitted Financial Indebtedness entered into in compliance with this Agreement and which is intended to be (and which is permitted to be) secured on the Transaction Security or Permitted Security, including entering into any confirmation, amendment, replacement or supplement to or new Finance Documents (including any amendment, consent, waiver or release in respect of any Transaction Security or Transaction Security Document or any grant of Transaction Security or entry into a new Transaction Security Document) subject (where applicable) to such release being coupled with a simultaneous re-granting or as otherwise contemplated or permitted by this Clause 41 or by the Intercreditor Agreement.
- (d) Any Structural Adjustment shall be permitted, and may be made, approved and implemented with only the consent of the Company and each Lender that is itself participating in that Structural Adjustment, and shall not require the consent of any other Finance Party except that:
- (i) a Structural Adjustment falling under paragraph (b) of that definition which is implemented for the purposes of increasing the Total Commitments in a manner not otherwise permitted by this Agreement or the Finance Documents; and
 - (ii) a Structural Adjustment falling under paragraph (b) of that definition which is implemented for the purposes of bringing forward the stated Termination Date of those Commitments in a manner not otherwise permitted by this Agreement or the Finance Documents,
- shall also require the consent of the Majority Lenders unless (A) such change is implemented under or pursuant to Clause 2.3 (*Additional Facilities*) or 2.4 (*Increase*) or (B) shall take effect only from the date on which the Loans of those Lenders who do not consent to such Structural Adjustment are repaid or prepaid.
- (e) Notwithstanding anything to the contrary in the Finance Documents, any re-designation or transfer of all or any part of a Commitment and/or a participation in any Utilisation to a new tranche or facility established as an Additional Facility or pursuant to a Structural Adjustment or any other term of any of the Finance Documents (or any other similar or equivalent transaction) may be approved with the consent of the Lender holding that Commitment and/or, as the case may be, participation (or part thereof) and the Company (without any requirement for any consent or approval from any other person).
- (f) An amendment or waiver which relates to the rights or obligations of the Agent, the Security Agent or any Mandated Lead Arranger (each in their capacity as such) may not be effected without the consent of the Agent, that Mandated Lead Arranger or the Security Agent, as the case may be.

- (g) For the avoidance of doubt, any amendment or waiver which has the effect of reducing the Margin (except as permitted by the terms of this Agreement) or fees payable to the Lenders shall only require the consent of those Lenders affected by such reduction.
- (h) Any amendment or waiver which applies (or would, but for this paragraph (h), apply) which:
- (i) relates only to the rights or obligations applicable to a particular Utilisation, Facility or class of Lender; and
 - (ii) does not materially and adversely affect the rights or interests of Lenders in respect of any other Utilisation or Facility or another class of Lender,
- may be made in accordance with this Clause 41 but as if references in this Clause 41 to the specified proportion of Lenders (including, for the avoidance of doubt, all the Lenders) whose consent would, but for this paragraph (h), be required for that amendment or waiver were to that proportion of the Lenders participating in that particular Utilisation or Facility or forming part of that particular class.
- (i) Notwithstanding anything to the contrary in this Clause 41, a Finance Party may unilaterally waive, relinquish or otherwise irrevocably give up all or any of its rights with the consent of the Company.
- (j) Any term of the Finance Documents may be amended or waived by the Company and the Agent without the consent of any other Party in order to cure defects or omissions or resolve ambiguities or inconsistencies or correct manifest errors, or if such amendment or waiver is of a minor, technical or administrative nature, or if such amendment or waiver is otherwise for the benefit of all or any of the Lenders and is not adverse to the interests of the remaining Lenders.
- (k) If any Lender fails to respond to a request (or abstains from accepting or rejecting such request) for a consent, waiver, amendment of or in relation to any of the terms of any Finance Document or other vote of the Lenders under the terms of this Agreement within the period of time specified by the Agent (being ten Business Days (or five Business Days (in the case of a Defaulting Lender) unless the Company and the Agent agree to a longer time period in relation to any request) of that request being made, its Commitment and/or participations shall not be included for the purpose of calculating the Total Commitments or participations under the relevant Facilities when ascertaining whether any relevant percentage of Total Commitments and/or participations has been obtained to approve that request.
- (l) Subject to compliance with paragraph (b) of Clause 9.4 (*Terms of Ancillary Facilities*), no amendment or waiver of a term of any Ancillary Document shall require the consent of any Finance Party other than the relevant Ancillary Lender.
- (m) Any Commitment Document or Fee Letter may be amended or waived in accordance with its terms. No amendment or waiver of a term of any Commitment Document or Fee Letter shall require the consent of any Finance Party other than any such person which is a party to that document. The Company and the Agent may, and are authorised to, make any

amendment or waiver to any of the Finance Documents which is made in accordance with the terms of the Commitment Documents.

41.5 Replacement of RFR

(a) Subject to Clause 41.4 (*Other exceptions*), if a RFR Rate Replacement Event has occurred, any amendment or waiver which relates to:

- (i) providing for the use of a Replacement Reference 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 Agent (acting on the instructions of the Majority Lenders) and the Company.

(b) An amendment or waiver that relates to, or has the effect of, aligning the means of calculation of interest on a Loan under this Agreement to any recommendation of a Relevant Nominating Body which:

- (i) relates to the use of the RFR 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 Agent (acting on the instructions of the Majority Lenders) and the Company.

(c) If any Lender fails to respond to a request for an amendment or waiver described in paragraph (a) or (b) above within five Business Days (or such longer time period in relation to any request which the Company and the Agent may agree) of that request being made:

- (i) its Commitment(s) shall not be included for the purpose of calculating the Total Commitments under the relevant Facility/ies when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and
 - (ii) 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.
- (d) In this Clause 41.5:

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

"Replacement Reference Rate" means a reference rate which is:

- (i) formally designated, nominated or recommended as the replacement for a RFR by:
 - (A) the administrator of the RFR (provided that the market or economic reality that such reference rate measures is the same as that measured by the RFR); or
 - (B) 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 (B) above;
- (ii) in the opinion of the Majority Lenders and the Company, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to the RFR; or
- (iii) in the opinion of the Majority Lenders and the Company, an appropriate successor to the RFR.

"RFR Rate Replacement Event" means, in relation to the RFR:

- (i) the methodology, formula or other means of determining that RFR has, in the opinion of the Majority Lenders and the Company materially changed;
- (ii)
 - (A) the administrator of the RFR 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 the RFR is insolvent,provided that, in each case, at that time, there is no successor administrator to continue to provide the RFR;

- (1) the administrator of the RFR publicly announces that it has ceased or will cease, to provide the RFR permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the RFR;
 - (2) the supervisor of the administrator of the RFR publicly announces that the RFR has been or will be permanently or indefinitely discontinued; or
 - (3) the administrator of the RFR or its supervisor announces that the RFR may no longer be used; or
- (iii) the administrator of the RFR determines that the RFR (or the administrator of an interest rate which is a constituent element of RFR) should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
- (A) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Company) temporary; or
 - (B) the RFR is calculated in accordance with any such policy or arrangement for a period no less than 10 days; or
- (iv) in the opinion of the Majority Lenders and the Company, the RFR is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

41.6 **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 10 Business Days of that request being made by the Company or a member of the Group (such Lender, a "**Non-Responding Lender**") (unless the Company and the Agent agree to a longer time period in relation to any request):

- (a) its participation and Commitment(s) shall not be included for the purpose of calculating the participations or Commitments or Total Commitments when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of participations, Commitments or Total Commitments has been obtained to approve that request; 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.

41.7 **Replacement of a Lender**

- (a) If at any time:
 - (i) any Lender is or becomes a Non-Consenting Lender, Non-Responding Lender, a Defaulting Lender or a Defaulting Credit Party (as defined in the Commitment Documents); or

- (ii) any Lender becomes a Competitor following the date upon which it becomes a Lender; or
- (iii) any Lender is or becomes an Increased Costs Lender,

(each such Lender (and each of its Affiliates and Related Funds) being a "**Relevant Lender**") then the Company may (but is not obliged to), on not less than 5 Business Days' prior written notice to the Agent and such Relevant Lender:

- (A) 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 or part of its rights and obligations under this Agreement to a Lender or other bank, financial institution, trust, fund or other entity which is not a member of the Group (a "**Replacement Lender**"), and which confirms its willingness to assume and does assume all or that part of 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 Utilisations and all accrued interest (to the extent that the Agent has not given a notification under Clause 29.10 (*Pro rata interest settlement*)), Break Costs and other amounts payable in relation thereto under the Finance Documents;
- (B) repay or prepay (or procure that another member of the Group repays or prepays) all or any part of that Lender's participations in all or any outstanding Loans and/or Utilisations; and/or
- (C) cancel all or any part of that Lender's Commitments or Available Commitments.

(b) The replacement of a Lender pursuant to this Clause shall be subject to the following conditions:

- (i) the Company shall have no right to replace or repay the Agent or Security Agent;
- (ii) neither the Agent nor the Lender shall have any obligation to the Company to find a Replacement Lender;
- (iii) in no event shall the Relevant Lender replaced under this paragraph (b) be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents;
- (iv) the performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the Replacement Lender, the completion of which the Agent shall promptly notify to the Company and the Replacement Lender; 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 Agent and the Company when it is satisfied that it has complied with those checks.
- (d) In the event that the Company or the Agent (at the request of the Company) has requested the Lenders to consent to a waiver or amendment of any provisions of the Finance Documents and the consent, waiver or amendment in question, then any Lender who does not and continues not to agree to such request, waiver or amendment shall be deemed a **"Non-Consenting Lender"**.

41.8 **Disenfranchisement of Defaulting Lenders**

- (a) In ascertaining the Majority Lenders or any other group of Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents, any Defaulting Lender's Commitments and/or participations shall not be included when ascertaining whether a certain percentage of total Commitments and/or participations has been obtained to an amendment or waiver.
- (b) For the purposes of this Clause 41.8, the Agent may assume that the following Lenders are Defaulting Lenders:
 - (i) any Lender which has notified the Agent that it has become a Defaulting Lender; and
 - (ii) any Lender in relation to which it is aware that any of the events or circumstances referred to in paragraph (a), (b) or (e) of the definition of "Defaulting Lender" has occurred,

unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

41.9 **Revolving Facility structural adjustment**

- (a) The Company may in connection with any refinancing of the Term Facility through a common terms platform financing (the **"Refinancing Platform"**) request by notice in writing to the Agent and the Lenders in respect of the Revolving Facility that each Lender's Revolving Facility Commitments be transferred to the Refinancing Platform (a **"Refinancing Platform Notice"**). Following delivery by the Company of the Refinancing Platform Notice, each Lender in respect of the Revolving Facility agrees to work in good faith with the Company and agrees to use all reasonable endeavours to ensure that its Revolving Facility Commitments continue to be made available to the Company under the Refinancing Platform on substantially the same or equivalent terms with such amendments as are reasonably necessary to reflect that the Revolving Facility Commitments are made available under a Refinancing Platform instead of a standalone facilities agreement.

- (b) Each Lender in respect of the Revolving Facility further agrees that no arrangement, underwriting or other upfront fees shall be payable to it in respect of its Revolving Facility Commitments so long as the Termination Date in respect of the Revolving Facility is not extended as part of the transfer of the Revolving Facility Commitments to the Refinancing Platform.

41.10 **Environmental, social and governance matters**

If so requested by Company, notwithstanding any other provision to the contrary in this Clause 41 or any other provision of this Agreement or the Finance Documents, the Finance Parties shall act reasonably and in good faith to consider and agree a reduction or increase in margin (as applicable) in the event that the Group (or any member of the Group) meets and/or maintains or fails to meet and/or maintain certain sustainability, environmental, social and/or governance levels or thresholds (with appropriate KPIs, criteria, metrics and levels to be agreed, acting reasonably and in good faith). To the extent agreed between the Company and the Lenders under the relevant Facility (in each case acting reasonably and in good faith), the Company and the Facility Agent shall enter into any amendment, waiver, consent or supplement in respect thereof which shall be binding on each of the Parties.

42. **CONFIDENTIALITY**

42.1 **Confidential Information**

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 42.3 (*Disclosure to numbering service providers*) or Clause 42.2 (*Disclosure of Confidential Information*), 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, subject to all requirements of law and regulation (including, without limitation, as regards non-public or price-sensitive information), disclose (subject to applicable law and regulation):

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, insurers, reinsurers, insurance brokers, partners and representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
- (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance

Documents or which succeeds (or which may potentially succeed) it as Agent or Security Agent and, in each case, to any of that person's Affiliates, Related Funds, representatives and professional advisers;

- (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or the Parent and/or the Company 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 sub-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 32.16 (*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 sub-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 or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 29.8 (*Security over Lenders' rights*);
- (vii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (viii) who is a Party; or
- (ix) with the consent of the Company,

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to sub-paragraphs (b)(i), (b)(ii) and (b)(iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking, except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
- (B) in relation to sub-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; and

- (C) in relation to sub-paragraphs (b)(v), (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that 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 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 Confidentiality Undertaking or such other form of confidentiality undertaking agreed between the Company 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 Parent and/or the Company 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 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 the Company the following information:
 - (i) name of the Company;
 - (ii) country of domicile of the Company;
 - (iii) place of incorporation of the Company;
 - (iv) date of this Agreement;
 - (v) the names of the Agent and the Mandated Lead Arrangers;
 - (vi) date of this Agreement;
 - (vii) amount of Total Commitments;
 - (viii) amounts of, and names of, the Facilities (and any tranches);

- (ix) currencies of the Facilities;
 - (x) type of the Facilities;
 - (xi) ranking of the Facilities;
 - (xii) the Termination Date for the Facilities;
 - (xiii) governing law of the Facilities;
 - (xiv) changes to any of the information previously supplied pursuant to sub-paragraphs (i) to (xiii) above; and
 - (xv) such other information agreed between such Finance Party and the Company,
- 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 the Company 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) Any Finance Party which appoints a numbering services provider pursuant to paragraph (a) above shall notify the Company and the Agent (and the Agent shall notify the other Finance Parties) of:
 - (i) the name of any numbering service provider appointed in respect of this Agreement, the Facilities and the Company; and
 - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facilities and the Company by such numbering service provider.

42.4 **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.

42.5 **Inside information**

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive or inside 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.

42.6 **Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Company:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to sub-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.

42.7 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 12 months from the earlier of:

- (a) the date on which all amounts payable by the Company 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. DISCLOSURE OF LENDER DETAILS BY AGENT

43.1 Supply of Lender details to the Company

- (a) The Agent shall provide to the Company, within five Business Days of a request by the Company (but no more frequently than once per calendar month unless required in order to determine whether a Tax Deduction should be made), 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 Agent to that Lender under the Finance Documents.
- (b) The Lenders (through the Agent) shall provide to the Company, within five Business Days of a request by the Company, confirmation with respect to whether or not a Lender or other financial institution satisfies the requirements of paragraph (b) of the definition of "Acceptable Bank" as at a particular date.

43.2 Supply of Lender details at Company's direction

- (a) The Agent shall, at the request of the Company, 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 Company shall procure that the recipient of information disclosed pursuant to paragraph (a) above shall keep such information confidential and shall not disclose it to anyone and shall ensure that all such information is protected with security

measures and a degree of care that would apply to the recipient's own confidential information.

- (c) The recipient may disclose such information 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.

43.3 **Supply of Lender details to other Lenders**

- (a) If a Lender (a "**Disclosing Lender**") indicates to the Agent that the Agent may do so, the Agent shall disclose that Lender's name and Commitment to any other Lender that is, or becomes, a Disclosing Lender.
- (b) The Agent shall, if so directed by the Requisite Lenders, request each Lender to indicate to it whether it is a Disclosing Lender.

43.4 **Lender enquiry**

If any Lender believes that any entity is, or may be, a Lender and:

- (a) that entity ceases to have an Investment Grade Rating; or
- (b) an Insolvency Event occurs in relation to that entity,

the Agent shall, at the request of that Lender, indicate to that Lender the extent to which that entity has a Commitment.

43.5 **Lender details definitions**

In this Clause 43:

"Investment Grade Rating" means, in relation to an entity, a rating for its long-term unsecured and non credit-enhanced debt obligations of BBB- or higher by Standard & Poor's or Fitch or Baa3 or higher by Moody's or a comparable rating from an internationally recognised credit rating agency.

"Requisite Lenders" means a Lender or Lenders whose Commitments aggregate 15 per cent. (or more) of the Total Commitments (or if the Total Commitments have been reduced to zero, aggregated 15 per cent. (or more) of the Total Commitments immediately prior to that reduction).

44. **COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

45. **GOVERNING LAW**

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

46. ENFORCEMENT

46.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or 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.

46.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor if they are incorporated in England and Wales) (each a "**Process Appointing Entity**"):
 - (i) irrevocably appoints Macquarie Infrastructure and Real Assets (Europe) Limited of Ropemaker Place, 28 Ropemaker Street, London EC2Y 9HD, United Kingdom, as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
 - (ii) agrees that failure by an agent for service of process to notify the relevant Process Appointing Entity 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 Company (on behalf of all Process Appointing Entities) must as soon as reasonably practicable (and in any event within 10 Business Days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.

46.3 Contractual recognition of bail-in

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

(c) For the purposes of this Clause 46.3:

"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:

- (i) 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;
- (ii) in relation to any state other than such an EEA Member Country and 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
- (iii) 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).

"Write-down and Conversion Powers" means:

- (i) 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;
- (ii) in relation to any other applicable Bail-In Legislation other than the UK Bail-In Legislation:
 - (A) 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

- (B) any similar or analogous powers under that Bail-In Legislation; and
- (iii) in relation to the UK Bail-In Legislation, 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:

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

THE PARTIES

PART I

THE ORIGINAL OBLIGORS

Name of Original Term Facility Borrower and Original Revolving Facility Borrower	Registration number (or equivalent, if any) and Jurisdiction of Incorporation
Company	95832092, The Netherlands

Name of Original Guarantor	Registration number (or equivalent, if any) and Jurisdiction of Incorporation
Company	95832092, The Netherlands

PART II
THE ORIGINAL LENDERS

Name of Original Lender	Term Facility Commitment (EUR)	Revolving Facility Commitment (EUR)	Treaty Passport scheme reference number and jurisdiction of tax residence (if applicable)	UK Non-Bank Lender?
[]	[]	[]	[]	[yes/no]
[]	[]	[]	[]	[yes/no]
Total	[]	[]	N/A	N/A

SCHEDULE 2
CONDITIONS PRECEDENT

PART I
CONDITIONS PRECEDENT TO INITIAL UTILISATION

The following to be delivered and (where applicable) in form and substance reasonably satisfactory to, or otherwise waived by, the Agent or the Mandated Lead Arrangers (each acting reasonably). Notwithstanding anything to the contrary, the conditions precedent and requirements of this Schedule 2 (including, without limitation, each Structure Memorandum, Base Case Model, Transaction Document and any other document to be delivered in connection therewith (each a "**CP Deliverable**")) will be regarded as received and satisfied, and the applicable condition precedent will be satisfied, if the relevant CP Deliverable is in substance substantially the same as the last version or draft (as applicable) provided to the Agent or the Mandated Lead Arranger(s) prior to the date of this Agreement (or, if later, approved by the Mandated Lead Arranger(s)), save (in each case) for any changes to reflect the terms of or contemplated by the Commitment Documents or Finance Documents, or which (taken as a whole) are not materially adverse to the interests of the Original Lenders party to the Finance Documents (taken as a whole) under the Finance Documents, or which are approved by the Agent or the Arrangers (or, in the case of 6(b) below, the Super Majority Arrangers), or which arise in connection with a change in the Acquisition, the Obligors or the Finance Documents or the structure of the Acquisition or the Obligors or any increase in or reduction in any Commitment or Financial Indebtedness of the Group or the Target Group (including a decision not to refinance all or part of such debt) provided that such change is permitted or otherwise agreed in accordance with the terms of the Commitment Documents, the Finance Documents or this Agreement or is consented to by the Agent or the Arrangers (or, in the case of 6(b) below, the Super Majority Arrangers).

For the avoidance of doubt, it is understood and agreed that any change in the structure, form or timing of the Acquisition or in the timing or conditions related to the Offer or Scheme or in the offer price, offer period or in the purchase price or consideration agreed, paid or payable, shall (in each case) be permitted and shall not be regarded as being material or adverse to the interests of the Finance Parties or Lenders or any group of finance parties, arrangers, lenders, agents or providers under this Agreement or any other Finance Documents (but, for the avoidance of doubt, without prejudice to the length of the Certain Funds Period).

1. THE COMPANY AND THE PARENT

- 1.1 A copy of the constitutional documents of the Parent and the Company.
- 1.2 An up-to-date extract from the Dutch trade register (*handelsregister*) relating to the Parent and the Company.
- 1.3 A copy of a resolution of the board of directors of the Parent and the Company:
 - (a) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;
 - (b) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request 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.

- 1.4 If required under applicable law or the articles of association, a copy of a resolution of the general meeting of shareholders of the Company, approving the execution of, and the terms of, and the transactions contemplated by, the Finance Documents.
- 1.5 A specimen of the signature of each person authorised by the resolution referred to in paragraph 1.3 above in relation to and which signs the Finance Documents and related documents.
- 1.6 A certificate of each of Parent and the Company (signed by an authorised signatory) confirming that borrowing, guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on it under its constitutional documents to be exceeded.
- 1.7 A certificate of an authorised signatory of the Company and the Parent certifying that each copy document relating to it specified in this paragraph 1 of this 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. FINANCE DOCUMENTS

Copies of:

- (a) this Agreement executed by the Parent and the Company;
- (b) the Intercreditor Agreement executed by the Parent and the Company;
- (c) one or more Fee Letters executed by the Company (provided that Fee Letter shall not be required to be delivered to or be in form and substance satisfactory to any person other than the parties to them).

3. TRANSACTION SECURITY DOCUMENTS

A copy of the security agreement over the (i) shares in the Company executed by the Parent and (ii) shareholder loans made by the Parent to the Company.

4. LEGAL OPINION

A legal opinion of the legal advisers to the Agent and the Original Lenders as to English and Dutch law in relation to the validity and enforceability of the Finance Documents and the status, authority, power and capacity of the Parent and the Company, addressed to the Agent, the Security Agent and the Original Lenders.

5. OTHER DOCUMENTS AND EVIDENCE

- (a) A copy of each of the Buyside Reports, and substantially in the form of the drafts delivered to the Mandated Lead Arrangers on or before the date of this Agreement, with such amendments or modifications which are notified to the Mandated Lead Arrangers and which

do not materially and adversely affect the interests of the Lenders under the Finance Documents or which have been made with the consent of the Mandated Lead Arrangers (acting reasonably and such consent not to be unreasonably withheld or delayed), and, in the case of the Financial DD Report, Legal DD Report, Technical DD Report and the Structure Memorandum only, which is capable of being relied upon by the Mandated Lead Arrangers (but only to the extent the Mandated Lead Arrangers have agreed terms of a reliance letter with the relevant report provider).

- (b) A copy of the Approved List.
- (c) The Base Case Model in the most recent form delivered to the Mandated Lead Arrangers prior to the date of this Agreement, with such amendments or modifications as are notified to the Mandated Lead Arrangers and do not materially and adversely affect the interests of the Lenders under the Finance Documents.
- (d) Evidence of the appointment of a process agent referred to in Clause 46.2 (*Service of process*).
- (e) Evidence of satisfaction of necessary "know your customer" checks or other similar checks under all applicable laws and regulations pursuant to the Finance Documents in respect of the Company, as notified to the Company not less than 10 Business Days prior to the date of this Agreement.

6. CLOSING REQUIREMENTS

The following to be provided on or prior to the Closing Date for information purposes only (and shall not be required to be in form and substance satisfactory):

- (a) a funds flow statement (the "**Funds Flow Statement**") for information purposes only and without a right of approval for the Finance Parties;
- (b) a closing certificate from the Company confirming that (A) in the case of an Offer, the Offer Unconditional Date has occurred and (unless otherwise agreed between the Company and the Super Majority Arrangers (each acting reasonably and in good faith) the Company has or will acquire or obtain control of at least 75 per cent. of the issued and outstanding Target Shares, or (B) in the case of a Scheme, the Scheme Effective Date has occurred.

PART II

CONDITIONS PRECEDENT REQUIRED TO BE DELIVERED BY AN ADDITIONAL GUARANTOR

1. An Accession Letter executed by the Additional Obligor and the Company.
2. A copy of the constitutional documents and, in case of a Dutch Additional Obligor, an up-to-date extract from the Dutch trade register (*handelsregister*) relating to the Additional Obligor.
3. A copy of a resolution of the board of directors (or other equivalent corporate body) of the Additional Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Letter and the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Accession Letter and any other Finance Document to which it is a party;
 - (b) authorising a specified person or persons to execute the Accession Letter 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, if relevant, 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 Company to act as its agent in connection with the Finance Documents.
4. If required under applicable law or the articles of association, a copy of a resolution of the general meeting of shareholders (or, as the case may be, supervisory board) of the Additional Obligor, approving the execution of, and the terms of, and the transactions contemplated by, the Accession Letter and the Finance Documents to which it is a party and (only in the case of an Additional Guarantor incorporated in the Netherlands, and only if applicable) evidence of compliance with applicable works council requirements.
5. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above in relation to the Accession Letter, Finance Documents and related documents.
6. A certificate of each Additional Obligor (signed by an authorised signatory) confirming that borrowing or guaranteeing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, or similar limit binding on it under its constitutional documents to be exceeded.
7. A certificate of an authorised signatory of the Additional Obligor certifying that each copy document relating to it specified in paragraphs 1 to 6 above 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 Letter.

8. The following legal opinions, each addressed to the Agent, the Security Agent and the Lenders:
- (a) A legal opinion of the legal advisers to the Agent in England, as to English law in the form distributed to the Lenders prior to signing the Accession Letter.
 - (b) If the Additional Obligor is incorporated in a jurisdiction other than England and Wales or is executing a Finance Document which is governed by a law other than English law, a legal opinion of the legal advisers to the Agent in the jurisdiction of its incorporation 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 Letter.

SCHEDULE 3
REQUESTS AND NOTICES

PART I
UTILISATION REQUEST – LOANS

From: [Borrower/Obligors' Agent]

To: [Agent]

Dated:

Dear Sirs

Project Earth – Facilities Agreement dated [] (as amended and/or restated from time to time) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
2. We wish to borrow a Loan on the following terms:

Proposed Utilisation Date: [] (or, if that is not a Business Day, the next Business Day)

Facility to be utilised: [Term Facility]/[Revolving Facility]

Amount: [] or, if less, the Available Facility

Interest Period: []
3. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) [(or, to the extent applicable, Clause 4.4 (*Utilisations during the Certain Funds Period*))] is satisfied on the date of this Utilisation Request.
4. [This Loan is to be made in [whole]/[part] for the purpose of refinancing [identify maturing Revolving Facility Loan]].
5. The proceeds of this Loan should be credited to [account].
6. This Utilisation Request is irrevocable.

Yours faithfully

authorised signatory for
[Borrower/Obligors' Agent]

PART II

UTILISATION REQUEST – LETTERS OF CREDIT

From: [Borrower/Obligors' Agent]

To: [Agent]

Dated:

Dear Sirs

Project Earth – Facilities Agreement dated [] (as amended and/or restated from time to time) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2. We wish to arrange for a Letter of Credit to be [issued]/[renewed] on the following terms:

Borrower: []

Proposed Utilisation Date: [] (or, if that is not a Business Day, the next Business Day)

Issuing Bank: []

Currency: []

Beneficiary: []

Amount: []

Expiry Date: []

3. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) [(or, to the extent applicable, Clause 4.4 (*Utilisations during the Certain Funds Period*))] is satisfied on the date of this Utilisation Request.

4. We attach a copy of the proposed Letter of Credit.

5. This Utilisation Request is irrevocable.

Yours faithfully

authorised signatory for
[Borrower/Obligors' Agent]

PART III
SELECTION NOTICE

From: *[Borrower/Obligors' Agent]*

To: *[Agent]*

Dated:

Dear Sirs

Project Earth - Facilities Agreement dated [_____] (as amended and/or restated from time to time) (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Selection Notice. Terms defined in the Facilities Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.
2. We refer to the following the Term Facility Loan[s] with an Interest Period ending on [_____].
3. [[We request that the above Term Facility Loan[s] be divided into Loan[s] with the following Interest Periods:]

OR
4. [We request that the next Interest Period for the above Term Facility Loan[s] is [_____].]

This Selection Notice is irrevocable.

Yours faithfully

authorised signatory of the [Company

SCHEDULE 4
FORM OF TRANSFER CERTIFICATE

To: [] as Agent and [] as Security Agent

From: [*The Existing Lender*] (the "**Existing Lender**") and [*The New Lender*] (the "**New Lender**")

Dated:

Project Earth – Facilities Agreement dated [] (as amended and/or restated from time to time) (the "Facilities Agreement")

1. We refer to the Facilities Agreement and to the Intercreditor Agreement. This agreement (the "**Agreement**") shall take effect as a Transfer Certificate for the purpose of the Facilities Agreement and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (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 29.5 (*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 29.5 (*Procedure for transfer*) of the Facilities Agreement all of the Existing Lender's rights and obligations under the Facilities Agreement and in respect of the Transaction Security which relate to that portion of the Existing Lender's Commitments and participations in Utilisations under the Facilities Agreement as specified in the Schedule.
 - (b) The proposed Transfer Date is [].
3. On the Transfer Date the New Lender becomes party to the relevant Finance Documents as a Lender.
4. 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.
5. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 29.4 (*Limitation of responsibility of Existing Lenders*) of the Facilities Agreement.
6. The New Lender confirms that it is, in relation to the Company:
 - (a) [not a Qualifying Lender]
 - (b) [a Qualifying Lender (other than a Treaty Lender)]
 - (c) [a Treaty Lender (on the assumption that all procedural formalities have been completed)]*.
7. The New Lender confirms that it [is]/[is not], in relation to a Belgian Borrower, a Belgian Non-Cooperative Jurisdiction 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
 - (iii) 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 [____]¹, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and confirms that it wishes that scheme to apply to the Agreement.]***
10. The New Lender confirms that it [is]/[is not]** a Sponsor Affiliate.
11. The New Lender confirms that it is not:
- (a) a natural person;
 - (b) a Defaulting Lender;
 - (c) a Competitor;
 - (d) a Distressed Debt Fund or Hedge Fund;
 - (e) a Restricted Party;
 - (f) a Non-Consenting Lender;
 - (g) a Belgian Non-Cooperative Jurisdiction Lender;
 - (h) [a deposit taking financial institution authorised by a financial services regulator which holds a rating of lower than BBB-/Baa3 from at least one of Standard & Poor's, Fitch or Moody's].
12. We refer to clause 20.2 (*Change of Senior Lender*) of the Intercreditor Agreement, in consideration of the New Lender being accepted as a Lender for the purposes of the Intercreditor Agreement (and as defined therein), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as a Lender, and

¹ Insert jurisdiction of tax residence.

undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

13. This Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 29.7 (*Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to the Company*), to the Company of the transfer referred to in this Agreement.
14. 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.
15. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
16. This Agreement has been entered into on the date stated at the beginning of this Agreement.

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

The Agent and the Existing Lender should seek confirmation from Dutch counsel that the transfer will not contravene Section 3:5 of the Dutch Financial Supervision Act (*Wet op het financieel toezicht*) if the value of the rights acquired by the New Lender is less than €100,000 or, if the competent authority has published its interpretation of the term 'public' as referred to in article 4.1.(1) of 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, such other minimum amount as may be required for the New Lender not to be considered part of the public under such interpretation.

- * Delete as applicable. Each New Lender is required to confirm which of these three categories it falls within.
- ** Include if New Lender comes within paragraph (a)(ii) of the definition of "Qualifying Lender (UK)" in Clause 19.1 (*Tax Definitions*).
- *** Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Agreement.
- **** Delete as applicable.

THE SCHEDULE

Commitment/rights and obligations to be transferred

[insert relevant details]

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

[Existing Lender] [New Lender]

By: By:

This Agreement is accepted as a Transfer Certificate for the purposes of the Facilities Agreement by the Agent, and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Transfer Date is confirmed as [_____].

[Agent]

By:

[Security Agent]

By:

SCHEDULE 5
FORM OF ASSIGNMENT AGREEMENT

To: [] as Agent, [] as Security Agent and [] as the Company

From: [*the Existing Lender*] (the "**Existing Lender**") and [*the New Lender*] (the "**New Lender**")

Dated:

Project Earth – Facilities Agreement dated [] (as amended and/or restated from time to time) (the "Facilities Agreement")

1. We refer to the Facilities Agreement and the Intercreditor Agreement. This is an Assignment Agreement. This agreement (the "**Agreement**") shall take effect as an Assignment Agreement for the purpose of the Facilities Agreement and as a Creditor Accession Undertaking for the purpose of 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 29.6 (*Procedure for assignment*) of the Facilities Agreement:
 - (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Facilities Agreement, the other Finance Documents and in respect of the Transaction Security which correspond to that portion of the Existing Lender's Commitments and participations in Utilisations under the Facilities Agreement as specified in the Schedule.
 - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitments and participations in Utilisations under the Facilities Agreement specified in the Schedule.
 - (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.
3. The proposed Transfer Date is [].
4. On the Transfer Date the New Lender becomes party to the relevant Finance Documents as a Lender (or in the case of the Intercreditor Agreement as a Lender (as defined therein)).
5. The Facility Office and address, email 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 29.4 (*Limitation of responsibility of Existing Lenders*) of the Facilities Agreement.
7. The New Lender confirms that it is, in relation to the Company:
 - (a) [not a Qualifying Lender]
 - (b) [a Qualifying Lender (other than a Treaty Lender)]

- (c) [a Treaty Lender (on the assumption that all procedural formalities have been completed)].*
8. The New Lender confirms that it [is]/[is not], in relation to a Belgian Borrower, a Belgian Non-Cooperative Jurisdiction Lender.
9. [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
 - (iii) 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 New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [_____]) and is tax resident in [_____]², so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and confirms that it wishes that scheme to apply to the Agreement.]***
11. The New Lender confirms that it [is]/[is not]* a Sponsor Affiliate.
12. The New Lender confirms that it is not:
- (a) a natural person;
 - (b) a Defaulting Lender;
 - (c) a Competitor;
 - (d) a Distressed Debt Fund or Hedge Fund;
 - (e) a Restricted Party;
 - (f) a Non-Consenting Lender;
 - (g) a Belgian Non-Cooperative Jurisdiction Lender;

² Insert jurisdiction of tax residence.

- (h) [a deposit taking financial institution authorised by a financial services regulator which holds a rating of lower than BBB-/Baa3 from at least one of Standard & Poor's, Fitch or Moody's].
13. We refer to clause 20.2 (*Change of Senior Lender*) of the Intercreditor Agreement, in consideration of the New Lender being accepted as a Lender for the purposes of the Intercreditor Agreement (and as defined therein), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as a Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.
14. This Agreement acts as notice to the Agent (on behalf of each Finance Party) and upon delivery in accordance with Clause 29.7 (*Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to the Company*) to the Company of the assignment referred to in this Agreement.
15. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
16. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
17. This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this 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 Agent and the Existing Lender should seek confirmation from Dutch counsel that the transfer will not contravene Section 3:5 of the Dutch Financial Supervision Act (*Wet op het financieel toezicht*) if the value of the rights acquired by the New Lender is less than €100,000 or, if the competent authority has published its interpretation of the term 'public' as referred to in article 4.1.(1) of the Capital Requirements Regulation (EU/575/2013), such other minimum amount as may be required for the New Lender not to be considered part of the public under such interpretation.

* Delete as applicable. Each New Lender is required to confirm which of these three categories it falls within.

** Include if New Lender comes within paragraph (a)(ii) of the definition of "Qualifying Lender (UK)" in Clause 19.1 (*Tax definitions*).

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

**** Delete as applicable.

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 Agent, and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Transfer Date is confirmed as [_____].

Signature of this Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to in this Agreement, which notice the Agent receives on behalf of each Finance Party.

[Agent]

By:

[Security Agent]

By:

NOTES:

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

SCHEDULE 6
FORM OF COMPLIANCE CERTIFICATE

To: [] as Agent

From: [Company]

Dated:

Dear Sirs

**Project Earth – Facilities Agreement dated [] (as amended and/or restated
from time to time) (the "Facilities Agreement")**

1. We refer to the Facilities Agreement. This is a Compliance Certificate. Terms defined in the Facilities Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
2. We confirm that on the last day of the Testing Period ending on [] 20[]:
 - (a) Leverage Ratio was [].
 - (b) Interest Cover Ratio was [].
3. We confirm that Leverage was [] on the last date of the Testing Period and therefore:
 - (a) the Margin for the Term Facility Loans should be []; and
 - (b) the Margin for the Revolving Facility Loans should be [].
4. [We confirm that the Guarantor Coverage Test [has/has not] been satisfied.]*
5. [We confirm that no Event of Default is continuing.]**
6. [The Project Companies designates as such in the Testing Period ending on [] 20[] are: [].]
7. [Excess Cashflow for the Testing Period ending on [] 20[] is: [], and prepayment of [] will be made pursuant to Clause 12.2 (*Excess Cashflow*).]***

Signed.....
authorised signatory	authorised signatory
of	of
[Company]	[Company]

NOTES:

- * Only applicable if the Compliance Certificate accompanies the Annual Financial Statements.
- ** If this statement cannot be made, the certificate should identify any Event of Default that is continuing and the steps, if any, being taken to remedy it.
- *** Only in relation to each Test Date falling after the fourth anniversary of the Closing Date.

SCHEDULE 7

TIMETABLES

PART I

LOANS

	Loans in euro	Loans in sterling	Loans in other currencies
Currency to be available and convertible into the Base Currency (Clause 4.5 (<i>Conditions relating to Optional Currencies</i>))	–	On the first day of the Interest Period for the relevant Loan.	On the day which is two Business Days before the first day of the Interest Period for the relevant Loan.
Agent notifies the Company if a currency is approved as an Optional Currency in accordance with Clause 4.5 (<i>Conditions relating to Optional Currencies</i>)	–	–	U-3
Delivery of a duly completed Utilisation Request (Clause 5.1 (<i>Delivery of a Utilisation Request</i>)) or a Selection Notice (Clause 16.1 (<i>Selection of Interest Periods and terms</i>))	U-2 9:30 a.m.	U-2 9:30 a.m.	U-2 9:30 a.m.
Agent determines (in relation to a Utilisation) the Base Currency Amount of the Loan, if required under Clause 5.4 (<i>Lenders' participation</i>), and notifies the Lenders of the Loan in accordance with Clause 5.4 (<i>Lenders' participation</i>)	U-2 11:00 a.m.	U-2 11:00 a.m.	U-2 11:00 a.m.
Agent receives a notification from a Lender under Clause 8.2 (<i>Unavailability of a currency</i>)	–	9:30 a.m. on the first day of the Interest Period for the relevant Loan.	9:30 a.m. on the day which is two Business Days before the first day of the

	Loans in euro	Loans in sterling	Loans in other currencies
Agent gives notice in accordance with Clause 8.2 (<i>Unavailability of a currency</i>)	–	5:30 p.m. on the first day of the Interest Period for the relevant Loan.	Interest Period for the relevant Loan. 5:30 p.m. on the day which is two Business Days before the first day of the Interest Period for the relevant Loan.

"U" = date of utilisation or, if applicable, in the case of a Loan that has already been borrowed, the first day of the relevant Interest Period for that Loan.

"U - X" = X Business Days prior to the date of utilisation.

PART II
LETTERS OF CREDIT

Delivery of a duly completed Utilisation Request (Clause 6.2 (<i>Delivery of a Utilisation Request for Letters of Credit</i>))	U-2 9:30 a.m.
If required under paragraph (d) of Clause 6.5 (<i>Issue of Letters of Credit</i>), the Agent determines the Base Currency Amount of the Letter of Credit and notifies the relevant Issuing Bank and the relevant Lenders in accordance with paragraph (d) of Clause 6.5 (<i>Issue of Letters of Credit</i>).	U-2 11:00 a.m.

"U" = date of utilisation.

"U - X" = X Business Days prior to the date of utilisation.

SCHEDULE 8
FORM OF INCREASE CONFIRMATION

To: [] as Agent, [] as Security Agent, and [] as the Company

From: [the Increase Lender] (the "Increase Lender")

Dated:

Project Earth – Facilities Agreement dated [] (as amended and/or restated from time to time) (the "Facilities Agreement")

1. We refer to the Facilities Agreement and to the Intercreditor Agreement. This agreement (the "**Agreement**") shall take effect as an Increase Confirmation for the purpose of the Facilities Agreement and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement. 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 2.4 (*Increase*) of the Facilities Agreement.
3. The Increase Lender agrees to assume and will assume all of the obligations corresponding to the Commitment specified in the Schedule (the "**Relevant Commitment**") as if it was an Original Lender under the Facilities Agreement.
4. The proposed date on which the increase in relation to the Increase Lender and the Relevant Commitment is to take effect (the "**Increase Date**") is [].
5. On the Increase Date, the Increase Lender becomes party to the relevant Finance Documents as a Lender (or, in the case of the Intercreditor Agreement, a Lender (as defined therein)).
6. The Facility Office and address, email address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 37.2 (*Addresses*) are set out in the Schedule.
7. The Increase Lender expressly acknowledges the limitations on the Lenders' obligations referred to in paragraph (g) of Clause 2.4 (*Increase*).
8. The Increase Lender confirms that it is:
 - (a) [a Qualifying Lender (other than a Treaty Lender)]
 - (b) [not a Qualifying Lender]
 - (c) [a Treaty Lender (on the assumption that all procedural formalities have been completed)]*.
9. The Increase Lender confirms that it [is]/[is not], in relation to a Belgian Borrower, a Belgian Non-Cooperative Jurisdiction Lender.
10. [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
 - (iii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]**
11. [The Increase Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [____]) and is tax resident in [____]³⁸, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and confirms that it wishes that scheme to apply to the Agreement.]***
12. The Increase Lender confirms that it is/is not a Sponsor Affiliate.
13. The Increase Lender confirms that it is not:
- (a) a natural person;
 - (b) a Defaulting Lender;
 - (c) a Competitor;
 - (d) a Distressed Debt Fund or Hedge Fund;
 - (e) a Restricted Party;
 - (f) a Non-Consenting Lender;
 - (g) a Belgian Non-Cooperative Jurisdiction Lender;
 - (h) [a deposit taking financial institution authorised by a financial services regulator which holds a rating of lower than BBB-/Baa3 from at least one of Standard & Poor's, Fitch or Moody's].
14. We refer to clause 20.2 (*Change of Senior Lender*) of the Intercreditor Agreement, in consideration of the Increase Lender being accepted as a Lender for the purposes of the Intercreditor Agreement (and as defined therein), the Increase Lender confirms that, as from the Increase Date, it intends to be party to the Intercreditor Agreement as a Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be

³ Insert jurisdiction of tax residence.

assumed by a Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

15. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
16. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
17. This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Increase Confirmation may not be sufficient for the Increase Lender to obtain the benefit of the Transaction Security in all jurisdictions. It is the responsibility of the Increase Lender to ascertain whether any other documents or other formalities are required to obtain the benefit of the Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

* Delete as applicable. Each Increase Lender is required to confirm which of these three categories it falls within.

** Include if Increase Lender comes within paragraph (a)(ii) of the definition of "Qualifying Lender (UK)" in Clause 19.1 (*Tax Definitions*).

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

THE SCHEDULE

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

[insert relevant details]

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

[Increase Lender]

By:

This Agreement is accepted as an Increase Confirmation for the purposes of the Facilities Agreement by the Agent, and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Increase Date is confirmed as [_____].

[Agent]

By:

[Security Agent]

By:]

NOTES:

- * Delete as applicable - each Increase Lender is required to confirm which of these categories it falls within.
- ** Delete as applicable.

SCHEDULE 9
FORMS OF NOTIFIABLE DEBT PURCHASE TRANSACTION NOTICE

PART I

Form of Notice on Entering into Notifiable Debt Purchase Transaction

To: [] as Agent

From: [The Lender]

Dated:

Project Earth – Facilities Agreement dated [] (as amended and/or restated from time to time) (the "Facilities Agreement")

1. We refer to paragraph (b) of Clause 31.2 (*Disenfranchisement on Debt Purchase Transactions entered into by a Sponsor Affiliate*) of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this notice unless given a different meaning in this notice.
2. We have entered into a Notifiable Debt Purchase Transaction.
3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to the amount of our Commitment(s) as set out below.

Commitment	Amount of our Commitment to which Notifiable Debt Purchase Transaction relates (Base Currency)
[Term Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]
[Revolving Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]

[Lender]

By:

PART II

**Form of Notice on Termination of Notifiable Debt Purchase Transaction/Notifiable Debt
Purchase Transaction Ceasing to be with Sponsor Affiliate**

To: [] as Agent

From: [*The Lender*]

Dated:

**Project Earth – Facilities Agreement dated [] (as amended and/or restated)
from time to time) (the "Facilities Agreement")**

1. We refer to paragraph (d) of Clause 31.2 (*Disenfranchisement on Debt Purchase Transactions entered into by a Sponsor Affiliate*) of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this notice unless given a different meaning in this notice.
2. A Notifiable Debt Purchase Transaction which we entered into and which we notified you of in a notice dated [] has [terminated]/[ceased to be with a Sponsor Affiliate].
3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to the amount of our Commitment(s) as set out below.

Commitment	Amount of our Commitment to which Notifiable Debt Purchase Transaction relates (Base Currency)
[Term Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]
[Revolving Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]

[Lender]

By:

SCHEDULE 10

REFERENCE RATE TERMS – 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.
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 20 per cent. trimmed arithmetic mean (calculated by the Agent, or by any other Finance Party which agrees with the Company to do so in place of the Agent) of the Central Bank Rate Spreads for the five most immediately preceding RFR Banking Days for which the RFR is available.
Central Bank Rate Spread:	<p>In relation to any RFR Banking Day, the difference (expressed as a percentage rate per annum) calculated by the Agent (or by any other Finance Party which agrees with the Company to do so in place of the Agent) of:</p> <ul style="list-style-type: none">(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:	None.
Daily Rate:	<p>The "Daily Rate" for any RFR Banking Day is:</p> <ul style="list-style-type: none">(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:<ul style="list-style-type: none">(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 provided that, in each case, if 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.

Relevant Market: The sterling wholesale market.

RFR: The SONIA (sterling overnight index average) reference 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.

SCHEDULE 11

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 Loan denominated in sterling is the percentage rate per annum (without rounding, to the extent reasonably practicable) calculated as set out below:

$$(UCCDR_i - UCCDR_{i-1}) \times \frac{dcc}{n_i}$$

where:

"**UCCDR_i**" means the Unannualised Cumulative Compounded Daily Rate for that RFR Banking Day "i";

"**UCCDR_{i-1}**" 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 365 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_i**" 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):

$$ACCDR \times \frac{tn_i}{dcc}$$

where:

"**ACCDR**" means the Annualised Cumulative Compounded Daily Rate for that Cumulated RFR Banking Day;

"**tn_i**" 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:

$$\left[\prod_{i=1}^{d_0} \left(1 + \frac{\text{DailyRate}_{i-LP} \times n_i}{dcc} \right) - 1 \right] \times \frac{dcc}{tn_i}$$

where:

"**d₀**" 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 d₀, each representing the relevant RFR Banking Day in chronological order in the Cumulation Period;

"**DailyRate_{i-LP}**" 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_i**" 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_i**" has the meaning given to that term above.

SCHEDULE 12
FORM OF LETTER OF CREDIT

To: [Beneficiary] (the "**Beneficiary**")

Date: [_____]

Irrevocable Standby Letter of Credit no. [_____]

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

1. Definitions

In this Letter of Credit:

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

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

"**Expiry Date**" means [_____].

"**Total Letter of Credit Amount**" means [_____].

2. Issuing Bank's Agreement

- (a) The Beneficiary may request a drawing or drawings under this Letter of Credit by giving to the Issuing Bank a duly completed Demand. A Demand must be received by the Issuing Bank by [_____] p.m. (London time) on the Expiry Date.
- (b) Subject to the terms of this Letter of Credit, the Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that, within [10] Business Days of receipt by it of a Demand, it must pay to the Beneficiary the amount demanded in that Demand.
- (c) The Issuing Bank will not be obliged to make a payment under this Letter of Credit if as a result the aggregate of all payments made by it under this Letter of Credit would exceed the Total Letter of Credit Amount.

3. Expiry

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

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

4. Payments

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

5. Delivery of Demand

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

[]

6. Assignment

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

7. ISP 98

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

8. Governing Law

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

9. Jurisdiction

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

Yours faithfully

[*Issuing Bank*]

By:

NOTES:

* This may need to be amended depending on the currency of payment under the Letter of Credit.

THE SCHEDULE

Form of Demand

To: [Issuing Bank]

Date: [_____]

Dear Sirs

**Standby Letter of Credit no. [_____] issued in favour of [Beneficiary]
(the "Letter of Credit")**

We refer to the Letter of Credit. Terms defined in the Letter of Credit have the same meaning when used in this Demand.

1. We certify that the sum of [_____] is due [and has remained unpaid for at least [_____] Business Days] [under [set out underlying contract or agreement]]. We therefore demand payment of the sum of [_____].
2. Payment should be made to the following account:
Name: [_____]
Account Number: [_____]
Bank: [_____]
3. The date of this Demand is not later than the Expiry Date.

Yours faithfully

(Authorised Signatory)

(Authorised Signatory)

For

[Beneficiary]

SCHEDULE 13
ADDITIONAL FACILITY

PART I
FORM OF ADDITIONAL FACILITY LENDER ACCESSION NOTICE

To: [●] as Agent and [●] as Security agent

From: [Proposed Additional Facility Lender]

Dated: [●]

Project Earth – Facilities Agreement dated [●] 2025 (the "Agreement")

1. We refer to the Agreement. This is an Additional Facility Lender Accession Notice for the purpose of the Agreement and a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Agreement have the same meaning in this Accession Notice unless given a different meaning in this Accession Notice.
2. [Name of Additional Facility Lender] (the "**New Additional Facility Lender**") of [address/registered office] agrees to become an Additional Facility Lender and to be bound by the terms of the Agreement as a Lender under [*insert details of relevant Additional Facility*].
3. On the date the Additional Facility referred to above becomes effective in accordance with Clause 2.3 (*Additional Facilities*) of the Agreement (the "**Effective Date**"), the New Additional Facility Lender shall become:
 - (a) party to the Agreement as a Lender; and
 - (b) party to the Intercreditor Agreement as a [Secured Lender] (as defined therein).

In consideration of the New Additional Facility Lender being accepted as a [Secured] Lender for the purposes of the Intercreditor Agreement (and as defined therein), the New Additional Facility Lender confirms that, as from the Effective Date, it intends to be party to the Intercreditor Agreement as a [Secured] Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a [Secured] Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

4. The New Additional Facility Lender assumes all the rights and obligations of a Lender in relation to the Commitments under the Agreement specified in the schedule to this Additional Facility Lender Accession Notice (the "**Schedule**") in accordance with the terms of the Agreement.
5. [New Additional Facility Lender] administrative details for the purposes of the Agreement and the Intercreditor Agreement are as follows:

Address: [●]

Electronic mail address: [●]

Attention: [●]

6. [insert any other relevant details (if any)]
7. The New Additional Facility Lender confirms that it is:
 - (a) in respect of a UK Borrower:
 - (i) [not a Qualifying Lender (UK)];
 - (ii) [a Qualifying Lender (UK) (other than a Treaty Lender (UK));] or
 - (iii) [a Treaty Lender (UK);]⁴
 - (b) in respect of a Dutch Borrower:
 - (i) [not a Qualifying Lender (Netherlands)];
 - (ii) [a Qualifying Lender (Netherlands) (other than a Treaty Lender (Netherlands));] or
 - (iii) [a Treaty Lender (Netherlands);]⁵
 - (c) in respect of a Belgian Borrower:
 - (i) [not a Qualifying Lender (Belgium)];
 - (ii) [a Qualifying Lender (Belgium) (other than a Treaty Lender (Belgium));] or
 - (iii) [a Treaty Lender (Belgium).]⁶
8. [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.]⁷

⁴ Delete as applicable – each New Additional Facility Lender required to confirm which of these categories it falls within.

⁵ Delete as applicable – each New Additional Facility Lender required to confirm which of these categories it falls within.

⁶ Delete as applicable – each New Additional Facility Lender required to confirm which of these categories it falls within.

⁷ Include if the Additional Facility Lender comes within paragraph (a)(ii) of the definition of "Qualifying Lender" (UK).

9. [We confirm that we hold a passport under the HMRC DT Treaty Passport scheme (reference number []) and are tax resident in [] so that interest payable to us by borrowers is generally subject to full exemption from UK withholding tax and request that the Parent notify:
- (a) each Borrower which is a Party as a Borrower as at the Effective Date of the Additional Facility requested in the Additional Facility Notice referenced above; and
 - (b) each Additional Borrower which becomes an Additional Borrower after that Effective Date,
- that we wish that scheme to apply to the Facilities Agreement.]**
10. The New Additional Facility Lender confirms that it [is]/[is not] a Sponsor Affiliate.
11. The New Additional Facility Lender confirms that it is not:
- (a) a natural person;
 - (b) a Defaulting Lender;
 - (c) a Competitor;
 - (d) a Distressed Debt Fund or Hedge Fund;
 - (e) a Restricted Party;
 - (f) a Non-Consenting Lender;
 - (g) a Belgian Non-Cooperative Jurisdiction Lender;
 - (h) [a deposit taking financial institution authorised by a financial services regulator which holds a rating of lower than BBB-/Baa3 from at least one of Standard & Poor's, Fitch or Moody's].
12. It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.
13. This Additional Facility Lender Accession Notice has been executed and delivered as a deed on the date stated at the beginning of this Additional Facility Lender Accession Notice and is governed by English law.

[Proposed Additional Facility Lender]

By:.....

* Insert jurisdiction of tax residence.

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

This Additional Facility Lender Accession Notice is accepted by the Agent and the Security Agent.

[Agent]

By:.....

[Security Agent]

By:.....

THE SCHEDULE
COMMITMENT TO BE ASSUMED

[Insert Commitment Details]

EXECUTED as a **DEED**

by *[New Additional Facility Lender]*

.....
Director/Secretary/Authorised Signatory

.....
Director/Secretary/Authorised Signatory

The accession Effective Date is confirmed by the Agent as [●].

[AGENT]

By:.....

As Agent and for and on behalf of each of the parties to the Agreement (other than the Company or the Obligors and the New Additional Facility Lender)

PART II
FORM OF ADDITIONAL FACILITY NOTICE FOR ADDITIONAL FACILITY

From: [the Company], [Borrower], [Additional Facility Lenders]

To: [●] as Agent

Dated:

Project Earth – Facilities Agreement dated [●] (the "Agreement")

1. We refer to the Agreement. This is an Additional Facility Notice in respect of an Additional Facility. Terms defined in the Agreement have the same meaning in this Additional Facility Notice unless given a different meaning in this Additional Facility Notice.

2. We wish to establish an Additional [Term]/[Revolving] Facility on the following terms:

Borrower(s): [●]

Guarantor(s): [●]

Additional Facility Lenders (and allocated commitments): [●]

Aggregate amount of the commitments of the Additional Facility / Additional Facility Commitment: [●]

Base Currency: [●]

Other available/Optional Currencies (if any, as applicable): [●]

Interest rate and basis (if applicable) including Margin or margin ratchet: [●]

Additional Facility Commencement Date: [●]

Availability Period: [●]

Termination Date: [●]

Mandatory prepayment provisions (if any): [●]

Summary of security: [●]

Yours faithfully

.....
the [*Company*] [*Borrower*]

By:
Name:
Title:

Yours faithfully

.....
[*Additional Facility Lenders*]

By:
Name:
Title:

SCHEDULE 14

FORM OF ACCESSION LETTER

To: [] as Agent and [] as Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below

From: [Subsidiary] and [the Company]

Dated:

Project Earth – Facilities Agreement dated [] 2025 (the "Facilities Agreement")

1. We refer to the Facilities Agreement and to the Intercreditor Agreement. This deed (the "**Accession Letter**") shall take effect as an Accession Letter for the purposes of the Facilities Agreement and as a [Debtor/Guarantor Accession Deed] for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in paragraphs 1-[3]/[4] of this Accession Letter unless given a different meaning in this Accession Letter.
2. [Subsidiary] agrees to become an Additional [Borrower]/[Guarantor] and to be bound by the terms of the Facilities Agreement and the other Finance Documents (other than the Intercreditor Agreement) as an Additional [Borrower]/[Guarantor] pursuant to [Clause 30.2 (Additional Borrowers)]/[Clause 30.4 (Additional Guarantors)] of the Facilities Agreement. [Subsidiary] is a company duly incorporated under the laws of [name of relevant jurisdiction] and is a limited liability company with registered number [].
3. [The Company confirms that no Event of 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 [4]/[5], the "**Acceding Debtor**") intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:

[Insert details (date, parties and description) of relevant documents]

the "**Relevant Documents**".

It is agreed as follows:

- (a) Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Accession Letter, bear the same meaning when used in this paragraph [4]/[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 security trustee and security agent for the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Security Agent as security trustee and security agent for the Secured Parties,

on trust and as security agent for, or otherwise for the benefit of, 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 and Guarantor, undertakes to perform all the obligations expressed to be assumed by a Debtor and Guarantor 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 Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS ACCESSION LETTER has been signed on behalf of the Security Agent (for the purposes of paragraph [4]/[5] above only), signed on behalf of the Company 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

Name of Director

in the presence of

Signature of witness

Name of witness

Address of witness

Occupation of witness]

The Company

For and on behalf of

[*the Company*]

By:

The Security Agent

For and on behalf of

[*Full Name of Current Security Agent*]

By:

Date:

Notes:

- * Include this paragraph [(d)] in this Accession Letter if the Subsidiary is also to accede as an Intra-Group Lender to the Intercreditor Agreement.

SCHEDULE 15
FORM OF RESIGNATION LETTER

To: [] as Agent

From: [*resigning Obligor*] and [*the Company*]

Dated:

Project Earth Senior Facilities Agreement
dated [] 2025 (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Resignation Letter. Terms defined in the Facilities Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
2. Pursuant to [Clause 30.3 (*Resignation of an Obligor*)] 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 Event of Default is continuing or would result from the acceptance of this request; and
 - (b) []*
4. This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.
5. The Company agrees to indemnify the Finance Parties and Secured Parties for any costs, expenses, or liabilities which would have been payable by [*resigning Obligor*] in connection with the Finance Documents but for the release set out in paragraph 2 above.

For and on behalf of

[*the Company*]

By:

For and on behalf of

[*resigning Obligor*]

By:

Notes:

- * Insert any other conditions required by the Facilities Agreement.

SCHEDULE 16
CHANGE OF BORROWER NOTICE

From: [] (the "**Company**")
[] (the "**Debt Pushdown Borrower**")

To: [Agent]

Dated: []

Project Earth – Senior Facilities Agreement
dated [] 2025 (the "Facilities Agreement")

1. Terms defined in the Facilities Agreement have the same meaning in this Change of Borrower Notice unless given a different meaning in this Change of Borrower Notice.
2. The Company, the Debt Pushdown Borrower and the Agent (on behalf of the lenders) agree that the obligations of the Company under the Facilities Agreement in respect of [part of] the Debt Pushdown Facilities owed by it shall be novated to the Debt Pushdown Borrower in accordance with Clause 30.8 (*Debt Pushdown*). The Debt Pushdown Date shall be [].
3. [The amount of each Debt Pushdown Advance is as follows:
[]
[]
[]
[].]
4. This Change of Borrower Notice is delivered as a deed on the date stated at the beginning of this Change of Borrower Notice.
5. This Change of Borrower Notice is governed by English law.

Yours faithfully

.....

Director

[]

Yours faithfully

.....

Director

[]

This Change of Borrower Notice is accepted by the Agent and the Debt Pushdown Date is confirmed as:

[_____]

[Agent]

By

SIGNATURES TO FACILITIES AGREEMENT

The Company

for and on behalf of

[]

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

The Mandated Lead Arrangers

for and on behalf of

[] as **Mandated Lead Arranger**

By:

Name:

Title:

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

Telephone:

The Mandated Lead Arrangers

for and on behalf of

[_____] as **Mandated Lead Arranger**

By:

Name:

Title:

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

Telephone:

The Original Lenders

for and on behalf of

[] as **Original Lender**

By:

Name:

Title:

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

The Original Lenders

for and on behalf of

[] as **Original Lender**

By:

Name:

Title:

By:

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Title:

Notice Details:

Address:

Email:

Attention:

The Original Lenders

for and on behalf of

[] as **Original Lender**

By:

Name:

Title:

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

The Agent

for and on behalf of

[] as **Agent**

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

The Security Agent

for and on behalf of

[] as **Security Agent**

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

SCHEDULE 2
INTERCREDITOR AGREEMENT

Intercreditor Agreement

Dated _____ 2025

EARTH PLEDGECO B.V.

as the Parent

EARTH BIDCO B.V.

as the Company, the Original Debtor and the Original Intra-Group Lender

THE INITIAL BANK FACILITIES ARRANGERS

THE INITIAL BANK FACILITIES LENDERS

with

[●]

acting as Initial Bank Facilities Agent

and

[●]

acting as Security Agent

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THIS AGREEMENT is dated _____ 2025 and made between:

- (1) [●] as the Agent under the Initial Bank Facilities Agreement (the "**Initial Bank Facilities Agent**");
- (2) **THE FINANCIAL INSTITUTIONS** named on the signing pages as Initial Bank Facilities Lenders (the "**Initial Bank Facilities Lenders**");
- (3) **THE FINANCIAL INSTITUTIONS** named on the signing pages as Initial Bank Facilities Arrangers (the "**Initial Bank Facilities Arrangers**");
- (4) **EARTH PLEDGECO B.V.**, a company registered under the laws of the Netherlands, having its statutory seat (*statutaire zetel*) in Amsterdam, the Netherlands, and registered with the Dutch Commercial Register (*Handelsregister*) under number 96197153 (the "**Parent**");
- (5) **EARTH BIDCO B.V.**, a company registered under the laws of the Netherlands, having its statutory seat (*statutaire zetel*) in Amsterdam, the Netherlands, and registered with the Dutch Commercial Register (*Handelsregister*) under number 95832092 (the "**Company**", the "**Original Debtor**" and the "**Original Intra-Group Lender**"); and
- (6) [●] as security agent for the Secured Parties (the "**Security Agent**").

IT IS AGREED as follows:

1 Definitions and Interpretation

1.1 Definitions

In this Agreement:

"1992 ISDA Master Agreement" means the Master Agreement (Multicurrency - Cross Border) as published by the International Swaps and Derivatives Association, Inc.

"2002 ISDA Master Agreement" means the 2002 Master Agreement as published by the International Swaps and Derivatives Association, Inc.

"Acceleration Event" means:

- (a) an Event of Default as defined in the Initial Bank Facilities Agreement in respect of which a notice has been served on the Company by the Initial Bank Facilities Agent pursuant to paragraph (a) or (b) of clause 28.14 (*Acceleration*) of the Initial Bank Facilities Agreement; and/or
- (b) an Event of Default under any Additional Finance Document in respect of which notice has been served by the relevant Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, the Requisite Majority of Additional Creditors) under any clause of the relevant Additional Finance Document which is analogous to paragraph (a) or (b) of clause 28.14 (*Acceleration*) of the Initial Bank Facilities Agreement.

"Additional Agent" means any agent appointed under a particular set of Additional Facility Documents by the Additional Lenders under those Additional Facility Documents.

"Additional Arranger" means any arranger under any Additional Finance Document.

"Additional Creditor" means:

- (a) any Additional Lender, Additional Agent or Additional Arranger where such person becomes a Creditor by executing a Creditor Accession Undertaking; and
- (b) any Additional PP Noteholder where the agent or trustee for such Additional PP Noteholder (or, where no agent or trustee has been appointed under the relevant Additional Finance Document, such Additional PP Noteholder) has acceded to this Agreement as a Creditor (in the case of an agent or trustee on behalf of such Additional PP Noteholder) by executing a Creditor Accession Undertaking.

"Additional Facility" means a loan or other facility for an extension of credit or other financial accommodation which is granted under an Additional Finance Document.

"Additional Facility Documents" means any agreement or document governing the terms of loans made available to, credit granted to or any other financial arrangement having similar effect made to one or more members of the Group (including but not limited to Bank Products, Letter of Credit Arrangements or Leasing Arrangements) and other legal documentation entered into in connection with those loans, credit or other financial arrangement, where the Financial Indebtedness incurred under that agreement constitutes Permitted Additional Debt and excluding the Finance Documents, any Additional PP Note Documents and any Hedging Agreements.

"Additional Finance Document Equivalent" means, in relation to a provision or term of the Initial Bank Facilities Agreement, any equivalent provisions or term in an Additional Finance Document which is similar in meaning and effect.

"Additional Finance Documents" means the Additional Facility Documents and the Additional PP Note Documents.

"Additional Lender" means each person that has agreed (whether on a committed or uncommitted basis) to make a loan available to, grant credit to or make any other financial arrangement having similar effect under any Additional Facility Documents and each Issuing Bank and Ancillary Lender under those Additional Facility Documents.

"Additional Liabilities" means the Liabilities owed by a Debtor or Third Party Security Provider to the Additional Creditors under any Additional Finance Documents.

"Additional Liabilities Discharge Date" means the first date on which:

- (a) all Additional Liabilities have been fully and finally discharged, whether or not as the result of an enforcement; and
- (b) the Additional Creditors are under no further obligation to provide financial accommodation to any Debtor under any of the Additional Finance Documents.

"Additional PP Note Documents" means, in relation to any Additional PP Notes, the relevant note purchase agreement and other legal documentation entered into by a member of the Group and Additional PP Noteholders in relation to those Additional PP Notes where the Financial Indebtedness under those documents constitutes Permitted Additional Debt.

"Additional PP Noteholders" means the holders of any Additional PP Notes under any Additional PP Note Documents.

"Additional PP Notes" means any private placement notes issued by any member of the Group pursuant to an Additional Finance Document.

"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.

"AIFMD" means the EU Directive 2011/61/EU on alternative investment fund managers, as amended.

"Agreed Guarantee/Security Principles" means the principles set out in Schedule 1 (*Agreed Guarantee/Security Principles*).

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

"Ancillary Facility" means any ancillary facility made available in accordance with the Initial Bank Facilities Agreement or any Additional Facility Documents.

"Ancillary Lender" means each Senior Lender or Additional Lender (or Affiliate of a Senior Lender or Additional Lender) which makes available an Ancillary Facility.

"Ancillary Outstandings" means "Ancillary Outstandings" under and as defined in the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent.

"Appropriation" means the appropriation (or similar process) of the shares in the capital of a member of the Group by the Security Agent (or any Receiver or Delegate) which is effected (to the extent permitted under the relevant Security Document and applicable law) by enforcement of the Transaction Security.

"Arranger" means the Initial Bank Facilities Arrangers and any Additional Arranger.

"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.

"Authorised Financing Agreement" means the Initial Bank Facilities Agreement and any Additional Finance Document documenting Permitted Additional Debt.

"Automatic Early Termination" means the termination or close-out of any hedging transaction prior to the maturity of that hedging transaction which is brought about automatically by the terms of the relevant Hedging Agreement and without any party to the relevant Hedging Agreement taking any action to terminate that hedging transaction.

"Available Commitment" has the meaning given to the term "Available Commitment" in the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent.

"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 the United Kingdom, the UK Bail-In Legislation; and
- (c) in relation to any state other than such an EEA Member Country and 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.

"Bank Products" means:

- (a) any cash or treasury management, pooling, netting, set-off, balance transfer, overdraft, depository, account reconciliation or combination, treasury, SWIFT, BACS, CHAPS, payment lines, credit or debit card, purchase card, daylight or overnight facilities or exposures, contingent repayment or obligation lines, collection of cheques, deposits and client debits, electronic funds transfer, clearing house, foreign exchange, or other credit or cash management and cash pooling arrangements (and similar), in each case in existence or consistent with past practice or entered into in the ordinary course of business or business activities or in connection with banking arrangements or treasury activities; and
- (b) overnight or daylight exposures of any member of the Group in respect of banking arrangements in existence or consistent with past practice or entered into in the ordinary course of business or business activities or in connection with banking arrangements or treasury activities,

and includes any facilities or services in relation thereto.

"BCI Group" means:

- (a) BCI UK IRR Limited;
- (b) British Columbia Investment Management Corporation;
- (c) any direct or indirect Holding Company or Affiliate of British Columbia Investment Management Corporation;
- (d) any Subsidiary of any person referred to in paragraphs (a), (b) or (c) above;
- (e) any funds, partnership, trust or other person or entity which are owned, controlled (including by contract), managed or advised by any entity referred to in paragraphs (a) to (d) above, including any client for which British Columbia Investment Management Corporation acts as agent for investment or any of their Affiliates; and
- (f) any Affiliate or subsidiary undertaking of any such fund or corporate entity referred to in paragraph (e) above.

"Belgian Civil Code" means the Belgian *oud Burgerlijk Wetboek/ancien Code Civil* of 21 March 1804 and, with effect from its applicable effective date, the Belgian new *Burgerlijk Wetboek/Code Civil* introduced pursuant to the law of 13 April 2019 introducing a Civil Code and inserting book 8 "Evidence" in the Civil Code.

"Belgian Code of Companies and Associations" means the Belgian *Wetboek van vennootschappen en verenigingen/Code des sociétés et des associations* dated 23 March 2019.

"Belgian Financial Collateral Law" means the Belgian law of 15 December 2004 on financial collateral.

"Belgian MAS Law" means Title XVII of Book III of the Belgian Civil Code, as amended by the law of 11 July 2013 amending the Belgian Civil Code in respect of security on movable assets and abolishing various relevant provisions.

"Borrower" means a "Borrower" under and as defined in the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent.

"Borrowing Liabilities" means, in relation to a member of the Group, the liabilities and obligations (not being Guarantee Liabilities) it may have as a principal debtor to a Creditor (other than to an Arranger or a Creditor Representative in its capacity as such) or a Debtor in respect of Financial Indebtedness arising under the Debt Documents (whether incurred solely or jointly and including, without limitation, liabilities and obligations as a borrower under the Finance Documents or any Additional Finance Document).

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Amsterdam and Brussels 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) which is a TARGET Day.

"Cash Cover" means "cash cover" under and as defined in the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent.

"Cash Cover Document" means, in relation to any Cash Cover, any Finance Document or Additional Finance Document which creates or evidences, or is expressed to create or evidence, the Security required to be provided over that Cash Cover by the Initial Bank Facilities Agreement or any Additional Facility Documents.

"Cash Proceeds" means:

- (a) proceeds of the Security Property which are in the form of cash; and
- (b) any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any proceeds of the Security Property which are in the form of Non-Cash Consideration.

"Charged Property" means all of the assets of a Debtor or of a Third Party Security Provider which from time to time are, or are expressed to be, the subject of the Transaction Security.

"Close-Out Netting" means:

- (a) in respect of a Hedging Agreement or a Hedging Ancillary Document based on a 1992 ISDA Master Agreement, any step involved in determining the amount payable in respect of an Early Termination Date (as defined in the 1992 ISDA Master Agreement) under section 6(e) (Payments on Early Termination) of the 1992 ISDA Master Agreement before the application of any subsequent Set-off (as defined in the 1992 ISDA Master Agreement);
- (b) in respect of a Hedging Agreement or a Hedging Ancillary Document based on a 2002 ISDA Master Agreement, any step involved in determining an Early Termination Amount (as defined in the 2002 ISDA Master Agreement) under section 6(e) (*Payments on Early Termination*) of the 2002 ISDA Master Agreement; and

- (c) in respect of a Hedging Agreement or a Hedging Ancillary Document not based on an ISDA Master Agreement, any step involved on a termination of the hedging transactions under that Hedging Agreement or Hedging Ancillary Document pursuant to any provision of that Hedging Agreement or Hedging Ancillary Document which has a similar effect to either provision referenced in paragraphs (a) and (b).

"Closing Date" means the "Closing Date" under and as defined in the Initial Bank Facilities Agreement.

"Commitment" means a "Commitment" under and as defined in the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent.

"Common Assurance" means any guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the benefit of which (however conferred) is, to the extent legally possible and subject to any Agreed Guarantee/Security Principles, given to all the Secured Parties in respect of their Liabilities.

"Common Currency" means EUR.

"Common Currency Amount" means, in relation to an amount, that amount converted (to the extent not already denominated in the Common Currency) into the Common Currency at the Security Agent's Spot Rate of Exchange on the Business Day prior to the relevant calculation.

"Common Transaction Security" means any Transaction Security which, to the extent legally possible and subject to the Agreed Guarantee/Security Principles:

- (a) is created in favour of the Security Agent as trustee or security agent for the other Secured Parties in respect of their Liabilities; or
- (b) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee or security agent for the Secured Parties, is created in favour of:
- (i) all the Secured Parties in respect of their Liabilities; or
- (ii) the Security Agent under a parallel debt structure for the benefit of all the Secured Parties,

and which ranks in the order of priority contemplated in Clause 2.2 (*Transaction Security*).

"Competitive Sales Process" means:

- (a) any auction or other competitive sales process conducted with the advice of a Financial Adviser appointed by, or approved by, the Security Agent pursuant to Clause 12.5 (*Appointment of Financial Adviser*); and
- (b) any enforcement of the Transaction Security carried out by way of auction or other competitive sales process pursuant to requirements of applicable law.

"Competitor" means any person that is, or is an Affiliate or Related Fund of, a person that is:

- (a) a competitor of the Target Group or whose business is substantially similar to that carried out by the Target Group provided that no person, a predominant portion of

whose business involves banking, insurance, investment banking, broker/dealer, investment or similar activities (including any person involved in the life insurance business or in the business of the investment of annuities or contributions to pension, retirement, medical or similar plans or arrangements) shall be deemed to be a competitor of the Target Group pursuant to this paragraph (a);

- (b) a customer of the Group which is a trade supplier or sub-contractor of the Target Group in respect of the core business activities of the Target Group; or
- (c) an Infrastructure Equity Investment Fund,

provided that an existing Senior Lender will not constitute a Competitor.

"Consent" means any consent, approval, release or waiver or agreement to any amendment.

"Corresponding Commitment" means, in relation to a Hedge Counterparty, its (or its Affiliate's) Commitment under and as defined in the Initial Bank Facilities Agreement as a Senior Lender or the relevant Additional Finance Document as an Additional Creditor (as the case may be).

"Credit Related Close-Out" means any Permitted Hedge Close-Out which is not a Non-Credit Related Close-Out.

"Creditor Accession Undertaking" means:

- (a) an undertaking substantially in the form set out in Schedule 2 (*Form of Creditor Accession Undertaking*);
- (b) a Transfer Certificate or an Assignment Agreement (each as defined in the Initial Bank Facilities Agreement (or any Additional Finance Document Equivalent)), in each case provided that it contains an accession to this Agreement which is substantially in the form set out in Schedule 2 (*Form of Creditor Accession Undertaking*); or
- (c) an Increase Confirmation or an Additional Facility Lender Accession Notice (each as defined in the Initial Bank Facilities Agreement (or any Additional Finance Document Equivalent)), in each case provided that it contains an accession to this Agreement which is substantially in the form set out in Schedule 2 (*Form of Creditor Accession Undertaking*),

as the context may require, or

- (d) in the case of an acceding Debtor which is expressed to accede as an Intra-Group Lender in the relevant Debtor/Guarantor Accession Deed, that Debtor/Guarantor Accession Deed.

"Creditor Documents" means the Finance Documents, any Additional Finance Documents and any Hedging Agreements.

"Creditor Representative" means:

- (a) in relation to the Senior Lenders, the Initial Bank Facilities Agent;
- (b) in relation to any Additional Lenders, the Additional Agent in respect of those Additional Lenders which has acceded to this Agreement as the Creditor

Representative of those Additional Lenders pursuant to Clause 20.5 (*Accession of Additional Creditors*) or Clause 20.7 (*Change of Creditor Representative*); and

- (c) in relation to any Additional PP Noteholders, the agent or trustee or other representative in respect of those Additional PP Noteholders which has acceded to this Agreement as the Creditor Representative of those Additional PP Noteholders pursuant to Clause 20.5 (*Accession of Additional Creditors*) or Clause 20.7 (*Change of Creditor Representative*),

and in each case, if no person has been appointed as "Creditor Representative" in respect of the relevant External Creditor, that External Creditor for itself.

"Creditor Representative Amounts" means fees, costs and expenses of a Creditor Representative payable to a Creditor Representative for its own account pursuant to the relevant Debt Documents or any engagement letter between a Creditor Representative and a Debtor (including any amount payable to a Creditor Representative by way of indemnity, remuneration or reimbursement for expenses incurred), and the costs incurred by a Creditor Representative in connection with any actual or attempted Enforcement Action which is permitted by this Agreement which are recoverable pursuant to the terms of the Debt Documents.

"Creditors" means the External Creditors, the Intra-Group Lenders and the Subordinated Creditors.

"Debt Disposal" means any disposal of any Liabilities pursuant to Clause 12.1.1(iv) or 12.1.1(v) (*Facilitation of Distressed Disposals and Appropriation*).

"Debt Document" means each of the Secured Debt Documents, any agreement evidencing the terms of the Intra-Group Liabilities or the Subordinated Liabilities and any other document designated as such by the Security Agent and the Debtors' Agent.

"Debt Purchase Transaction" has the meaning given to the term "Debt Purchase Transaction" in the Initial Bank Facilities Agreement.

"Debtor" means the Original Debtor and any member of the Group which becomes a Party as a Debtor in accordance with the terms of Clause 20 (*Changes to the Parties*).

"Debtor/Guarantor Accession Deed" means:

- (a) a deed substantially in the form set out in Schedule 3 (*Form of Debtor/Guarantor Accession Deed*); or
- (b) (only in the case of a member of the Group which is acceding as a borrower or guarantor under a Finance Document or Additional Finance Document (other than this Agreement)) an accession document in the form required by the relevant Finance Document or Additional Finance Document, provided that it contains an accession to this Agreement which is substantially in the form set out in Schedule 3 (*Form of Debtor/Guarantor Accession Deed*).

"Debtor/Guarantor Resignation Request" means a notice substantially in the form set out in Schedule 4 (*Form of Debtor/Guarantor Resignation Request*).

"Debtors' Agent" means the Company, appointed to act on behalf of each other member of the Group, each Subordinated Creditor and each Third Party Security Provider, in each case in relation to the Debt Documents pursuant to Clause 1.10 (*Debtors' Agent*).

"Default" means an Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Debt Documents or any combination of any of the foregoing) be an Event of Default.

"Defaulting Lender" means an Initial Bank Facilities Lender or Additional Lender which is a Defaulting Lender under and as defined in the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent, as applicable.

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

"Designated Net Amount" means, in relation to a Multi-account Overdraft, that Multi-account Overdraft's "Designated Net Amount" under and as defined in the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent.

"Discharge Date" means, as applicable, the Initial Bank Facilities Discharge Date or the Additional Liabilities Discharge Date.

"Disposal Proceeds" means the proceeds of a Non-Distressed Disposal.

"Distress Event" means any of:

- (a) an Acceleration Event; or
- (b) the enforcement of any Transaction Security.

"Distressed Debt Fund" means any trust, fund or other entity which is or would reasonably be recognised or categorised as a "distressed debt fund" by reputable institutions which are prominent participants in the financial markets including any person or entity (or any of its Related Funds) whose principal business or material activity is the purchase of loans or other debt securities with the intention of owning the equity or gaining control of a business (directly or indirectly). Distressed Debt Fund will be construed so as to include the debt trading desk (or equivalent) operated by a department of a bank or financial institution, where that trading desk would be trading for or on behalf of an entity which itself constitutes a Distressed Debt Fund.

"Distressed Disposal" means a disposal of an asset of a member of the Group or an asset of a Third Party Security Provider which is subject to Transaction Security, which is:

- (a) being effected at the request of the Majority External Creditors in circumstances where the Transaction Security has become enforceable in accordance with the relevant Transaction Security Document and this Agreement;
- (b) being effected by enforcement of the Transaction Security (including the disposal of any Property of a member of the Group or Third Party Security Provider, the shares in which have been subject to an Appropriation); or
- (c) being effected, after the occurrence of a Distress Event, by a Debtor or a Third Party Security Provider,

in each case, to a person, or persons, which is, or are, not a member, or members, of the Group.

"EEA Member Country" means any member state of the European Union, Iceland, Liechtenstein and Norway.

"Eligible Transferee" means a bank or financial institution with a rating for its long-term unsecured and non credit-enhanced debt obligations of BBB- or higher by S&P or Baa3 or higher by Moody's or a comparable rating from an internationally recognised credit rating agency.

"Enforcement Action" means:

- (a) in relation to any Liabilities:
 - (i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for an Initial Bank Facilities Creditor or Additional Creditor to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Debt Documents);
 - (ii) the making of any declaration that any Liabilities are payable on demand, other than:
 - (A) a declaration in relation to any Intra-Group Liabilities which is not prohibited by the Initial Bank Facilities Agreement or any Additional Finance Document; and
 - (B) a declaration in relation to any Subordinated Liabilities which is expressly permitted by the Initial Bank Facilities Agreement and the principal Additional Finance Document regulating the terms and conditions applicable to each outstanding issue of Additional PP Notes and each outstanding Additional Facility;
 - (iii) the making of any demand against any member of the Group in relation to any Guarantee Liabilities of that member of the Group;
 - (iv) the making of a demand in relation to a Liability that is payable on demand (other than a demand made by an Intra-Group Lender or a Subordinated Creditor in relation to any Intra-Group Liabilities or Subordinated Liabilities which are on-demand Liabilities) to the extent that any resulting Payment would be a Permitted Intra-Group Payment or a Permitted Subordinated Payment, as applicable);
 - (v) the exercise of any right to require any member of the Group or Third Party Security Provider to acquire any Liability (including exercising any put or call option against any member of the Group or Third Party Security Provider for the redemption or purchase of any Liability but excluding any such right which arises as a result of the operation of clause 31.1 (*Permitted Debt Purchase Transactions*) of the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent);
 - (vi) the exercise of any right of set-off, account combination or payment netting against any member of the Group in respect of any Liabilities other than the exercise of any such right:
 - (A) as Close-Out Netting by a Hedge Counterparty or by a Hedging Ancillary Lender;
 - (B) as Payment Netting by a Hedge Counterparty or by a Hedging Ancillary Lender;

- (C) as Inter-Hedging Agreement Netting by a Hedge Counterparty;
 - (D) as Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender;
 - (E) in respect of any Intra-Group Liabilities prior to the occurrence of an Acceleration Event; or
 - (F) which is otherwise not prohibited under the Initial Bank Facilities Agreement and any Additional Finance Document, to the extent that the exercise of that right gives effect to a Permitted Payment; and
- (vii) the suing for, commencing or joining of any legal or arbitration proceedings against any member of the Group or Third Party Security Provider to recover any Liabilities;
- (b) the premature termination or close-out of any hedging transaction under any Hedging Agreement (other than pursuant to (i) a Permitted Automatic Early Termination; (ii) a Non-Credit Related Close-Out; or (iii) in the case of hedging transactions entered into pursuant to a Hedging Agreement for the purposes of hedging commodity price risk and for the purpose of Clause 3.4.2 only, termination as a result of a Credit Related Close-Out pursuant to Clause 4.9.3);
- (c) Security Enforcement Action;
- (d) the entering into of any composition, compromise, assignment or arrangement with any member of the Group or any Third Party Security Provider which owes any Liabilities, or has given any Security, guarantee or indemnity or other assurance against loss in respect of the Liabilities (other than any action permitted under Clause 20 (*Changes to the Parties*)); or
- (e) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to, the winding-up, dissolution, administration or reorganisation of any member of the Group or any Third Party Security Provider which owes any Liabilities, or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any of such member of the Group's or Third Party Security Provider's assets or any suspension of payments or moratorium of any indebtedness of any such member of the Group or Third Party Security Provider, or any analogous procedure or step in any jurisdiction,

except that the following shall not constitute Enforcement Action:

- (i) the taking of any action falling within paragraph (a)(vii) or (e) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods;
- (ii) the taking of any action which is necessary to perfect any Transaction Security at any time under any applicable law; and

- (iii) an Ancillary Lender, Hedge Counterparty, Issuing Bank or other External Creditor bringing legal proceedings against any person solely for the purpose of:
 - (A) obtaining injunctive relief (or any analogous remedy outside England and Wales) to restrain any actual or putative breach of any Debt Document to which it is party;
 - (B) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages; or
 - (C) requesting judicial interpretation of any provision of any Debt Document to which it is party with no claim for damages.

"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.

"Event of Default" means any event or circumstance specified as such in the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent.

"Exposure" has the meaning given to that term in Clause 18.1 (*Equalisation definitions*).

"External Credit Participation" means, in relation to an External Creditor, the aggregate of:

- (a) in respect of a facility granted under the Initial Bank Facilities Agreement or an Additional Facility Document, its aggregate participation in any loans outstanding under the Initial Bank Facilities Agreement or any Additional Facility Document (including, if applicable, any accretion through indexation, make-whole amount or otherwise);
- (b) in respect of Additional PP Notes, the aggregate outstanding principal amount (excluding any capitalised interest or Make Whole Amount) of any Additional PP Notes in respect of which it is the Additional Creditor;
- (c) in respect of any hedging transaction of that External Creditor (in its capacity as Hedge Counterparty) under any Hedging Agreement that, as of the date the calculation is made, has been terminated or closed out in accordance with the terms of this Agreement, the amount, if any, payable to it under any Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent that amount is unpaid (that amount to be certified by that External Creditor (in its capacity as Hedge Counterparty) and as calculated in accordance with the relevant Hedging Agreement); and
- (d) after the later of the Initial Bank Facilities Discharge Date and the Additional Liabilities Discharge Date only, in respect of any hedging transaction of that External Creditor (in its capacity as Hedge Counterparty) under any Hedging Agreement that, as of the date the calculation is made, has not been terminated or closed out:
 - (i) if the relevant Hedging Agreement is based on an ISDA Master Agreement, any amount which would be payable to it under that Hedging Agreement in respect of that hedging transaction, if the date on which the calculation is made was deemed to be an Early Termination Date (as

defined in the relevant ISDA Master Agreement) for which a Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement); or

- (ii) if the relevant Hedging Agreement is not based on an ISDA Master Agreement, any amount which would be payable to it under that Hedging Agreement in respect of that hedging transaction, if the date on which the calculation is made was deemed to be the date on which an event similar in meaning and effect (under that Hedging Agreement) to an Early Termination Date (as defined in any ISDA Master Agreement) occurred under that Hedging Agreement for which the relevant Debtor is in a position similar in meaning and effect (under that Hedging Agreement) to that of a Defaulting Party (under and as defined in the same ISDA Master Agreement),

that amount, in each case, to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

"External Creditor Liabilities" means the Initial Bank Facilities Liabilities, the Additional Liabilities and the Hedging Liabilities.

"External Creditors" means the Initial Bank Facilities Creditors, the Hedge Counterparties, any Additional Creditors and the Creditor Representatives.

"Facilities Agreement" means the Initial Bank Facilities Agreement or any Additional Facility Document.

"Facility" or **"Facilities"** has, as the context requires, the meaning given to it in the Initial Bank Facilities Agreement and/or, as the case may be, any Additional Facility Document.

"Fairness Opinion" means, in respect of a Liabilities Sale or a Distressed Disposal, an opinion that the proceeds received or recovered in connection with that Liabilities Sale or Distressed Disposal are fair from a financial point of view, taking into account all relevant circumstances, including, without limitation, the method of enforcement or disposal.

"Final Discharge Date" means the first date on which all External Creditor Liabilities have been fully and finally discharged to the satisfaction of the relevant Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Debt Document, the Requisite Majority of External Creditors) (in the case of the Initial Bank Facilities Liabilities and Additional Liabilities) and each Hedge Counterparty (in the case of its Hedging Liabilities), whether or not as the result of an enforcement, and the External Creditors (in that capacity) are under no further obligation to provide financial accommodation to any Debtor under the Debt Documents.

"Finance Document" has the meaning given to that term in the Initial Bank Facilities Agreement.

"Financial Adviser" means any:

- (a) independent internationally recognised investment bank;
- (b) independent internationally recognised accountancy firm; or

- (c) other independent internationally recognised professional services firm which is regularly engaged in providing valuations of businesses or financial assets or, where applicable, advising on competitive sales processes.

"Financial Indebtedness" means "Financial Indebtedness" under and as defined in the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent.

"First Guarantor Accession Date" has the meaning given to the term "First Guarantor Accession Date" in the Initial Bank Facilities Agreement.

"Fitch" means Fitch Ratings Ltd.

"Fully Paid Transaction" means a hedging transaction in respect of which a Debtor has no further actual or contingent payment obligations under such hedging transaction, other than any upfront payment of fees, premium or other similar amounts in respect of a hedging transaction that are payable within ten Business Days of such hedging transaction being entered into.

"Gross Outstandings" means, in relation to a Multi-account Overdraft, the Ancillary Outstandings of that Multi-account Overdraft.

"Group" means the Company and each of its Subsidiaries from time to time (but excluding, for the avoidance of doubt, any Project Company).

"Guarantee Liabilities" means, in relation to a member of the Group, the liabilities and obligations under the Debt Documents (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Creditor (other than to an Arranger or Creditor Representative) or Debtor as or as a result of its being a guarantor or surety (including liabilities and obligations arising by way of guarantee, indemnity, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of the Debt Documents).

"Guarantee Limitations" means, in relation to any Debtor, any limitations on the guarantee granted by it under this Agreement, any other Finance Document and any Additional Finance Documents and set out in this Agreement, any Debtor/Guarantor Accession Deed, the Initial Bank Facilities Agreement or any Accession Letter (as defined in the Initial Bank Facilities Agreement) and in any Additional Finance Documents.

"Guarantor" means the Original Debtor and, subject to the Agreed Guarantee/Security Principles, any person which becomes a Party as a Debtor in accordance with the terms of Clause 20 (*Changes to the Parties*) which has incurred Guarantee Liabilities, unless it has ceased to be a Debtor in accordance with the terms of this Agreement.

"Hedge Counterparty" means any entity providing hedging which, subject to Clause 1.2.5, becomes a Party as a Hedge Counterparty pursuant to Clause 20.13 (*Creditor Accession Undertaking*) provided that any such person shall not be considered a Hedge Counterparty if the only hedging transactions it has entered into with the Debtors are Fully Paid Transactions.

"Hedge Fund" means a pooled investment vehicle or similar entity that is or would reasonably be recognised or categorised as a "hedge fund" by reputable institutions which are prominent participants in the financial markets, and having the following characteristics:

- (a) it generally seeks consistent levels of returns regardless of market conditions;

- (b) it generally uses complex strategies (which may include but not be limited to short-selling, use of leverage and arbitrage and derivatives transactions) in order to minimise market correlations with the goal of generating high returns (either in an absolute sense or over a specified market benchmark); and
- (c) it generally is open only to financially sophisticated investors.

Hedge Fund will be construed so as to include "vulture funds" and any pass-through or structured finance vehicles in whatever legal form which are used by a Hedge Fund as part of structuring an investment.

"Hedging Agreement" means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by the Company or any other Debtor and a Hedge Counterparty for the purpose of one or more Treasury Transactions (including without limitation hedging interest rate risk and foreign exchange risk in respect of any Secured Debt Document and hedging commodity price risk) (in each case other than any such agreement documenting only Fully Paid Transactions).

"Hedging Ancillary Document" means an Ancillary Document which relates to or evidences the terms of a Hedging Ancillary Facility.

"Hedging Ancillary Facility" means an Ancillary Facility which is made available by way of a hedging facility.

"Hedging Ancillary Lender" means an Ancillary Lender to the extent that that Ancillary Lender makes available a Hedging Ancillary Facility.

"Hedging Force Majeure" means:

- (a) in relation to a Hedging Agreement which is based on the 1992 Master Agreement:
 - (i) an Illegality or Tax Event or Tax Event Upon Merger (each as defined in the 1992 ISDA Master Agreement); or
 - (ii) an event similar in meaning and effect to a "Force Majeure Event" (as referred to in paragraph (b));
- (b) in relation to a Hedging Agreement which is based on the 2002 ISDA Master Agreement, an Illegality or Tax Event, Tax Event Upon Merger or Force Majeure Event (each as defined in the 2002 ISDA Master Agreement); or
- (c) in relation to a Hedging Agreement which is not based on an ISDA Master Agreement, any event similar in meaning and effect to an event described in (a) or (b) above.

"Hedging Liabilities" means the Liabilities owed by a Debtor to the Hedge Counterparties under or in connection with the Hedging Agreements.

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

"IFRS" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"Infrastructure Equity Investment Fund" means an entity, a predominant portion of whose business involves making equity investments in infrastructure assets (but excluding, for the

avoidance of doubt, any entity whose activities are solely the making, purchasing or investing in loans or debt securities or purely passive equity investments in infrastructure and which is an Affiliate or Related Fund of an Infrastructure Equity Investment Fund but is managed or controlled independently from such Infrastructure Equity Investment Fund or has established procedures which will prevent confidential information supplied to such entity from being transmitted or otherwise made available to such Infrastructure Equity Investment Fund).

"Initial Bank Facilities Agreement" means the senior facilities agreement made between, among others, the Company and the Initial Bank Facilities Creditors dated on or about the date of this Agreement.

"Initial Bank Facilities Ancillary Lender" means each Ancillary Lender under the Initial Bank Facilities Agreement.

"Initial Bank Facilities Creditors" means each Senior Lender, the Initial Bank Facilities Agent, the Initial Bank Facilities Arrangers and the Security Agent.

"Initial Bank Facilities Discharge Date" means the first date on which:

- (a) all Initial Bank Facilities Liabilities have been fully and finally discharged, whether or not as the result of an enforcement; and
- (b) the Initial Bank Facilities Creditors are under no further obligation to provide financial accommodation to a Debtor under any of the Finance Documents.

"Initial Bank Facilities Issuing Bank" means each Issuing Bank under the Initial Bank Facilities Agreement.

"Initial Bank Facilities Liabilities" means the Liabilities owed by the Debtors and Third Party Security Provider to the Initial Bank Facilities Creditors under the Finance Documents.

"Insolvency Event" means, in relation to any member of the Group or Third Party Security Provider:

- (a) any resolution is passed or order made for the winding-up, dissolution, administration or reorganisation of that Debtor or Third Party Security Provider, a moratorium is declared in relation to any indebtedness of that Debtor or Third Party Security Provider or an administrator is appointed to that Debtor or Third Party Security Provider;
- (b) any composition, compromise, assignment or arrangement is made with any of its creditors (other than a composition, compromise, assignment or arrangement arising under a Debt Document or in respect of Subordinated Liabilities or Intra-Group Liabilities) with a view to avoiding anticipated financial difficulty;
- (c) the appointment of any liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that Debtor or Third Party Security Provider or any of its assets; or
- (d) any analogous procedure or step is taken in any jurisdiction.

"Intercreditor Amendment" means any amendment or waiver which is subject to Clause 27 (*Consents, amendments and override*).

"Interest Rate Hedge Excess" means the amount (if any) by which the Total Interest Rate Hedged Amount exceeds the Permitted Maximum Interest Rate Hedged Amount.

"Interest Rate Hedging" means, in relation to a Hedge Counterparty at any time, the aggregate of the notional amounts of any interest rate hedging transactions which are, at that time, in effect under a Hedging Agreement to which that Hedge Counterparty and any Debtor are party but, for the purposes of calculating such notional amounts, after taking into account the net effect of any additional interest rate hedge transaction entered into by any Debtor with that Hedge Counterparty in connection with reducing or negating exposure under the original interest rate hedge transaction under such Hedging Agreement, such additional interest rate hedge transaction being, an **"Offsetting Interest Rate Swap"**).

"Inter-Hedging Agreement Netting" means the exercise of any right of set-off, account combination, close-out netting or payment netting (whether arising out of a cross agreement netting agreement or otherwise) by a Hedge Counterparty against liabilities owed to a Debtor by that Hedge Counterparty under a Hedging Agreement in respect of Hedging Liabilities owed to that Hedge Counterparty by that Debtor under another Hedging Agreement.

"Inter-Hedging Ancillary Document Netting" means the exercise of any right of set-off, account combination, close-out netting or payment netting (whether arising out of a cross agreement netting agreement or otherwise) by a Hedging Ancillary Lender against liabilities owed to a Debtor by that Hedging Ancillary Lender under a Hedging Ancillary Document in respect of Initial Bank Facilities Liabilities or Additional Liabilities owed to that Hedging Ancillary Lender by that Debtor under another Hedging Ancillary Document.

"Intra-Group Lenders" means the Original Intra-Group Lender and each member of the Group which has made a loan available to, granted credit to or made any other financial arrangement having similar effect with another member of the Group and which becomes a Party as an Intra-Group Lender in accordance with the terms of Clause 20 (*Changes to the Parties*).

"Intra-Group Lending" means the loans, credit or other financial arrangements made available by any Intra-Group Lender to another member of the Group.

"Intra-Group Liabilities" means the Liabilities owed by any member of the Group to any of the Intra-Group Lenders, but excluding any Liabilities arising as a result of or in connection with any cash management or cash pooling arrangements between members of the Group.

"Intra-Group Receivables" means, in relation to a member of the Group, any liabilities and obligations owed to a Debtor (whether actual or contingent and whether incurred solely or jointly) by that member of the Group.

"ISDA Master Agreement" means a 1992 ISDA Master Agreement or a 2002 ISDA Master Agreement.

"Issuing Bank" means any "Issuing Bank" under and as defined in the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent.

"Joint Venture" means a "Joint Venture" under and as defined in the Initial Bank Facilities Agreement (or any Additional Finance Document Equivalent).

"Leasing Arrangement" means any lease, licence, concession or similar arrangement, and includes any capital lease, vehicle lease, purchase money obligations, hire purchase, sale and leaseback, vehicle or equipment financing arrangement, capital lease or operating lease, and any related liabilities and obligations.

"Legal Reservations" means:

- (a) the principle that certain remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under applicable limitation laws (including the Limitation Acts), the possibility that an undertaking to assume liability for or indemnify a person against non-payment of 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 as an assignment may be recharacterised as a charge;
- (d) the principle that additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void;
- (e) the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant;
- (f) the principle that the creation or purported creation of Security over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which Security has purportedly been created;
- (g) the principle that the application of the provisions of certain laws cannot be waived by contract;
- (h) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
- (i) any other matters which are set out as qualifications or reservations as to matters of law of general application in any legal opinion delivered to or for the benefit of the Security Agent under the Initial Bank Facilities Agreement or any Additional Finance Document.

"Letter of Credit" means any "Letter of Credit" under the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent.

"Letter of Credit Arrangement" means any Letter of Credit or letter of credit, bank guarantee, bankers' acceptance, bid bond, performance bond, appeal bond, advance payment bond, surety, insurance, guarantee, indemnity, cost, completion or performance guarantee or any similar instrument, transaction, guarantee or obligation or other instrument issued or relating to liabilities or obligations in existence or consistent with past practice or in the ordinary course of business or business activities or pursuant to customary contract terms or a collateral or collateral maintenance requirement or for the benefit of any agency of state, governmental, regulatory or listing authority (or similar)

or in relation to any transaction or arrangement permitted by the Secured Debt Documents (and includes any facility or arrangement in relation thereto, any guarantee, indemnity, counter-indemnity or reimbursement obligations in connection with any such instrument, and any indebtedness, liability or obligation constituted by or arising out of or related to any such item), and any refinancing, replacement, renewal or extension thereof.

"Liabilities" means all present and future liabilities and obligations at any time of any member of the Group or any Third Party Security Provider to any Creditor under the Debt Documents or under any other Intra-Group Lending or Subordinated Liabilities, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity, together with any of the following matters relating to or arising in respect of those liabilities and obligations:

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

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

"Liabilities Acquisition" means, in relation to a person and to any Liabilities, a transaction where that person:

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

the rights in respect of those Liabilities.

"Liabilities Sale" means a Debt Disposal pursuant to Clause 12.1.1(v) (*Facilitation of Distressed Disposals and Appropriation*).

"Limitation Acts" means the Limitation Act 1980, the Foreign Limitation Periods Act 1984 and any other statute of limitations applicable in a Relevant Jurisdiction.

"Macquarie" means:

- (a) Macquarie European Infrastructure Fund 7 SCSp (acting through its portfolio manager Macquarie Infrastructure and Real Assets (Europe) Limited) and its subsequent successor in title to all or substantially all of its assets ("**MEIF 7**") (and/or any of its affiliates or related funds/entities or connected persons or any person or entity affiliated with, owned, managed, controlled or advised by MEIF 7 or any of the affiliates or related funds/entities or connected persons of the foregoing);

- (b) any existing investor(s) in any fund or entity managed (as manager or portfolio manager or otherwise) or advised by Macquarie Infrastructure and Real Estate Assets (Europe) Limited or its affiliates;
- (c) other co-investors that are introduced, managed, controlled or advised by the Macquarie Group or invest through a co-investment vehicle, fund or entity which is managed, controlled or advised by the Macquarie Group to the extent that such co-investors hold (directly or indirectly) shares in the Company;
- (d) other co-investors which are specified in the Announcement (as defined in the Initial Bank Facilities Agreement) or which are approved by the Senior Lenders to the extent that such co-investors hold (directly or indirectly) shares in the Company; and/or
- (e) any other member of the Macquarie Group.

"Macquarie Group" means:

- (a) Macquarie Group Limited;
- (b) any direct or indirect Holding Company or Affiliate of Macquarie Group Limited;
- (c) any Subsidiary of any person referred to in paragraphs (a) or (b) above;
- (d) any fund, partnership, trust or other person or entity owned, managed or advised (including as portfolio manager) by any entity referred to in paragraphs (a) to (c) above, provided however that the term "advised" means being in receipt of and implementing advice in relation to the management of investments of that legal entity which is substantially the same as the services which would be provided by a fund manager of the relevant legal entity; and/or
- (e) any Affiliate or subsidiary undertaking of any such fund or corporate entity referred to in paragraph (d) above.

"Majority External Creditors" means:

- (a) at any time at which no Additional Creditors are Party to this Agreement, those External Creditors whose External Credit Participations at that time aggregate at least $66\frac{2}{3}$ per cent. of the total External Credit Participations at that time; and
- (b) at any other time, those External Creditors whose External Credit Participations at that time aggregate at least $66\frac{2}{3}$ per cent. of the total External Credit Participations of those External Creditors who voted in respect of the relevant instruction, amendment, waiver or consent (the "**Voting Creditors**") at that time, provided that during the period from and including the date on which voting in respect of the relevant decision commences (the "**Commencement Date**") until but excluding the date which is 60 Business Days after the Commencement Date, a resolution in respect of such decision shall not be passed unless the relevant quorum set out below has been met, such quorum being that:
 - (i) from and including the Commencement Date until but excluding the date which is 20 Business Days after the Commencement Date, the External Credit Participations of the Voting Creditors aggregate more than 75 per cent. of the total External Credit Participations;

- (ii) from and including the date which is 20 Business Days after the Commencement Date to but excluding the date which is 40 Business Days after the Commencement Date, the External Credit Participations of the Voting Creditors aggregate more than $66\frac{2}{3}$ per cent. of the total External Credit Participations;
- (iii) from and including the date which is 40 Business Days after the Commencement Date to but excluding the date which is 60 Business Days after the Commencement Date, the External Credit Participations of the Voting Creditors aggregate more than 50 per cent. of the total External Credit Participations; and
- (iv) if from and excluding the date which is 60 Business Days after the Commencement Date, the quorum has still not been met, there is no longer any such quorum requirement.

"Make Whole Amounts" means any amount above par (other than in respect of accrued interest, Break Costs (as defined in the relevant Finance Document (or any Additional Finance Document Equivalent)), costs and expenses) payable on prepayment or redemption of any Permitted Additional Debt.

"Mandatory Prepayment" means a mandatory prepayment of the Initial Bank Facilities Liabilities or any Additional Liabilities.

"Material Adverse Effect" means an event or circumstance or series of events or circumstances which, taking into account all the circumstances and subject to all appropriate mitigation factors, has a material adverse effect on:

- (a) the business or financial condition of the Group taken as a whole;
- (b) the ability of the Group (taken as a whole) to perform their payment obligations under the Finance Documents or any Additional Finance Document (taking into account all resources available to it); or
- (c) subject to the Legal Reservations and the Perfection Requirements, the validity or enforceability of any Finance Document or Additional Finance Document (taken as a whole) which is not remedied within 20 Business Days of notification to the Company by the Initial Bank Facilities Agent or an Additional Agent or Creditor Representative (as applicable).

"Moody's" means Moody's Investor Services Limited.

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

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

"Non-Cash Consideration" means consideration in a form other than cash.

"Non-Cash Recoveries" means:

- (a) any proceeds of a Distressed Disposal or a Debt Disposal; or
- (b) any amount distributed to the Security Agent pursuant to Clause 8.2 (*Turnover by the Creditors*),

which are, or is, in the form of Non-Cash Consideration.

"Non-Credit Related Close-Out" means a Permitted Hedge Close-Out described in any of Clause 4.9.1(i) to Clause 4.9.1(x) (inclusive) (*Permitted enforcement: Hedge Counterparties*).

"Non-Distressed Disposal" has the meaning given to that term in Clause 11.1 (*Facilitation of Non-Distressed Disposals*).

"Offsetting Interest Rate Swap" has the meaning given to that term in the definition of "Interest Rate Hedging".

"Other Liabilities" means, in relation to a member of the Group, any trading and other liabilities and obligations (not being Borrowing Liabilities or Guarantee Liabilities) it may have to a Subordinated Creditor, an Intra-Group Lender, a Third Party Security Provider or a Debtor.

"Party" means a party to this Agreement.

"Payment" means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities (or other liabilities or obligations).

"Payment Netting" means:

- (a) in respect of a Hedging Agreement or a Hedging Ancillary Document based on an ISDA Master Agreement, netting under section 2(c) of the relevant ISDA Master Agreement; and
- (b) in respect of a Hedging Agreement or a Hedging Ancillary Document not based on an ISDA Master Agreement, netting pursuant to any provision of that Hedging Agreement or a Hedging Ancillary Document which has a similar effect to the provision referenced in paragraph (a).

"Perfection Requirements" means the making or the procuring of the necessary registrations, filing, endorsement, notarisation stampings and/or notifications of the Transaction Security Documents and/or the Transaction Security created thereunder necessary for the validity and enforceability thereof.

"Permitted Additional Debt" means any Financial Indebtedness or other financial arrangement (including but not limited to Bank Products, Letter of Credit Arrangements or Leasing Arrangements), including any refinancing, renewal or replacement, provided that:

- (a) the relevant External Creditor is a Party or accedes to this Agreement pursuant to Clause 20.5 (*Accession of Additional Creditors*) and the Liabilities owed to such External Creditor in respect of such Permitted Additional Debt rank no better than *pari passu* with the other External Creditor Liabilities; and
- (b) the relevant Financial Indebtedness is not otherwise prohibited from being incurred under any Secured Debt Documents (in the form of those Secured Debt Documents as at the date on which the relevant Financial Indebtedness is incurred).

"Permitted Automatic Early Termination" means an Automatic Early Termination of a hedging transaction under a Hedging Agreement, the provision of which is permitted under Clause 4.12 (*Terms of Hedging Agreements*).

"Permitted External Creditor Payments" means the Payments permitted by Clause 3.1 (*Payment of Initial Bank Facilities Liabilities and Additional Liabilities*).

"Permitted Hedge Close-Out" means, in relation to a hedging transaction under a Hedging Agreement, a termination or close-out of that hedging transaction which is permitted pursuant to Clause 4.9 (*Permitted enforcement: Hedge Counterparties*).

"Permitted Hedge Payments" means the Payments permitted by Clause 4.3 (*Permitted Payments: Hedging Liabilities*).

"Permitted Intra-Group Payments" means the Payments permitted by Clause 5.2 (*Permitted Payments: Intra-Group Liabilities*).

"Permitted Maximum Interest Rate Hedged Amount" has the meaning given to it in Clause 4.13.1 (*Total Interest Rate Hedged Amounts*).

"Permitted Payment" means a Permitted Hedge Payment, a Permitted Intra-Group Payment, a Permitted External Creditor Payment or a Permitted Subordinated Payment.

"Permitted Subordinated Payments" means the Payments permitted by Clause 6.2 (*Permitted Payments: Subordinated Liabilities*).

"Project Company" means a "Project Company" under and as defined in the Initial Bank Facilities Agreement (or any Additional Finance Document Equivalent).

"Project Holding Company" means a "Project Holding Company" under and as defined in the Initial Bank Facilities Agreement (or any Additional Finance Document Equivalent).

"Property" of a member of the Group, a Debtor or Third Party Security Provider means:

- (a) any asset of that member of the Group, Debtor or Third Party Security Provider;
- (b) any Subsidiary of that member of the Group, Debtor or Third Party Security Provider; and
- (c) any asset of any such Subsidiary.

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

"Recoveries" has the meaning given to that term in Clause 17.1 (*Order of application*).

"Related Fund" in relation to a fund (the **"first fund"**), means a fund (the **"second fund"**) which is managed or advised by the same investment manager or adviser as the first fund or, if it is managed by a different investment manager or adviser, a fund whose investment manager or adviser is an Affiliate of the investment manager or adviser of the first fund and in each case the second fund will include co-investments that are related to the second fund.

"Relevant Ancillary Lender" means, in respect of any Cash Cover, the Ancillary Lender (if any) for which that Cash Cover is provided.

"Relevant Issuing Bank" means, in respect of any Cash Cover, the Issuing Bank (if any) for which that Cash Cover is provided.

"Relevant Jurisdiction" means, in relation to a Debtor or a Third Party Security Provider (as applicable):

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

"Relevant Liabilities" means:

- (a) in the case of a Creditor:
 - (i) the Liabilities owed to Creditors ranking (in accordance with the terms of this Agreement) *pari passu* with or in priority to that Creditor; and
 - (ii) all present and future liabilities and obligations, actual and contingent, of the Debtors and Third Party Security Providers to the Security Agent under any Debt Document; and
- (b) in the case of a Debtor or Third Party Security Provider, the Liabilities owed to the Creditors together with all present and future liabilities and obligations, actual and contingent, of the Debtors or Third Party Security Providers to the Security Agent under any Debt Document.

"Report" means any "Report" under and as defined in any applicable Debt Document.

"Requisite Majority" means, in relation to any request, proposal, vote or instruction to be voted on under a Debt Document, External Creditors whose External Credit Participations in respect of a Debt Document are sufficient to approve the relevant request, proposal, vote or instruction in accordance with the terms of such Debt Document (the **"Debt Document Majority"**) or, if no Debt Document Majority is specified in the relevant Debt Document:

- (a) subject to Clause 27.7 (*Disenfranchisement of Defaulting Lenders*), in relation to the Initial Bank Facilities Agreement or an Additional Facility Document, Senior Lenders or Additional Lenders whose External Credit Participations aggregate at least $66\frac{2}{3}$ per cent. of the External Credit Participations in respect of the Initial Bank Facilities Agreement or that Additional Facility Document (as applicable); and
- (b) in relation to any other Debt Document, External Creditors whose External Credit Participations aggregate more than 50 per cent. of the External Credit Participations in respect of the relevant Debt Document.

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

"Restricted Party" means a "Restricted Party" under and as defined in the Initial Bank Facilities Agreement (or any Additional Finance Document Equivalent).

"S&P" means Standard & Poor's Rating Services.

"Secured Debt Documents" means each of the Finance Documents, the Hedging Agreements (other than Hedging Agreements in respect of Fully Paid Transactions), the Additional Finance Documents, the Security Documents and any other document designated as such by the Security Agent and the Debtors' Agent.

"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 any Subordinated Creditor 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.

"Secured Parties" means the Security Agent, each of the other External Creditors from time to time and any Receiver or Delegate but, in the case of each External Creditor, only if it is a Party or has acceded to this Agreement, in the appropriate capacity, pursuant to Clause 20.13 (*Creditor Accession Undertaking*).

"Security" means a mortgage, charge, land charge, pledge, lien, assignment or transfer for security purposes or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Security Agent's Spot Rate of Exchange" means, in respect of the conversion of one currency (the **"First Currency"**) into another currency (the **"Second Currency"**):

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

for the purchase of the Second Currency with the First Currency in the London foreign exchange market at or about 11:00 a.m. (London time) on a particular day.

"Security Documents" means:

- (a) each of the Transaction Security Documents;
- (b) any other document entered into at any time by a Debtor or Third Party Security Provider creating any guarantee, indemnity, Security or other assurance against financial loss in favour of any of the Secured Parties as security for any of the Secured Obligations; and
- (c) any Security granted under any covenant for further assurance in any of the documents referred to in paragraphs (a) and (b) above.

"Security Enforcement Action" means the taking of any steps to enforce or require the enforcement of any Transaction Security (including the crystallisation of any floating charge forming part of the Transaction Security).

"Security Property" means:

- (a) the Transaction Security expressed to be granted in favour of, or administered by, the Security Agent as trustee or security agent for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by a Debtor or Third Party Security Provider to pay amounts in respect of the Liabilities to the Security Agent as trustee or security agent (including as parallel debt creditor under Clause 19.3

(*Parallel Debt*) for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by a Debtor or Third Party Security Provider in favour of the Security Agent as trustee or security agent for the Secured Parties;

- (c) the Security Agent's interest in any trust fund created pursuant to Clause 8 (*Turnover of Receipts*); and
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Debt Documents to hold as trustee on trust or to administer as security agent, as applicable, for the Secured Parties.

"Senior Lenders" means the Initial Bank Facilities Lenders, any Initial Bank Facilities Ancillary Lender, any Initial Bank Facilities Issuing Bank, together with any other lender or Affiliate of a lender under the Initial Bank Facilities Agreement which has acceded to this Agreement in accordance with Clause 20.13 (*Creditor Accession Undertaking*) and which has also become party to the Initial Bank Facilities Agreement as a "Lender".

"Sponsor Affiliate" means the Sponsors, each of their Affiliates, any trust of which the Sponsors or any of their Affiliates is a trustee, any partnership of which the Sponsors or any of their Affiliates is a partner and any trust, fund or other entity which is managed by, or is under the control of, the Sponsors or any of their 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 that Sponsor or any of its Affiliates shall not constitute a Sponsor Affiliate (but excluding, for the avoidance of doubt, each member of the Group and the Parent).

"Sponsors" means each of Macquarie and BCI Group.

"Standstill Period" has the meaning given to that term in Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*).

"Standstill Termination Event" has the meaning given to that term in Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*).

"Structure Memorandum" means the tax structure memorandum provided to the Initial Bank Facilities Creditors on or prior to the date of this Agreement.

For the avoidance of doubt, for the purposes of and where used in the Finance Documents, references to the Structure Memorandum (and to items permitted thereby) shall exclude the section of the Structure Memorandum entitled 'exit considerations'.

"Subordinated Creditor" means the Parent or any other person which becomes party to this Agreement as a "Subordinated Creditor".

"Subordinated Liabilities" means the Liabilities owed to any Subordinated Creditor by the Company.

"Subsidiary" means a subsidiary within the meaning of section 1159 of the Companies Act 2006.

"T2" means the real time gross settlement system operated by the Eurosystem, or any successor system.

"Target" means Renewi plc, a company incorporated in Scotland with company number SC077438 and having its registered office at 16 Charlotte Square, Edinburgh EH2 4DF, United Kingdom.

"TARGET Day" means any day on which T2 is open for the settlement of payments in euro.

"Target Group" means the Target and its Subsidiaries.

"Target Shares" means the issued and outstanding ordinary shares in the share capital of the Target.

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

"Term Commitments" means, at any time, the aggregate of the amounts of commitments (whether drawn or undrawn) under the Initial Bank Facilities Agreement and/or any other Permitted Additional Debt, in each case other than any revolving or working capital facility.

"Third Party Security Provider" means the Subordinated Creditors and any other entity which provides Transaction Security but is not a Debtor.

"Total Interest Rate Hedged Amount" means, at any time, the aggregate of each Hedge Counterparty's Interest Rate Hedging at that time.

"Total Outstandings" means, at any time, the aggregate of the amounts of principal (not including any capitalised or deferred interest) then outstanding under:

- (a) the Initial Bank Facilities Agreement; and
- (b) any other Permitted Additional Debt.

"Transaction Security" means the Security created or expressed to be created pursuant to the Transaction Security Documents.

"Transaction Security Documents" means:

- (a) any **"Transaction Security Document"** as defined in the Initial Bank Facilities Agreement; and
- (b) any other document entered into by any Debtor or Third Party Security Provider creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Debtors under any of the Debt Documents.

"Treasury Transactions" means any treasury transaction, hedging arrangement, derivative transaction or any other instrument, agreement or financial accommodation entered into:

- (a) in connection with protection against or benefit from, or to hedge or manage fluctuations in, or to trade or offset, any rate, currency, commodity, risk or price (including, without limitation, forward delivery contracts and spot, swap, forwards, options, offsets, credits, exchange, cap, floor, collar, ceiling and similar arrangements); or
- (b) to hedge, manage or protected against, or to trade or off-set, actual or projected interest rate, currency, commodity or other risks or exposures of a member of

the Group (including interest rate and currency hedging in relation to indebtedness), and any refinancing, replacement, renewal or extension thereof.

"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).

"Utilisation" means a utilisation of a Facility.

"VAT" means:

- (a) any value added tax imposed by the Value Added Tax Act 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 paragraph (a) or (b) above, or imposed elsewhere.

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

1.2 Construction

1.2.1 Unless a contrary indication appears, a reference in this Agreement to:

- (i) any "**Additional Agent**", "**Additional Arranger**", "**Additional Creditor**", "**Additional Lender**", "**Additional PP Noteholder**", "**Ancillary Lender**", "**Arranger**", "**Company**", "**Creditor**", "**Creditor Representative**", "**Debtor**", "**Guarantee/Security Provider**", "**Hedge Counterparty**", "**Third Party Security Provider**", "**Intra-Group Lender**", "**Party**", "**Security Agent**", "**Initial Bank Facilities Agent**", "**Initial Bank Facilities Ancillary Lender**", "**Initial Bank Facilities Issuing Bank**", "**External Creditor**", "**Initial Bank Facilities Creditor**", "**Security Provider**", "**Senior Lender**", "**Sponsor Affiliate**" or "**Subordinated Creditor**" shall be construed to be a reference to it in its capacity as such and not in any other capacity;
- (ii) any "**Arranger**", "**Creditor**", "**Creditor Representative**", "**Debtor**", "**Hedge Counterparty**", "**Lender**", "**Party**", "**Security Agent**", "**Initial Bank Facilities Agent**" or "**Subordinated Creditor**" 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 Debt 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 this Agreement;
- (iii) an "**amount**" includes an amount of cash and an amount of Non-Cash Consideration;
- (iv) "**assets**" includes present and future properties, revenues and rights of every description;
- (v) a "**class**" of External Creditor Liabilities means: (a) the External Creditor Liabilities under the Finance Documents; (b) the External Creditor Liabilities under the principal Additional Finance Document regulating the terms and conditions applicable to any outstanding issue of Additional PP Notes; or (c) the External Creditor Liabilities under any Additional Facility;
- (vi) a "**Debt Document**", "**Secured Debt Document**" or any other agreement or instrument (other than a reference to a "**Debt Document**", "**Secured Debt Document**" or any other agreement or instrument in "**original form**") is a reference to that Debt Document, or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerously) or replaced, and includes any change in the purpose of, any extension of or any increase in any facility under that Debt Document or other agreement or instrument as permitted by this Agreement;
- (vii) a "**distribution**" of or out of the assets of a member of the Group or a Third Party Security Provider includes a distribution of cash and a distribution of Non-Cash Consideration;
- (viii) "**enforcing**" (or any derivation) the Transaction Security includes the Security Agent appointing, or applying for or consenting in writing to the

- appointment of, an administrator (or any analogous officer or procedure in any jurisdiction) of a Debtor or a Third Party Security Provider;
- (ix) unless expressly stated otherwise, a **"group of Creditors"** includes all the Creditors and a **"group of External Creditors"** includes all the External Creditors;
 - (x) **"including"** means including without limitation, and **"includes"** and **"included"** shall be construed accordingly;
 - (xi) the **"original form"** of a **"Debt Document"**, **"Secured Debt Document"** or any other agreement or instrument is a reference to that Debt Document, Secured Debt Document or agreement or instrument as originally entered into;
 - (xii) in respect of any matter, transaction, arrangement, action or circumstance being **"permitted"** under any Debt Document or other document, agreement or instrument (or equivalent) shall include where that matter, transaction, arrangement, action or circumstance is permitted or not prohibited by, or otherwise approved pursuant to, that Debt Document or other document, agreement or instrument (or relevant equivalent), including as a result of any consent, approval, waiver or amendment thereunder. The taking of any matter, transaction, arrangement or action that is contemplated as being so permitted shall be deemed for all purposes of the Debt Documents to be permitted and no further consent, waiver or amendment shall be required from the Creditors or any class of them;
 - (xiii) 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);
 - (xiv) **"proceeds"** of a Distressed Disposal or of a Debt Disposal includes proceeds in cash and in Non-Cash Consideration;
 - (xv) 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, which is binding or customarily complied with) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (xvi) **"shares"** or **"share capital"** includes equivalent ownership interests, and **"shareholder"** shall be construed accordingly;
 - (xvii) a law or a provision of law is a reference to that law or provision as amended or re-enacted; and
 - (xviii) a time of day is a reference to a time in London (unless otherwise expressly stated).

1.2.2 Section, Clause and Schedule headings are for ease of reference only.

- 1.2.3 A Default or an Event of Default is "**continuing**" if it has not been cured, remedied or waived (and for the avoidance of doubt, late delivery of any information, notice, certificate or other document can be remedied by the subsequent delivery of such information, notice, certificate or other document and the relevant Default or Event of Default should no longer be continuing even though such delivery was not made within the prescribed time period specified in the relevant Finance Document or Additional Finance Document, provided that no Acceleration Event has occurred prior to the subsequent delivery of such information, notice, certificate or other document and if any Default or Event of Default is remedied, waived or cured or is no longer continuing (a "**Cured Default**"), any resulting, consequential or other Default or Event of Default which would not have arisen had the Cured Default not occurred shall be deemed not to be continuing automatically upon, and simultaneous with, the remedy, cure or waiver of the Cured Default).
- 1.2.4 An Acceleration Event is "**continuing**" if it has not been waived or revoked or otherwise ceases to be continuing in accordance with the terms of the relevant Debt Document.
- 1.2.5 If all of the Liabilities under any Finance Document, Additional Finance Document or Hedging Agreement (as applicable) owing to a particular External Creditor or group of External Creditors have been unconditionally and irrevocably paid and discharged in full (to the satisfaction of the relevant Creditor Representative or, in the case of a Hedging Agreement, the relevant Hedge Counterparty) and all commitments of those External Creditors to provide for Liabilities under those Finance Documents, Additional Finance Documents or Hedging Agreements (as applicable) have been terminated in full, then unless the context otherwise requires:
- (i) the relevant Finance Document, Additional Finance Document or Hedging Agreements (as applicable) will cease to be Finance Documents, Additional Finance Documents or Hedging Agreements (as applicable) for the purposes of this Agreement; and
 - (ii) the relevant External Creditors will cease to be External Creditors for all purposes under this Agreement and shall no longer be deemed to be a Party.
- 1.2.6 Any reference in this Agreement to a Debtor, Third Party Security Provider or member of the Group being able to make any Payment or take any other action shall include a reference to that Debtor, Third Party Security Provider or member of the Group being permitted to make any arrangement in respect of that Payment or action or take any step or enter into any transaction to facilitate the making of that Payment or the taking of that action.
- 1.2.7 To the extent that in this Agreement the consent of any agent under any Debt Document or the relevant Creditors under any Debt Document is required, then such consent is hereby expressly given to the extent that the matter, step or action requiring approval is not prohibited by the terms of that Debt Document, including for the avoidance of doubt, for the purposes of determining the Requisite Majority or the Majority External Creditors or any other class, group or percentage of any Creditors (including, for the avoidance of doubt, unanimity).

1.2.8 Notwithstanding anything to the contrary, where any provision of this Agreement refers to or otherwise contemplates any consent, approval, release, waiver, agreement, notification or other step or action being required from or by any person:

- (i) which is not a Party;
- (ii) in respect of any agreement which is not in existence;
- (iii) in respect of any indebtedness which has not been committed or incurred;
- (iv) in respect of Liabilities of External Creditors (or other persons) for which the relevant Discharge Date has occurred,

unless otherwise agreed or specified by the Company, that consent, approval, release, waiver, agreement, notification or other step or action shall not be required and no such provision shall, or shall be construed so as to, in any way prohibit or restrict the rights or actions of any member of the Group. Further, for the avoidance of doubt, no reference to any agreement which is not in existence shall, or shall be construed so as to, in any way prohibit or restrict the rights or actions of any member of the Group.

1.2.9 If the terms of any Secured Debt Document:

- (i) require the relevant External Creditors to provide approval (or deem approval to have been provided) for a particular matter, step or action (for the avoidance of doubt, excluding any such terms which expressly entitle the relevant External Creditor to withhold their approval for that matter, step or action) and such approval has been given (or is deemed to have been given) pursuant to the terms of that Secured Debt Document; or
- (ii) do not seek to regulate a particular matter, step or action (which shall be the case if the relevant matter, step or action is not the subject of an express requirement or restriction in that Secured Debt Document),

for the purpose of this Agreement that matter, step or action shall not be prohibited by the terms of this Agreement or the terms of that Debt Document.

1.2.10 In determining whether any Liabilities have been fully and finally discharged, the relevant Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance Document) (and, if applicable, the Security Agent) will disregard contingent liabilities (such as the risk of claw back flowing from a preference) except to the extent that the Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, the requisite Additional Creditors) (or, if applicable, the Security Agent) reasonably believes (after taking such legal advice as it considers appropriate) that there is a reasonable likelihood that those liabilities will become actual liabilities.

1.3 For the avoidance of doubt and notwithstanding anything to the contrary in this Agreement or any other Debt Document, nothing in this Agreement shall prohibit:

- 1.3.1 any non-cash contribution of any asset (including any participation, claim, commitment, rights, benefits and/or obligations in respect of any indebtedness borrowed or issued by any member of the Group from time to time) approved by the Company;
 - 1.3.2 any step, action or matter arising in connection with any actual, proposed or future payment of tax (including as a consequence of any “group contributions”, the surrender of tax relief or similar or equivalent arrangements) in respect of any member of the Group or any Holding Company;
 - 1.3.3 any change in legal form, tax residency or jurisdiction of incorporation or residency of any member of the Group or any Holding Company;
 - 1.3.4 any capital reduction (or similar) made by any member of the Group or reorganisation of capital or reserves or the conversion, exchange, equitization, forgiveness, waiver, release, repayment, capitalisation, cancellation or other discharge or disposition or other debt, equity or capital restructuring or reorganisation, provided that (in each case) no cash payment is made by any member of the Group to a person who is not a member of the Group unless such payment is permitted (or not prohibited) by the Debt Documents; or
 - 1.3.5 any debt exchange, non-cash rollover or other similar or equivalent transaction in relation to any Liabilities.
- 1.4 If a defined term used in this Agreement is defined for the purposes of this Agreement by reference to another document, instrument or agreement and that document, instrument or agreement does not then exist, or such defined term is not defined in that document, instrument or agreement, then any references to that defined term in this Agreement shall be ignored until such document, instrument or agreement exists and/or such term is defined.
- 1.5 Non-wholly owned entities, certain amendments, calculations, baskets, the Company and the Acquisition**
- The provisions of clauses 1.8 (*Non-wholly owned entities*) and 1.10 (*Amendments to Finance Documents*) to 10.14 (*The Acquisition*) (inclusive) of the Initial Bank Facilities Agreement shall apply to this Agreement as if set out in full herein, *mutatis mutandis*.
- 1.6 Dutch terms**
- In this Agreement, where it relates to a Dutch entity, a reference to:
- 1.6.1 a “**suspension of payments**” or a “**moratorium**” includes *surséance van betaling* and an “**administrator**” includes a *bewindvoerder*;
 - 1.6.2 a “**winding-up**” includes a Dutch entity being declared bankrupt (*failliet verklaard*) and a “**receiver**” includes a *curator*; and
 - 1.6.3 a “**dissolution**” includes a Dutch entity being dissolved (*ontbonden*).
- 1.7 Third-party rights**
- 1.7.1 Unless expressly provided to the contrary in this Agreement, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or to enjoy the benefit of any term of this Agreement.

- 1.7.2 Notwithstanding any term of this Agreement, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.
- 1.7.3 Any Receiver, Delegate or any other person described in Clause 19.12.2 (*Exclusion of liability*) may, subject to this Clause 1.6 and the Third Parties Act, rely on any Clause of this Agreement which expressly confers rights on it.
- 1.7.4 The Third Parties Act shall apply to this Agreement in respect of any Additional PP Noteholder. For the purposes of Clause 1.7.2 and this Clause 1.7.4, upon any person becoming an Additional PP Noteholder, such person shall be deemed to be a Party to this Agreement and shall be bound by the provisions of this Agreement and be deemed to receive the benefits, and be subject to the terms and conditions of this Agreement, as if such person was a Party to this Agreement.

1.8 Intercreditor Agreement

Nothing which is permitted or permitted to be done under this Agreement shall be deemed to constitute a breach of any term of any Debt Document and no representation, warranty or undertaking contained in, or provision of, any other Debt Document or any Transaction Security shall be breached or be deemed to be breached (and in no event shall such a thing constitute a breach or a Default or Event of Default) to the extent it conflicts with this Agreement or it prohibits something which would otherwise be permitted under this Agreement. The terms of this Agreement and the Transaction Security Documents shall not operate or be construed so as to prohibit or restrict any "Permitted Transaction" (as defined in the Initial Bank Facilities Agreement (or any Additional Finance Document Equivalent)) or any other transaction, matter or other step not prohibited by the terms of any Finance Document or Additional Finance Document.

1.9 Contractual recognition of bail-in

Notwithstanding any other term of any Finance Document or Additional 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 or Additional 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:

- 1.9.1 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
- 1.9.2 a variation of any term of any Finance Document or Additional Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

1.10 Debtors' Agent

1.10.1 Each Party (other than the Company) which is a member of the Group, a Subordinated Creditor or a Third Party Security Provider, by its execution of this Agreement or on becoming a Party by way of accession, irrevocably appoints the Company to act on its behalf as its agent in relation to the Debt Documents and irrevocably authorises the Company on its behalf to make agreements, to enter into deeds and to effect any amendments, supplements and variations (in each case, however fundamental) capable of being given, made or effected by that member of the Group, Subordinated Creditor or Third Party Security Provider (as applicable) (notwithstanding that they may increase that member of the Group's, Subordinated Creditor's or Third Party Security Provider's (as applicable) obligations or otherwise affect that member of the Group, Subordinated Creditor or Third Party Security Provider (as applicable)) and to give confirmation as to continuation of surety obligations, without further reference to or the consent of that member of the Group, Subordinated Creditor or Third Party Security Provider (as applicable) and in each case that member of the Group, Subordinated Creditor or Third Party Security Provider (as applicable) shall be bound as though it had itself executed or made the agreements or deeds, or effected the amendments, supplements or variations.

1.10.2 Every agreement or deed entered into or made under or in connection with any Debt Document by the Company on behalf of any other member of the Group, any Subordinated Creditor or any Third Party Security Provider (whether or not known to that member of the Group, Subordinated Creditor or Third Party Security Provider (as applicable) and whether occurring before or after it became a member of the Group, Subordinated Creditor or Third Party Security Provider (as applicable) under any Debt Document) shall be binding for all purposes on that member of the Group, Subordinated Creditor or Third Party Security Provider (as applicable) as if that member of the Group, Subordinated Creditor or Third Party Security Provider (as applicable) had expressly made or entered into the same. In the event of any conflict between any notices or other communications of the Debtors' Agent and any other member of the Group, any Subordinated Creditor or any Third Party Security Provider, those of the Debtors' Agent shall prevail.

1.11 No Sponsor Recourse

No External Creditor will have any recourse to or shall make any claim or demand for payment from a Sponsor or any other person that is not a member of the Group, a Subordinated Creditor or a Third Party Security Provider in respect of any term of any Debt Document, any statements by any such person, or otherwise.

1.12 Personal Liability

Where any natural person gives a certificate or other document or otherwise gives a representation or statement on behalf of any of the parties to the Debt Documents pursuant to any provision thereof and such certificate or other document, representation or statement proves to be incorrect, the individual shall incur no personal liability in consequence of such certificate, other document, representation or statement being incorrect save where such individual acted fraudulently in giving such certificate, other

document, representation or statement (in which case any liability of such individual shall be determined in accordance with applicable law).

1.13 Termination

Unless otherwise notified to the Security Agent by the Company in writing on or prior to the Final Discharge Date, this Agreement shall terminate in full and cease to have any further effect on the Final Discharge Date.

2 Ranking and Priority

2.1 External Creditor Liabilities

Each of the Parties agrees that, subject to Clause 17.1 (*Order of application*), the External Creditor Liabilities shall rank in right and priority of payment on a *pari passu* basis and without any preference between them.

2.2 Transaction Security

Each of the Parties agrees that, subject to Clause 17.1 (*Order of application*), the Transaction Security shall rank and secure the External Creditor Liabilities on a *pari passu* basis and without any preference between them (but in each case only to the extent that such Transaction Security is expressed to secure those External Creditor Liabilities).

2.3 Subordinated Liabilities and Intra-Group Liabilities

2.3.1 Each of the Parties agrees that each of the Subordinated Liabilities and the Intra-Group Liabilities are postponed and are subordinated to the External Creditor Liabilities.

2.3.2 This Agreement does not purport to rank any of the Subordinated Liabilities or the Intra-Group Liabilities as between themselves.

2.4 Creditor Representative Amounts

Subject to Clause 17 (*Application of proceeds*), where applicable, nothing in this Agreement will prevent payment of any Creditor Representative Amounts or the receipt and retention of such Creditor Representative Amounts by the relevant Creditor Representative(s).

3 Initial Bank Facilities Creditors/Additional Creditors and Initial Bank Facilities Liabilities/Additional Liabilities

3.1 Payment of Initial Bank Facilities Liabilities and Additional Liabilities

The Debtors and Third Party Security Providers may make Payments of or otherwise satisfy the Initial Bank Facilities Liabilities and Additional Liabilities at any time in accordance with the applicable Finance Documents and Additional Finance Documents.

3.2 Designation of Finance Documents

If the terms of a document effect a change which would, if that change were effected by way of amendment to, or waiver of, the terms of a Finance Document or Additional Finance Document, require the consent of the Hedge Counterparties under this Agreement, that document shall not constitute a "Finance Document" or "Additional

Finance Document” for the purposes of any Debt Document without the prior consent of the Hedge Counterparties.

3.3 Restriction on Enforcement: Initial Bank Facilities Creditors/Additional Creditors

No External Creditor shall:

- 3.3.1 take Enforcement Action, other than in accordance with Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*), and in the case of the Ancillary Lenders, Issuing Banks and Hedge Counterparties, as additionally contemplated by Clauses 3.9 (*Permitted Enforcement: Ancillary Lenders and Issuing Banks*) and 4.9 (*Permitted Enforcement: Hedge Counterparties*) respectively; or
- 3.3.2 take any Enforcement Action in relation to the Transaction Security other than in accordance with Clause 10 (*Enforcement of Transaction Security*),

in each case in respect of any of its relevant External Creditor Liabilities or any of the Debt Documents to which it is a party at any time.

3.4 Standstill Period: Initial Bank Facilities Creditors/Additional Creditors

- 3.4.1 Following the occurrence of an Event of Default or, in the case of a Hedge Counterparty, a Credit Related Close-Out, which is continuing in relation to which an External Creditor wishes to take Enforcement Action (a “**Standstill Default**”), prior to taking any Enforcement Action the relevant External Creditor shall notify the Security Agent, and (if it has not already done so) the Company, in writing (such notice an “**Enforcement Action Notice**”) of the Standstill Default and the Enforcement Action which it wishes to take in connection with the Standstill Default.
- 3.4.2 Receipt by the Security Agent of an Enforcement Action Notice will immediately trigger a standstill period (“**Standstill Period**”) during which no External Creditor shall take any Enforcement Action and the provisions of Clause 8 (*Turnover of Receipts*) will apply.
- 3.4.3 The Standstill Period will continue until the earliest of:
 - (i) the Security Agent receiving notice from the relevant External Creditor that the Standstill Default has been remedied or waived in accordance with the relevant Secured Debt Document, such notice to be delivered promptly by the relevant External Creditor following the Standstill Default being remedied or waived;
 - (ii) the date which is 90 days after receipt by the Security Agent of an Enforcement Action Notice;
 - (iii) the Security Agent receiving an instruction from the Majority External Creditors to take Security Enforcement Action in accordance with Clause 10 (*Enforcement of Transaction Security*);
 - (iv) an Insolvency Event occurring with respect to a Debtor or Third Party Security Provider, in relation to which an External Creditor notifies the Security Agent that it wishes to take Enforcement Action and which, but for the Standstill Period, it would be entitled to take and that it wishes to take Enforcement Action; or

- (v) an External Creditor notifying the Security Agent that a Debtor has failed to discharge External Creditor Liabilities due within five Business Days of the final maturity date of the relevant Secured Debt Document or, in the case of a Hedging Agreement, within five Business Days of the scheduled final payment date in respect of the relevant hedging transaction and, in each case, that such External Creditor wishes to take Enforcement Action,

(each a “**Standstill Termination Event**”).

3.4.4 Subject to Clause 3.8 (*Permitted Enforcement: Ancillary Lenders and Issuing Banks*), following the occurrence of a Standstill Termination Event, the Standstill Period will end and in the case of any Standstill Termination Event specified in paragraphs (ii) to (v) of Clause 3.4.3 (inclusive) above, the External Creditors shall be free to take Enforcement Action in relation to the Standstill Default in accordance with the provisions of the Secured Debt Documents.

3.4.5 For the avoidance of doubt, any grace period applicable in respect of a Default under a Secured Debt Document shall continue to run during a Standstill Period in accordance with the terms of the relevant Secured Debt Document.

3.4.6 In the event that, during a Standstill Period, a Standstill Default which was not included in the Enforcement Action Notice which triggered the relevant Standstill Period occurs (an “**Additional Event of Default**”) and in relation to which an External Creditor wishes to take Enforcement Action:

- (i) the Additional Event of Default will, at the request of the relevant External Creditor, be added to the relevant Enforcement Action Notice (the “**Updated Enforcement Action Notice**”); and
- (ii) a Standstill Termination Event pursuant to paragraph (i) of Clause 3.4.3 above will not occur until each Standstill Default and each Additional Event of Default has been remedied or waived but, for the avoidance of doubt, the relevant Standstill Period will not be extended beyond the date on which it would otherwise have ended pursuant to paragraph (ii) of Clause 3.4.3 above.

3.4.7 The Security Agent shall:

- (i) promptly upon receipt by it of an Enforcement Action Notice or Updated Enforcement Action Notice, send the same to the Company and the External Creditors; and
- (ii) promptly notify the Company and the External Creditors following the occurrence of a Standstill Termination Event.

3.4.8 Only one Standstill Period shall be in effect at any time but External Creditors may jointly issue an Enforcement Action Notice (or an Updated Enforcement Action Notice) and more than one Standstill Default may be specified in an Enforcement Action Notice (or an Updated Enforcement Action Notice), in which case as appropriate, references in the above provisions of this Clause 3.4 to an External Creditor which has delivered an Enforcement Action Notice (or an Updated Enforcement Action Notice) shall be construed as a reference to each External Creditor which has delivered an Enforcement Action Notice (or an

Updated Enforcement Action Notice) and references to a Standstill Default shall be construed as a reference to each Standstill Default specified in the relevant Enforcement Action Notice (or Updated Enforcement Action Notice).

- 3.4.9 If an External Creditor receives or recovers any amount on account of or in relation to Liabilities or by way of set-off in respect of any of the Liabilities during a Standstill Period, that receipt or recovery will be subject to Clause 8 (*Turnover by the Creditors*).

3.5 Amendments and waivers: Initial Bank Facilities Creditors/Additional Creditors

Subject to Clause 27 (*Consents, amendments and override*):

- 3.5.1 the Initial Bank Facilities Creditors may amend or waive the terms of the Finance Documents in accordance with their terms (and subject to any consent required under the Finance Documents) at any time; and
- 3.5.2 the Additional Creditors may amend or waive the terms of the Additional Finance Documents in accordance with their terms (and subject to any consent required under the Additional Finance Documents) at any time,

provided that, in each case, following any such amendment or waiver, the Liabilities owing to the relevant External Creditor continue to satisfy the criteria in the definition of "Permitted Additional Debt" (as in effect as at the date of the relevant Liabilities being entered into).

3.6 Security: Initial Bank Facilities Creditors/Additional Creditors

Other than as set out in Clause 3.7 (*Security: Ancillary Lenders and Issuing Banks*), each External Creditor (other than a Hedge Counterparty, in respect of which Clause 4.7 (*Security: Hedge Counterparties*) applies) may take, accept or receive the benefit of:

- 3.6.1 any Security in respect of the relevant Initial Bank Facilities Liabilities and/or Additional Liabilities owed it from any member of the Group or any Third Party Security Provider in addition to the Common Transaction Security which (except for any Security permitted under Clause 3.7 (*Security: Ancillary Lenders and Issuing Banks*)), to the extent legally possible and subject to the Agreed Guarantee/Security Principles, is at the same time also offered either:
- (i) to the Security Agent as trustee or security agent for the other Secured Parties in respect of their Liabilities; or
 - (ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee or security agent for the Secured Parties:
 - (a) to the other Secured Parties in respect of their Liabilities; or
 - (b) to the Security Agent under a parallel debt structure for the benefit of the other Secured Parties,

and ranks in the same order of priority as that contemplated in Clause 2.2 (*Transaction Security*); and

- 3.6.2 any guarantee, indemnity or other assurance against loss from any member of the Group or any Third Party Security Provider in respect of the relevant Initial

Bank Facilities Liabilities or Additional Liabilities owed to it in addition to those in:

- (i) the original form of the Initial Bank Facilities Agreement (or the original form of any Additional Finance Document);
- (ii) this Agreement; or
- (iii) any Common Assurance,

if (except for any guarantee, indemnity or other assurance against loss permitted under Clause 3.7 (*Security: Ancillary Lenders and Issuing Banks*) and to the extent legally possible and subject to the Agreed Guarantee/Security Principles, at the same time, such guarantee, indemnity or other assurance against loss: (a) is also offered to the other Secured Parties in respect of their Liabilities; and (b) ranks in the same order of priority as that provided in Clause 2 (*Ranking and Priority*)).

3.7 Security: Ancillary Lenders and Issuing Banks

No Ancillary Lender or Issuing Bank will, unless the prior consent of the Majority External Creditors is obtained, take, accept or receive from any member of the Group the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities owed to it other than:

3.7.1 the Common Transaction Security;

3.7.2 each guarantee, indemnity or other assurance against loss contained in:

- (i) the original form of the Initial Bank Facilities Agreement or the original form of any Additional Finance Document;
- (ii) this Agreement; or
- (iii) any Common Assurance;

3.7.3 indemnities and assurances against loss contained in the Ancillary Documents no greater in extent than any of those referred to in Clause 3.7.2 above;

3.7.4 any Cash Cover permitted under the Initial Bank Facilities Agreement or any Additional Facility Document relating to any Ancillary Facility or for any Letter of Credit issued by an Issuing Bank;

3.7.5 the indemnities contained in an ISDA Master Agreement (in the case of a Hedging Ancillary Document which is based on an ISDA Master Agreement) or any indemnities which are similar in meaning and effect to those indemnities (in the case of a Hedging Ancillary Document which is not based on an ISDA Master Agreement); or

3.7.6 any Security, guarantee, indemnity or other assurance against loss giving effect to, or arising as a result of the effect of, any netting or set-off arrangement relating to the Ancillary Facilities for the purpose of netting debit and credit balances arising under the Ancillary Facilities.

3.8 Restriction on Enforcement: Ancillary Lenders and Issuing Banks

Subject to Clause 3.9 (*Permitted Enforcement: Ancillary Lenders and Issuing Banks*), so long as any of the External Creditor Liabilities (other than any Liabilities owed to the Ancillary

Lenders or Issuing Banks) are or may be outstanding, none of the Ancillary Lenders nor the Issuing Banks shall be entitled to take any Enforcement Action in respect of any of the Liabilities owed to it in its capacity as Ancillary Lender or Issuing Bank.

3.9 Permitted Enforcement: Ancillary Lenders and Issuing Banks

3.9.1 Subject to Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*), each Ancillary Lender and Issuing Bank may take Enforcement Action which would be available to it but for Clause 3.8 (*Restriction on Enforcement: Ancillary Lenders and Issuing Banks*) if:

- (i) at the same time as, or prior to, that action, Enforcement Action has been taken in respect of the Initial Bank Facilities Liabilities or Additional Liabilities (excluding the Liabilities owing to Ancillary Lenders and the Issuing Banks), in which case the Ancillary Lenders and the Issuing Banks may take the same Enforcement Action as has been taken in respect of those Initial Bank Facilities Liabilities or Additional Liabilities;
- (ii) that action is contemplated by the Initial Bank Facilities Agreement or, if applicable, the relevant Additional Facility Document or by Clause 3.7 (*Security: Ancillary Lenders and Issuing Banks*);
- (iii) that Enforcement Action is taken in respect of Cash Cover which has been provided in accordance with the Initial Bank Facilities Agreement or any Additional Facility Document;
- (iv) at the same time as or prior to, that action, the consent of the Majority External Creditors to that Enforcement Action is obtained; or
- (v) an Insolvency Event has occurred in relation to any member of the Group, in which case after the occurrence of that Insolvency Event, each Ancillary Lender and each Issuing Bank shall be entitled (if it has not already done so) to exercise any right it may otherwise have in respect of that member of the Group to:
 - (a) accelerate any of that member of the Group's Initial Bank Facilities Liabilities or Additional Liabilities owed to that Ancillary Lender or Issuing Bank in its capacity as an Ancillary Lender or Issuing Bank (as applicable) or declare them prematurely due and payable on demand;
 - (b) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Initial Bank Facilities Liabilities or Additional Liabilities owed to that Ancillary Lender or Issuing Bank in its capacity as an Ancillary Lender or Issuing Bank (as applicable);
 - (c) exercise any right of set-off or take or receive any Payment in respect of any Initial Bank Facilities Liabilities or Additional Liabilities of that member of the Group owed to that Ancillary Lender or Issuing Bank in its capacity as an Ancillary Lender or Issuing Bank (as applicable); or
 - (d) claim and prove in the insolvency process of that member of the Group for the Initial Bank Facilities Liabilities or Additional Liabilities owed to that Ancillary Lender or Issuing Bank in its capacity as an Ancillary Lender or Issuing Bank (as applicable).

3.9.2 Clause 3.8 (*Restriction on Enforcement: Ancillary Lenders and Issuing Banks*) shall not restrict any right of an Ancillary Lender:

- (i) to demand repayment or prepayment of any of the Liabilities owed to it prior to the expiry date of the relevant Ancillary Facility; or
- (ii) to net or set-off in relation to a Multi-account Overdraft,

in accordance with the terms of the Initial Bank Facilities Agreement or, if applicable, the relevant Additional Facility Document and to the extent that the demand is required to reduce, or the netting or set-off represents a reduction from the Gross Outstandings of that Multi-account Overdraft to or towards an amount equal to its Designated Net Amount.

3.10 No guarantee or indemnity from Third Party Security Providers

The Secured Parties acknowledge and agree that the Third Party Security Providers do not guarantee or indemnify any Debtor's obligations under the Finance Documents or Additional Finance Documents and nothing in this Agreement shall be taken to imply any such guarantee and indemnity.

4 Hedge Counterparties and Hedging Liabilities

4.1 Identity of Hedge Counterparties

4.1.1 Subject to Clause 4.1.2 below, no entity providing hedging arrangements to a Debtor shall be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity in respect of any of the liabilities and obligations arising in relation to those hedging arrangements nor shall those liabilities and obligations be treated as Hedging Liabilities unless that entity is or becomes a Party as a Hedge Counterparty.

4.1.2 Clause 4.1.1 above shall not apply to a Hedging Ancillary Lender.

4.2 Restriction on Payment: Hedging Liabilities

The Debtors shall not, and shall procure that no other member of the Group will, make any Payment of the Hedging Liabilities at any time, unless:

- 4.2.1** that Payment is permitted under Clause 4.3 (*Permitted Payments: Hedging Liabilities*); or
- 4.2.2** the taking or receipt of that Payment is permitted under Clause 4.9.4 (*Permitted enforcement: Hedge Counterparties*).

4.3 Permitted Payments: Hedging Liabilities

4.3.1 Subject to Clause 4.3.2, a Debtor may make Payments to any Hedge Counterparty in respect of the Hedging Liabilities then due to that Hedge Counterparty under any Hedging Agreement in accordance with the terms of that Hedging Agreement:

- (i) if the Payment is a scheduled Payment arising under the relevant Hedging Agreement (including any ordinary course payment under the relevant Hedging Agreement in respect of fees, taxes, costs and/or expenses);

- (ii) to the extent that a Debtor's obligation to make the Payment arises as a result of the operation of:
 - (a) any of sections 2(d) (*Deduction or Withholding for Tax*), 2(e) (*Default Interest; Other Amounts*), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*) and 11 (*Expenses*) of the 1992 ISDA Master Agreement (if the Hedging Agreement is based on a 1992 ISDA Master Agreement);
 - (b) any of sections 2(d) (*Deduction or Withholding for Tax*), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*), 9(h)(i) (*Prior to Early Termination*) and 11 (*Expenses*) of the 2002 ISDA Master Agreement (if the Hedging Agreement is based on a 2002 ISDA Master Agreement); or
 - (c) any provision of a Hedging Agreement which is similar in meaning and effect to any provision listed in paragraph (a) or (b) above (if the Hedging Agreement is not based on an ISDA Master Agreement);
- (iii) to the extent that a Debtor's obligation to make the Payment arises from a Non-Credit Related Close-Out;
- (iv) subject to Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*), to the extent that a Debtor's obligation to make the Payment arises from:
 - (a) a Credit Related Close-Out in relation to that Hedging Agreement; or
 - (b) a Permitted Automatic Early Termination under that Hedging Agreement which arises as a result of an event relating to a Debtor;
- (v) to the extent that no Event of Default is continuing or would result from that Payment and a Debtor's obligation to make the Payment arises as a result of a close-out or termination arising as a result of:
 - (a) section 5(a)(vii) (*Bankruptcy*) of the ISDA Master Agreement (if the relevant Hedging Agreement is based on an ISDA Master Agreement) and the Event of Default (as defined in the relevant Hedging Agreement) has occurred with respect to the relevant Hedge Counterparty;
 - (b) any provision of a Hedging Agreement which is similar in meaning and effect to any provision listed in paragraph (a) above (if the Hedging Agreement is not based on an ISDA Master Agreement) and the equivalent event of default has occurred with respect to the relevant Hedge Counterparty; or
 - (c) a Debtor terminating or closing out the relevant Hedging Agreement as a result of a Hedging Force Majeure and the Termination Event (as defined in the relevant Hedging Agreement in the case of a Hedging Agreement based on an ISDA Master Agreement) or the equivalent termination event (in the case of a

Hedging Agreement not based on an ISDA Master Agreement) has occurred with respect to the relevant Hedge Counterparty; or

- (vi) to the extent that a Debtor's right or obligation to make the Payment arises out of a reduction in the hedged amount including in accordance with Clause 4.13 (*Total Interest Rate Hedged Amount*); or
- (vii) the Majority External Creditors have given prior consent to the Payment being made,

provided that nothing in the Debt Documents shall restrict any Debtor's ability to make payment of any up-front fees, premium or other similar amount in relation to any Fully Paid Transaction entered into by a Debtor with a person that is not a party to this Agreement.

4.3.2 No Payment may be made to a Hedge Counterparty under Clause 4.3.1 if any scheduled Payment due from that Hedge Counterparty to a Debtor under a Hedging Agreement to which they are both party is due and unpaid and to the extent that such amount has not been factored into the Payment arising as a result of a close-out or termination, unless:

- (i) the Hedge Counterparty has withheld such amounts in accordance with section 2(a)(iii) (*General Obligations*) of the relevant ISDA Master Agreement; or
- (ii) the Hedge Counterparty has already designated an Early Termination Date (as defined in the relevant ISDA Master Agreement) in accordance with Clause 4.3.3 below; or
- (iii) the prior consent of the Majority External Creditors is obtained.

4.3.3 Failure by a Debtor to make a Payment to a Hedge Counterparty which results solely from the operation of Clause 4.3.2 shall, without prejudice to Clause 4.4 (*Payment obligations continue*), not result in a default (however described) in respect of a Debtor under that Hedging Agreement or any other Finance Document or Additional Finance Document unless the Hedge Counterparty has already designated an Early Termination Date (as defined in the 1992 ISDA Master Agreement or the 2002 ISDA Master Agreement as applicable) other than as a result of failure by the relevant Debtor to make a Payment to a Hedge Counterparty in accordance with Clause 4.3.2.

4.4 Payment obligations continue

No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 4.2 (*Restriction on Payment: Hedging Liabilities*) and 4.3 (*Permitted Payments: Hedging Liabilities*). However, the Debtors shall not be required to make any Payment (including of any accrued default interest) until any restrictions that may prevent it from making such Payment pursuant to the terms of any of those Clauses have ceased to exist.

4.5 No acquisition of Hedging Liabilities

The Debtors shall not, and shall procure that no other member of the Group nor the Third Party Security Provider will:

- 4.5.1** enter into any Liabilities Acquisition as the acquirer of such Liabilities; or

4.5.2 beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any of the Hedging Liabilities unless the prior consent of the Majority External Creditors is obtained.

4.6 Amendments and waivers: Hedging Agreements

4.6.1 Subject to Clause 4.6.2, the Hedge Counterparties may not, at any time, amend or waive any term of the Hedging Agreements.

4.6.2 A Hedge Counterparty may amend or waive any term of a Hedging Agreement in accordance with the terms of that Hedging Agreement if:

- (i) the amendment or waiver is minor or administrative in nature;
- (ii) the amendment or waiver is required to comply with the regulatory requirements binding on any Hedge Counterparty;
- (iii) the amendment or waiver is not restricted by the Finance Documents or any Additional Finance Documents; or
- (iv) the Majority External Creditors consent.

4.7 Security: Hedge Counterparties

The Hedge Counterparties may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss from any member of the Group or any Third Party Security Provider in respect of the Hedging Liabilities other than:

4.7.1 the Common Transaction Security;

4.7.2 any guarantee, indemnity or other assurance against loss contained in:

- (i) the Initial Bank Facilities Agreement or any equivalent provision in any Additional Finance Documents;
- (ii) this Agreement;
- (iii) any Common Assurance; or
- (iv) the relevant Hedging Agreement no greater in extent than any of those referred to in paragraphs (i) to (iii) above;

4.7.3 as otherwise contemplated by Clause 3.6 (*Security: Initial Bank Facilities Creditors/Additional Creditors*); and

4.7.4 the indemnities contained in the ISDA Master Agreement (in the case of a Hedging Agreement which is based on an ISDA Master Agreement) or any indemnities which are similar in meaning and effect to those indemnities (in the case of a Hedging Agreement which is not based on an ISDA Master Agreement).

4.8 Restriction on enforcement: Hedge Counterparties

Subject to Clauses 4.9 (*Permitted enforcement: Hedge Counterparties*) and 4.10 (*Required enforcement: Hedge Counterparties*) and without prejudice to each Hedge Counterparty's rights under Clauses 10.2 (*Enforcement instructions*) and 10.3 (*Manner of enforcement*), the Hedge Counterparties shall not take any Enforcement Action in

respect of any of the Hedging Liabilities or any of the hedging transactions under any of the Hedging Agreements at any time.

4.9 Permitted enforcement: Hedge Counterparties

4.9.1 To the extent that it is able to do so under the relevant Hedging Agreement and this Agreement, a Hedge Counterparty may terminate or close out in whole or in part any hedging transaction under that Hedging Agreement prior to its stated maturity:

Non-Credit Related Close-Outs

- (i) if, prior to a Distress Event, the relevant Debtor has certified to that Hedge Counterparty that that termination or close-out would not result in a breach of the Finance Documents and any Additional Finance Documents;
- (ii) if a Hedging Force Majeure has occurred in respect of that Hedging Agreement;
- (iii) on or immediately following:
 - (a) the Final Discharge Date (but for these purposes only, discounting the fact that Hedging Liabilities may not have been fully and finally discharged);
 - (b) (in respect of Hedging Liabilities under Hedging Agreements entered into to hedge amounts due under the Finance Documents):
 - (I) the scheduled final maturity date in respect of the Term Facility under and as defined in the Initial Bank Facilities Agreement; or
 - (II) the date on which the Initial Bank Facilities Liabilities relating to the Term Facility under and as defined in the Initial Bank Facilities Agreement have been fully and finally discharged, whether or not as a result of enforcement action, refinancing, prepayment, repayment or cancellation in full of the Initial Bank Facilities Liabilities, and the Senior Lenders are under no further obligation to provide financial accommodation to any Debtor in respect of the Term Facility under and as defined in the Initial Bank Facilities Agreement, unless such discharge has occurred as a result of a refinancing and a Hedge Counterparty (or its Affiliate) is a floating rate lender in respect of the refinancing (and with a ranking in the new order of priority that is equivalent to the ranking of the Initial Bank Facilities Liabilities immediately before such refinancing); or
 - (c) (in respect of Hedging Liabilities under Hedging Agreements entered into to hedge amounts due under the Finance Documents), a cancellation of the Initial Bank Facilities Liabilities of such Hedge Counterparty (or its Affiliate) and repayment of all outstanding Utilisations together with all other amounts under the

Finance Documents owing to such Hedge Counterparty (or its Affiliate) pursuant to clause 12.1 (*Exit*) of the Initial Bank Facilities Agreement; or

- (d) in respect of Hedging Liabilities under Hedging Agreements entered into after the Closing Date to hedge amounts due under Additional Finance Documents, the occurrence of such events analogous to those set forth in paragraph (b) or (c) above,

subject to, where such discharge has occurred as a result of a refinancing of the relevant Commitments, paragraph (v) below.

- (iv) subject to paragraph (v) below, if there is a cancellation and repayment of, or transfer of, all of the Initial Bank Facilities Liabilities or Additional Liabilities (as the case may be) owed to that Hedge Counterparty or its Affiliate as a result of the exercise of rights under clause 11.1 (*Illegality*), clause 11.6 (*Right of cancellation and repayment in relation to a single Lender*) or clause 41.7 (*Replacement of a Lender*) of the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent (as applicable) by a Debtor.

- (v) in the circumstances to which paragraph (iii) or (iv) relate:

- (a) on or prior to the date on which the relevant Commitment of the relevant Hedge Counterparty or its Affiliate (as applicable) is reduced to zero or that Hedge Counterparty or its Affiliate (as applicable) no longer has any relevant Commitment or the relevant scheduled final maturity date has occurred or the relevant discharge has occurred (in each case as applicable) (the “**Relevant Date**”), the Company may identify an Eligible Transferee (the “**New Hedge Counterparty**”) willing to accept the novation of the relevant Hedge Counterparty’s rights and obligations in respect of the Interest Rate Hedging (if any) under the relevant Hedging Agreement. Following delivery of a notice by the relevant Debtor identifying a New Hedge Counterparty to the relevant Hedge Counterparty:

- (I) such Hedge Counterparty will (at the cost and expense of the Company (but excluding any purchase price, premium or similar payment to be made by the New Hedge Counterparty to the relevant Hedge Counterparty)) negotiate (in good faith and acting reasonably) with the New Hedge Counterparty and use reasonable endeavours (taking into account any legal or regulatory impediments) with a view to agreeing and entering into the form of documentation required to effect the novation from that Hedge Counterparty to the New Hedge Counterparty on mutually satisfactory terms as soon as reasonably practicable following delivery of the notice by the relevant Debtor referred to in paragraph (a) above;

- (II) the relevant Hedge Counterparty shall only be obliged to enter into the novation documentation referred to in sub-

paragraph (I) 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 novation; and

- (III) the relevant Hedge Counterparty shall perform the checks described in sub-paragraph (II) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the New Hedge Counterparty and the relevant Debtor when it is satisfied that it has completed those checks; and
- (b) if no novation has been effected (on the terms set out above) on or prior to the date falling 20 Business Days following the Relevant Date, the Hedge Counterparty may terminate the relevant hedging transactions under its Hedging Agreements;
- (vi) in respect of Hedging Liabilities under Hedging Agreements which incorporate by reference the amendments set out in the attachment to the ISDA 2013 EMIR NFC Representation Protocol, if an Additional Termination Event (as defined in the relevant Hedging Agreement) occurs pursuant to section (iii)(2) of such attachment;
- (vii) in respect of Hedging Liabilities under Hedging Agreements which incorporate by reference either:
 - (a) the amendments set out in the 2006 ISDA Definitions Benchmark Annex to the ISDA Benchmarks Supplement (as published by ISDA on 19 September 2018) (the “**Benchmark Annex**”); or
 - (b) the 2021 ISDA Interest Rate Derivative Definitions (the “**2021 Definitions**”),if a no fault termination right arises pursuant to section 1.5 of the Benchmark Annex or pursuant to section 8.6.4 of the 2021 Definitions (as applicable);
- (viii) in respect of Hedging Liabilities under Hedging Agreements which incorporate the 2005 ISDA Commodity Definitions (the “**Commodity Definitions**”), the occurrence of a “No Fault Termination” (as defined in the Commodity Definitions) pursuant to Section 7.5(d)(i) of the Commodity Definitions, provided that the Disruption Fallbacks (as defined in the Commodity Definitions) apply in the order specified in Section 7.5(d)(i) of the Commodity Definitions and are not otherwise specified in the confirmation to such Hedging Agreement;
- (ix) if that termination or close-out is required or necessary to comply with Clause 4.13 (*Total Interest Rate Hedged Amount*); or
- (x) if the Majority External Creditors give prior consent to that termination or close-out being made;

Credit Related Close-Outs

- (xi) subject to Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*), if a Distress Event has occurred;
- (xii) subject to Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*), if an Event of Default has occurred and is continuing under clause 28.6 (*Insolvency*), clause 28.7 (*Insolvency proceedings*) or clause 28.8 (*Creditors' process*) of the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent in relation to a Debtor which is party to a Hedging Agreement with the relevant Hedge Counterparty; or
- (xiii) subject to Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*), in respect of Hedging Liabilities entered into by any Hedge Counterparty in order to hedge liabilities of a Debtor under the Initial Bank Facilities Agreement or any Additional Finance Document where the relevant Hedge Counterparty or its Affiliate (if applicable) does not have any Corresponding Commitment in the following circumstances:
 - (a) an Event of Default (as defined in the relevant Hedging Agreement) has occurred with respect to the Debtor that is party to such Hedging Agreement under Section 5(a)(ii) (*Breach of Agreement*) of an ISDA Master Agreement;
 - (b) an Event of Default (as defined in the relevant Hedging Agreement) has occurred with respect to the Debtor that is party to such Hedging Agreement under Section 5(a)(iii) (*Credit Support Default*) of an ISDA Master Agreement, provided that such Event of Default (as defined in the relevant Hedging Agreement) is materially adverse to the interests of the Secured Parties (in the opinion of the Majority External Creditors (acting reasonably));
 - (c) any of the representations made to it by the Debtor that is party to such Hedging Agreement pursuant to paragraph (b) of Section 3 (*Representations*) of an ISDA Master Agreement are, on the date of any transaction under such Hedging Agreement, incorrect or misleading in any material respect unless the event or circumstance giving rise to the breach is capable of remedy and is remedied within 20 Business Days of (i) the Hedge Counterparty giving notice to the relevant Debtor; and (ii) that Debtor becoming aware of the relevant event or circumstance;
 - (d) an Event of Default (as defined in the relevant Hedging Agreement) has occurred with respect to the Debtor that is party to such Hedging Agreement under Section 5(a)(viii) (*Merger Without Assumption*) of an ISDA Master Agreement; or
 - (e) a Termination Event (as defined in the relevant Hedging Agreement) has occurred with respect to the Debtor that is party to such Hedging Agreement under (i) Section 5(b)(v) (*Credit Event Upon Merger*) of the 2002 ISDA Master Agreement, provided that

Designated Event for the purposes of, and as defined under, the 2002 ISDA Master Agreement means that X consolidates or amalgamates with, or merges with or into, or reorganises, reincorporates or reconstitutes into or as, another entity or (ii) any equivalent provision with a similar meaning of a Hedging Agreement based on the 1992 ISDA Master Agreement or which is not based on an ISDA Master Agreement.

- 4.9.2** A Hedge Counterparty shall perform the checks described in paragraph (v) above as soon as reasonably practicable following any request to do so by the relevant Debtor and shall notify that Debtor when it is satisfied that it has completed those checks.
- 4.9.3** Subject to Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*), if a Debtor has defaulted on any Payment due under a Hedging Agreement (after allowing any applicable notice or grace periods and subject to Clause 4.3.3 (*Permitted Payments: Hedging Liabilities*)) and the default has continued unwaived for more than 5 Business Days (such period commencing, for the avoidance of doubt, after the expiry of any applicable notice or grace periods but running concurrently to any Standstill Period) after the date on which the notice of that default has been given to the Security Agent pursuant to Clause 24.3.6 (*Notification of prescribed events*), the relevant Hedge Counterparty:
- (i) may, to the extent that it is able to do so under the relevant Hedging Agreement, terminate or close out in whole or in part any hedging transaction under that Hedging Agreement; and
 - (ii) until such time as the Security Agent has given notice to that Hedge Counterparty that the Transaction Security is being enforced (or that any formal steps are being taken to enforce the Transaction Security), shall be entitled to exercise any right it might otherwise have to sue for, commence or join legal or arbitration proceedings against a Debtor to recover any Hedging Liabilities due under that Hedging Agreement.
- 4.9.4** To the extent it is able to do so under the relevant Hedging Agreement, after the occurrence of an Insolvency Event in relation to any member of the Group, each Hedge Counterparty shall be entitled to exercise any right it may otherwise have to:
- (i) close out or terminate any Hedging Liabilities of that member of the Group;
 - (ii) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Hedging Liabilities;
 - (iii) exercise any right of set-off or take or receive any Payment in respect of any Hedging Liabilities of that member of the Group; or
 - (iv) claim and prove in the liquidation, administration or other insolvency proceedings of that member of the Group for the Hedging Liabilities owing to it.

4.10 Required enforcement: Hedge Counterparties

4.10.1 Subject to Clause 4.10.2, a Hedge Counterparty shall promptly terminate or close out in full any hedging transaction under all or any of the Hedging Agreements to which it is party prior to its stated maturity, following:

- (i) the occurrence of an Acceleration Event and delivery to it of a notice from the Security Agent that that Acceleration Event has occurred; and
- (ii) delivery to it of a subsequent notice from the Security Agent (acting on the instructions of the Majority External Creditors) instructing it to do so.

4.10.2 Clause 4.10.1 shall not apply to the extent that that Acceleration Event occurred as a result of an arrangement made between a Debtor and any External Creditor with the purpose of bringing about that Acceleration Event.

4.10.3 If a Hedge Counterparty is entitled to terminate or close out any hedging transaction under Clause 4.9.3 (*Permitted enforcement: Hedge Counterparties*) (or, subject to Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*), would have been able to if that Hedge Counterparty had given the notice of default referred to in that Clause to the Security Agent) but has not terminated or closed out each such hedging transaction, that Hedge Counterparty shall promptly terminate or close out in full each such hedging transaction following a request to do so by the Security Agent (acting on the instructions of the Majority External Creditors).

4.11 Treatment of Payments due to a Debtor on termination of hedging transactions

4.11.1 If, on termination of any hedging transaction under any Hedging Agreement occurring after a Distress Event, a settlement amount or other amount (following the application of any Close-Out Netting, Payment Netting or Inter-Hedging Agreement Netting in respect of that Hedging Agreement) falls due from a Hedge Counterparty to a Debtor, then that amount shall be paid by that Hedge Counterparty to the Security Agent, treated as the proceeds of enforcement of the Transaction Security and applied in accordance with the terms of this Agreement.

4.11.2 The payment of that amount by the Hedge Counterparty to the Security Agent in accordance with Clause 4.11.1 shall discharge the Hedge Counterparty's obligation to pay that amount to the relevant Debtor.

4.12 Terms of Hedging Agreements

The Debtors party to the Hedging Agreements and the Hedge Counterparties (to the extent party to the Hedging Agreement in question) shall ensure that, at all times:

4.12.1 each Hedging Agreement documents only hedging arrangements entered into for the purpose of hedging the types of liabilities described in the definition of "Hedging Agreement" and that no other hedging arrangements are carried out under or pursuant to a Hedging Agreement;

4.12.2 each Hedging Agreement is based either:

- (i) on an ISDA Master Agreement; or

- (ii) on another framework agreement which is similar in effect to an ISDA Master Agreement;

4.12.3 in the event of a termination of any hedging transaction entered into under a Hedging Agreement, whether as a result of:

- (i) a Termination Event or an Event of Default, each as defined in the relevant Hedging Agreement (in the case of a Hedging Agreement which is based on an ISDA Master Agreement); or
- (ii) an event similar in meaning and effect to either of those described in paragraph (i) above (in the case of a Hedging Agreement which is not based on an ISDA Master Agreement),

that Hedging Agreement will:

- (a) if it is based on a 1992 ISDA Master Agreement, provide for payments under the “Second Method” and will make no material amendment to section 6(e) (*Payments on Early Termination*) of the 1992 ISDA Master Agreement;
- (b) if it is based on a 2002 ISDA Master Agreement, make no material amendment to section 6(e) (*Payments on Early Termination*) of the 2002 ISDA Master Agreement; or
- (c) if it is not based on an ISDA Master Agreement, provide for any other method the effect of which is that the party to which that event is referable will be entitled to receive payment under the relevant termination provisions if the net replacement value of all terminated transactions entered into under that Hedging Agreement is in its favour;

4.12.4 each Hedging Agreement will not provide for Automatic Early Termination, other than to the extent that:

- (i) the provision of Automatic Early Termination is consistent with practice in the relevant derivatives market, taking into account the legal status and jurisdiction of incorporation of the parties to that Hedging Agreement; and
- (ii) that Automatic Early Termination is:
 - (a) as provided for in section 6(a) (*Right to Terminate following Event of Default*) of the 1992 ISDA Master Agreement (if the Hedging Agreement is based on a 1992 ISDA Master Agreement);
 - (b) as provided for in section 6(a) (*Right to Terminate following Event of Default*) of the 2002 ISDA Master Agreement (if the Hedging Agreement is based on a 2002 ISDA Master Agreement); or
 - (c) similar in effect to that described in paragraph (a) or (b) above (if the Hedging Agreement is not based on an ISDA Master Agreement),

as may be modified in accordance with the provisions of the schedule forming part of that Hedging Agreement;

- 4.12.5 each Hedging Agreement will provide that the relevant Hedge Counterparty will be entitled to designate an Early Termination Date (as defined in the relevant ISDA Master Agreement) or otherwise be able to terminate each transaction under such Hedging Agreement if so required pursuant to Clause 4.10 (*Required enforcement: Hedge Counterparties*);
- 4.12.6 each Hedging Agreement will permit the relevant Hedge Counterparty and the relevant Debtor to take such action as may be necessary to comply with Clause 4.13 (*Total Interest Rate Hedged Amount*); and
- 4.12.7 each Hedging Agreement will provide that the Debtor party to that Hedging Agreements may terminate or close out any relevant hedging transaction(s) prior to a Distress Event, provided that the Debtor has certified that that termination or close-out would not result in a breach of the Finance Documents and any Additional Finance Documents.

4.13 Total Interest Rate Hedged Amount

- 4.13.1 The Company shall procure that, at all times, not more than 110 per cent. of the Term Commitments are (i) fixed rate; (ii) effectively bear a fixed rate of interest pursuant to a Hedging Agreement; or (iii) effectively bear a rate of interest which is capped at a maximum rate of interest (the “**Permitted Maximum Interest Rate Hedged Amount**”).
- 4.13.2 Subject to Clause 4.13.1 above, if the Total Interest Rate Hedged Amount is less than the Permitted Maximum Interest Rate Hedged Amount, the relevant Debtor may (but, subject to its obligations to enter into and or maintain hedging in respect of interest rate risk under any other Finance Document or Additional Finance Document, shall be under no obligation to) enter into hedging arrangements, amend, extend or supplement existing hedging arrangements and/or terminate or close out Offsetting Interest Rate Swaps to increase the Total Interest Rate Hedged Amount up to the Permitted Maximum Interest Rate Hedged Amount and such amended, extended or supplemental hedging arrangements shall (provided they are stated to be subject to this Agreement, that the hedging arrangements relate to the Initial Bank Facilities Agreement or any Additional Facility Documents and that the relevant counterparty is a Hedge Counterparty) be deemed to be Hedging Agreements and shall be entitled to benefit from the same guarantees and Security as all existing Hedging Agreements on a *pari passu* basis.
- 4.13.3 If any reduction in the Liabilities owed to the External Creditors under the Debt Documents (excluding the Hedging Liabilities) results in an Interest Rate Hedge Excess then, within 15 Business Days of that reduction becoming effective in accordance with the terms of the relevant Debt Document, the Debtors shall:
 - (i) to the extent that a relevant Hedge Counterparty is willing to do so, enter into Offsetting Interest Rate Swaps; and/or
 - (ii) reduce the Total Interest Rate Hedged Amount by that Interest Rate Hedge Excess by terminating or closing out the relevant hedging transactions in full or in part or reducing the outstanding notional amount (to be selected in the sole discretion of the Debtors),

as may be necessary in order to remedy the Interest Rate Hedge Excess.

4.13.4 The relevant Debtor shall pay to the relevant Hedge Counterparty (in accordance with the relevant Hedging Agreement) an amount equal to the sum of all payments (if any) that become due from the relevant Debtor to a Hedge Counterparty under the relevant Hedging Agreement(s) as a result of any action described in Clause 4.13.3 above.

4.13.5 Each Hedge Counterparty shall co-operate in any process described in Clause 4.13.4 above and shall pay (in accordance with the relevant Hedging Agreement(s)) any amount that becomes due from it under the relevant Hedging Agreement(s) to the relevant Debtor as a result of any action described in Clause 4.13.3 above.

4.14 Transfers by Hedge Counterparties

A Hedge Counterparty may only transfer any of its rights or obligations in respect of the Hedging Agreements to which it is a party to:

4.14.1 a Senior Lender or an Additional Lender;

4.14.2 to a person named in the Approved List (under and as defined in the Initial Bank Facilities Agreement) which has a rating for its long-term unsecured and non credit-enhanced debt obligations of BBB- or higher by S&P or Fitch or Baa3 or higher by Moody's or a comparable rating from an internationally recognised credit rating agency;

4.14.3 an Affiliate of the relevant Hedge Counterparty that has or is guaranteed by an entity which has at least the same or higher rating for its long-term unsecured and non-credit-enhanced debt obligations as that Hedge Counterparty as at the date of the transfer; or

4.14.4 another bank or financial institution with the consent of the relevant Debtor, such consent not to be unreasonably withheld or delayed and deemed to have been given if no express refusal is received by the relevant Hedge Counterparty within 10 Business Days of the consent request being made,

provided, in each case, that:

(i) any transferee has (if not already a Party as a Hedge Counterparty) acceded to this Agreement pursuant to Clause 20.13 (*Creditor Accession Undertaking*) as a Hedge Counterparty;

(ii) such transfer shall not cause or result in a Default or a Termination Event or an additional amount being payable under Section 2(d) of the Hedging Agreement; and

(iii) the consent of the Company shall be required (and the Company may withhold or delay the giving of its consent in its absolute discretion and will not be deemed to have given that consent in any circumstance unless expressly provided by it in writing) where the transfer is to:

(a) a Competitor;

(b) a Hedge Fund;

(c) a Sanctioned Party;

(d) a Distressed Debt Fund; and/or

- (e) an entity which holds a rating of less than BBB- by S&P or Baa3 from Moody's or a comparable rating from an internationally recognised credit rating agency.

4.15 Information rights for Hedge Counterparties

The relevant Debtor shall deliver to each Hedge Counterparty (other than any Hedge Counterparty which is also a Senior Lender or Additional Creditor or whose Affiliate is a Senior Lender or Additional Creditor) the same information and/or reports as are delivered to the Senior Lenders, the Additional Creditors and/or the Creditor Representatives in accordance with the Initial Bank Facilities Agreement or applicable Additional Finance Documents.

4.16 Notice under Transaction Security

The execution under this Agreement, any Debtor/Guarantor Accession Deed or any Creditor Accession Undertaking (as applicable) by any Debtor and any Hedge Counterparty shall constitute notice to, and acknowledgement by, each Hedge Counterparty of any Security created by such Debtor over all its rights to and title and interests in any Hedging Agreement entered into between such Debtor and the relevant Hedge Counterparty.

5 Intra-Group Lenders and Intra-Group Liabilities

5.1 Restriction on Payment: Intra-Group Liabilities

Prior to the Final Discharge Date, the Debtors shall not, and shall procure that no other member of the Group will, make any Payments of the Intra-Group Liabilities at any time unless:

- 5.1.1 that Payment is permitted under Clause 5.2 (*Permitted Payments: Intra-Group Liabilities*); or
- 5.1.2 the taking or receipt of that Payment is permitted under Clause 5.7.3 (*Permitted enforcement: Intra-Group Lenders*).

5.2 Permitted Payments: Intra-Group Liabilities

- 5.2.1 Subject to Clause 5.2.2, the Debtors and other members of the Group may make Payments in respect of the Intra-Group Liabilities (whether of principal, interest or otherwise and including by way of set-off) at any time.
- 5.2.2 Payments in respect of the Intra-Group Liabilities may not be made pursuant to Clause 5.2.1 if, at the time of the Payment, an Acceleration Event has occurred, unless:
 - (i) prior to the Final Discharge Date, the Majority External Creditors consent to that Payment being made; or
 - (ii) that Payment is made to facilitate Payment of the External Creditor Liabilities.
- 5.2.3 Notwithstanding anything in this Agreement or any Debt Document to the contrary, nothing in this Agreement or any Debt Document shall prohibit or restrict:

- (i) the roll up or capitalisation of interest on, or other amounts in respect of, the Intra-Group Liabilities or the payment of interest on the Intra-Group Liabilities by the issue of payment in kind instruments, an issue of shares, an incurrence of indebtedness constituting Intra-Group Liabilities (including the issue of payment-in-kind instruments) or any forgiveness, write off or capitalisation of any Intra-Group Liabilities or the release or other discharge of any such Intra-Group Liabilities (or any step, action or arrangement which is similar or equivalent to any of the foregoing) (or any amounts due, payable or owing in connection therewith);
- (ii) any of the Intra-Group Liabilities of a Debtor or a member of the Group being released or discharged in consideration for the issue of shares in that Debtor or any other member of the Group, provided that the ownership interest of the relevant Debtor or member of the Group prior to such issue is not diluted as a result and provided further that (in any such case) in the event that the shares of such Debtor or member of the Group are subject to Transaction Security, prior to such issue, then the percentage of shares in such Debtor or member of the Group subject to Transaction Security is not diluted;
- (iii) any Payment to an Intra-Group Lender pursuant to the terms of any Debt Document which is a Payment other than in respect of the Intra-Group Liabilities and which is not prohibited under the terms of any Debt Document or by Clause 3 (*Initial Bank Facilities Creditors/Additional Creditors and Initial Bank Facilities Liabilities/Additional Liabilities*) and/or Clause 4 (*Hedge Counterparties and Hedging Liabilities*); and
- (iv) any payment made (whether cash or in kind) or other step or action taken to facilitate any Payment (or other matter) in respect of any Intra-Group Liabilities (in each case to the extent that such Payment or other matter is not prohibited by this Clause 5),

and, for the avoidance of doubt, none of the foregoing shall constitute Enforcement Action.

5.3 Payment obligations continue

No Debtor nor any other member of the Group shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 5.1 (*Restriction on Payment: Intra-Group Liabilities*) and 5.2 (*Permitted Payments: Intra-Group Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

5.4 Acquisition of Intra-Group Liabilities

5.4.1 Subject to Clause 5.4.2, each Debtor may, and may permit any other member of the Group to:

- (i) enter into any Liabilities Acquisition; or
- (ii) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any Intra-Group Liabilities at any time.

5.4.2 Subject to Clause 5.4.3, no action described in Clause 5.4.1 may take place in respect of any Intra-Group Liabilities if:

- (i) that action would result in a breach of any Debt Document; or
- (ii) at the time of that action, an Acceleration Event has occurred.

5.4.3 The restrictions in Clause 5.4.2 shall not apply if:

- (i) prior to the Final Discharge Date, the Majority External Creditors consent to that action; or
- (ii) that action is taken to facilitate Payment of the External Creditor Liabilities.

5.5 Security: Intra-Group Lenders

Prior to the Final Discharge Date, the Intra-Group Lenders may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of the Intra-Group Liabilities, unless:

5.5.1 that Security, guarantee, indemnity or other assurance against loss is expressly permitted by the Initial Bank Facilities Agreement and any Additional Finance Document; or

5.5.2 prior to the Final Discharge Date, the prior consent of the Majority External Creditors is obtained.

5.6 Restriction on enforcement: Intra-Group Lenders

Subject to Clause 5.7 (*Permitted enforcement: Intra-Group Lenders*), none of the Intra-Group Lenders shall be entitled to take any Enforcement Action in respect of any of the Intra-Group Liabilities at any time prior to the Final Discharge Date.

5.7 Permitted enforcement: Intra-Group Lenders

After the occurrence of an Insolvency Event in relation to any member of the Group, each Intra-Group Lender may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Intra-Group Lender in accordance with Clause 7.5 (*Filing of claims*)) exercise any right it may otherwise have against that member of the Group to:

5.7.1 accelerate any of that member of the Group's Intra-Group Liabilities or declare them prematurely due and payable or payable on demand;

5.7.2 make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Intra-Group Liabilities;

5.7.3 exercise any right of set-off or take or receive any Payment in respect of any Intra-Group Liabilities of that member of the Group; or

5.7.4 claim and prove in the liquidation, administration or other insolvency proceedings of that member of the Group for the Intra-Group Liabilities owing to it.

6 Subordinated Creditors and Subordinated Liabilities

6.1 Restriction on Payment: Subordinated Liabilities

Prior to the Final Discharge Date, the Company shall not, and shall procure that no other member of the Group shall, make any Payment of the Subordinated Liabilities at any time unless:

- 6.1.1 that Payment is permitted under Clause 6.2 (*Permitted Payments: Subordinated Liabilities*); or
- 6.1.2 the taking or receipt of that Payment is permitted under Clause 6.9 (*Permitted enforcement: Subordinated Creditor*).

6.2 Permitted Payments: Subordinated Liabilities

6.2.1 The Company may make Payments in respect of the Subordinated Liabilities then due if:

- (i) the Payment would not result in a breach of any term of the Initial Bank Facilities Agreement or the Additional Finance Documents; or
- (ii) the Majority External Creditors consent to that Payment being made.

6.2.2 Notwithstanding anything in this Agreement or any Debt Document to the contrary, nothing in this Agreement or any Debt Document shall prohibit or restrict:

- (i) the roll up or capitalisation of interest on, or other amounts in respect of, the Subordinated Liabilities or the payment of interest on the Subordinated Liabilities by the issue of payment in kind instruments, an issue of shares, an incurrence of indebtedness constituting Subordinated Liabilities (including the issue of payment-in-kind instruments) or any forgiveness, write off or capitalisation of any Subordinated Liabilities or the release or other discharge of any such Subordinated Liabilities (or any step, action or arrangement which is similar or equivalent to any of the foregoing) (or any amounts due, payable or owing in connection therewith);
- (ii) any of the Subordinated Liabilities being released or discharged in consideration for the issue of shares in the Company, provided that the Parent's ownership interest of the Company prior to such issue is not diluted as a result and provided further that (in any such case) in the event that the shares of the Company are subject to Transaction Security, prior to such issue, then the percentage of shares in the Company subject to Transaction Security is not diluted;
- (iii) any Payment to a Subordinated Creditor pursuant to the terms of any Debt Document which is a Payment other than in respect of the Subordinated Liabilities and which is not prohibited under the terms of any Debt Document or by Clause 3 (*Initial Bank Facilities Creditors/Additional Creditors and Initial Bank Facilities Liabilities/Additional Liabilities*) and/or Clause 4 (*Hedge Counterparties and Hedging Liabilities*); and
- (iv) any payment made (whether cash or in kind) or other step or action taken to facilitate any Payment (or other matter) in respect of any Subordinated Liabilities (in each case to the extent that such Payment or other matter is not prohibited by this Clause 6),

and, for the avoidance of doubt, none of the foregoing shall constitute Enforcement Action.

6.3 Payment obligations continue

The Company shall not be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 6.1 (*Restriction on Payment: Subordinated Liabilities*) and 6.2 (*Permitted Payments: Subordinated Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of either of those Clauses.

6.4 No acquisition of Subordinated Liabilities

Prior to the Final Discharge Date, the Company shall not and shall procure that no other member of the Group will:

- 6.4.1 enter into any Liabilities Acquisition; or
- 6.4.2 beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any of the Subordinated Liabilities, unless the prior consent of the Majority External Creditors is obtained.

6.5 Amendments and waivers: Subordinated Creditors

Prior to the Final Discharge Date, neither the Subordinated Creditors nor the Company may amend, waive or agree the terms of any of the documents or instruments pursuant to which the Subordinated Liabilities are constituted unless:

- 6.5.1 the prior consent of the Majority External Creditors is obtained;
- 6.5.2 such amendment is permitted or not prohibited by the terms of the Initial Bank Facilities Agreement and the principal Additional Finance Documents; or
- 6.5.3 that amendment, waiver or agreement is not materially adverse to the interests of the External Creditors (taken as a whole).

6.6 Security: Subordinated Creditors

The Subordinated Creditors may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss from any member of the Group in respect of any of the Subordinated Liabilities prior to the Final Discharge Date other than as permitted by the Initial Bank Facilities Agreement and the principal Additional Finance Documents.

6.7 Representations: Subordinated Creditors

Each Subordinated Creditor represents and warrants to the External Creditors and the Security Agent that:

- 6.7.1 it is a limited liability company or a limited liability company (as applicable), duly incorporated and validly existing under the laws of its jurisdiction of incorporation;
- 6.7.2 subject to the Legal Reservations and the Perfection Requirements, the obligations expressed to be assumed by it in this Agreement and each Transaction

Security Document to which it is a party are legal, valid, binding and enforceable obligations; and

6.7.3 subject to the Legal Reservations and the Perfection Requirements, the entry into and performance by it of, and the transactions contemplated by, this Agreement and each Transaction Security Document to which it is a party and the granting of the Transaction Security pursuant to the Agreed Guarantee/Security Principles do not and will not conflict with:

- (i) subject to the Legal Reservations, any law or regulation applicable to it;
- (ii) its constitutional documents; or
- (iii) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument,

where such conflict, default or termination has or is reasonably likely to have a Material Adverse Effect.

6.8 Restriction on enforcement: Subordinated Creditors

Subject to Clause 6.9 (*Permitted enforcement: Subordinated Creditor*), no Subordinated Creditor shall be entitled to take any Enforcement Action in respect of any of the Subordinated Liabilities at any time prior to the Final Discharge Date.

6.9 Permitted enforcement: Subordinated Creditors

After the occurrence of an Insolvency Event in relation to any member of the Group, each Subordinated Creditor may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Subordinated Creditor in accordance with Clause 7.5 (*Filing of claims*)) exercise any right it may otherwise have in respect of that member of the Group to:

- 6.9.1 accelerate any of that member of the Group's Subordinated Liabilities or declare them prematurely due and payable or payable on demand;
- 6.9.2 make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Subordinated Liabilities;
- 6.9.3 exercise any right of set-off or take or receive any Payment in respect of any Subordinated Liabilities of that member of the Group; or
- 6.9.4 claim and prove in the liquidation, administration or other insolvency proceedings of that member of the Group for the Subordinated Liabilities owing to it.

6.10 Notice of Transaction Security: Subordinated Liabilities

6.10.1 By its execution of this Agreement, each Subordinated Creditor hereby notifies the Company that it has, on or about the date of this Agreement (or, if later, the date on which it accedes to this Agreement as a Subordinated Creditor), assigned or pledged (as applicable) to the Security Agent by way of Transaction Security all of its rights in respect of any agreement evidencing the terms of the Subordinated Liabilities (each a "**Subordinated Loan Agreement**").

6.10.2 Each Subordinated Creditor hereby confirms (for the benefit of the Company and the Security Agent, but no other Party to this Agreement) that:

- (i) it will remain liable under each relevant Subordinated Loan Agreement to perform all the obligations assumed by it under such Subordinated Loan Agreement;
- (ii) none of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to the Company under or in respect of any Subordinated Loan Agreement; and
- (iii) to the extent permitted under the Secured Debt Documents, it will remain entitled to exercise all the rights, powers and discretions which under the terms of the relevant Subordinated Loan Agreement were vested in it, and the Company should continue to send payments and communications under the Subordinated Loan Agreement to it, unless and until the Company receives notice from the Security Agent to the contrary stating that the Transaction Security in respect of such Subordinated Loan Agreement has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and all payments and communications must be sent to, the Security Agent or as it directs.

6.10.3 Each Subordinated Creditor hereby irrevocably instructs and authorises the Company to disclose to the Security Agent any information relating to any Subordinated Loan Agreement entered into by it as requested from the Company by the Security Agent.

6.10.4 The instructions set out in Clauses 6.10.1 to 6.10.3 may not be revoked or amended by the relevant Subordinated Creditor without the prior consent of the Security Agent (but, for the avoidance of doubt, the consent of no other Party shall be required for any such revocation or amendment) and the relevant Subordinated Creditor hereby instructs the Company that it may comply with them without further permission from that Subordinated Creditor or enquiry by the Company.

6.10.5 The notifications, confirmations and instructions given in Clauses 6.10.1 to 6.10.4 are deemed to be given by each Subordinated Creditor:

- (i) in respect of any Subordinated Loan Agreement entered into by it which is in force on the date of this Agreement, on the date of the relevant Transaction Security Document referred to in Clause 6.10.1; and
- (ii) in respect of any Subordinated Loan Agreement which is entered into by it after the date of this Agreement, on the date on which such Subordinated Loan Agreement is entered into.

6.11 Acknowledgement of Transaction Security: Subordinated Liabilities

6.11.1 The Company, by its execution of this Agreement, acknowledges the notice given to it by each Subordinated Creditor pursuant to Clause 6.10 (*Notice of Transaction Security: Subordinated Liabilities*).

6.11.2 The Company hereby confirms to the Security Agent and each Subordinated Creditor that:

- (i) it will make payments and give notices under any Subordinated Loan Agreement as directed in 6.10 (*Notice of Transaction Security: Subordinated Liabilities*) to the extent permitted under the Secured Debt Documents; and
 - (ii) it has not received notice of the interest of any third party in any Subordinated Loan Agreement.
- 6.11.3** The acknowledgements and confirmations given in Clause 6.11.2 are deemed to be given:
- (i) in respect of any Subordinated Loan Agreement which is in force on the date of this Agreement, on the date of the relevant Transaction Security Document in respect of such Subordinated Loan Agreement; and
 - (ii) in respect of any Subordinated Loan Agreement which is entered into after the date of this Agreement, on the date on which such Subordinated Loan Agreement is entered into.

7 Effect of Insolvency Event

7.1 Cash Cover

This Clause 7 is subject to Clause 17.3 (*Treatment of Cash Cover*).

7.2 Distributions

7.2.1 After the occurrence of an Insolvency Event in relation to any member of the Group or Third Party Security Provider, any Party entitled to receive a distribution out of the assets of that member of the Group or Third Party Security Provider in respect of Liabilities owed to that Party shall, to the extent that it is able to do so, direct the person responsible for the distribution of the assets of that member of the Group or Third Party Security Provider to make that distribution to the Security Agent (or to such other person as the Security Agent shall direct) until the Liabilities owing to the Secured Parties have been paid in full.

7.2.2 The Security Agent shall apply distributions made to it under Clause 7.2.1 in accordance with Clause 17 (*Application of proceeds*).

7.3 Set-off

7.3.1 Subject to Clause 7.3.2, to the extent that any Debtor's or Third Party Security Provider's Liabilities are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event in relation to that Debtor or Third Party Security Provider, any Creditor which benefited from that set-off shall pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set-off to the Security Agent for application in accordance with Clause 17 (*Application of proceeds*).

7.3.2 Clause 7.3.1 shall not apply to:

- (i) any such discharge of the Multi account Overdraft Liabilities to the extent that the relevant discharge represents a reduction of the Gross Outstandings of a Multi account Overdraft to or towards an amount equal to its Net Outstandings;

- (ii) any Close-Out Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
- (iii) any Payment Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
- (iv) any Inter-Hedging Agreement Netting by a Hedge Counterparty; and
- (v) any Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender.

7.4 Non-cash distributions

If the Security Agent or any other Secured Party receives a distribution in the form of Non-Cash Consideration in respect of any of the Liabilities (other than any distribution of Non-Cash Recoveries), the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities in accordance with Clause 17.1 (*Order of application*).

7.5 Filing of claims

Without prejudice to any Ancillary Lender's right of netting or set-off relating to a Multi-account Overdraft (to the extent that the netting or set-off represents a reduction of the Gross Outstandings of that Multi-account Overdraft to or towards an amount equal to its Net Outstandings), after the occurrence of an Insolvency Event in relation to any member of the Group or Third Party Security Provider, each Creditor irrevocably authorises the Security Agent, on its behalf, to:

- 7.5.1 take any Enforcement Action (in accordance with the terms of this Agreement) against that member of the Group or Third Party Security Provider;
- 7.5.2 accelerate, sue, prove and give receipt for any or all of that member of the Group's or Third Party Security Provider's Liabilities;
- 7.5.3 collect and receive all distributions on, or on account of, any or all of that member of the Group's or Third Party Security Provider's Liabilities; and
- 7.5.4 file claims, take proceedings and do all other things that the Security Agent considers reasonably necessary to recover that member of the Group's or Third Party Security Provider's Liabilities.

7.6 Further assurance – Insolvency Event

Each Creditor will:

- 7.6.1 do all things that the Security Agent reasonably requests in order to give effect to this Clause 7; and
- 7.6.2 if the Security Agent is not entitled to take any of the actions contemplated by this Clause 7 or if the Security Agent requests that a Creditor take that action, undertake that action itself in accordance with the instructions of the Security Agent or grant a power of attorney to the Security Agent (on such terms as the Security Agent may reasonably require) to enable the Security Agent to take such action.

7.7 Security Agent instructions

For the purposes of Clauses 7.2 (*Distributions*), 7.5 (*Filing of claims*) and 7.6 (*Further assurance – Insolvency Event*), the Security Agent shall act:

- 7.7.1 on the instructions of the group of External Creditors entitled, at that time, to give instructions under Clause 10.2 (*Enforcement instructions*) or Clause 10.3 (*Manner of enforcement*); or
- 7.7.2 in the absence of any such instructions, as it considers in its discretion to be appropriate.

8 Turnover of Receipts

8.1 Cash Cover

This Clause 8 is subject to Clause 17.3 (*Treatment of Cash Cover*).

8.2 Turnover by the Creditors

Subject to Clause 8.3 (*Exclusions*) and Clause 8.4 (*Permitted assurance and receipts*), if, at any time prior to the Final Discharge Date, any Creditor receives or recovers:

- 8.2.1 any Payment or distribution of, or on account of or in relation to, any of the Liabilities which is neither:
 - (i) a Permitted Payment; nor
 - (ii) made in accordance with Clause 17 (*Application of proceeds*);
- 8.2.2 other than where Clause 7.3.1 (*Set-off*) applies, any amount by way of set-off in respect of any of the Liabilities owed to it which does not give effect to a Permitted Payment;
- 8.2.3 notwithstanding Clauses 8.2.1 and 8.2.2, and other than where Clause 7.3.1 (*Set-off*) applies, any amount:
 - (i) on account of, or in relation to, any of the Liabilities:
 - (a) after the occurrence of a Distress Event;
 - (b) during a Standstill Period; or
 - (c) as a result of any other litigation or proceedings against a member of the Group or Third Party Security Provider (other than after the occurrence of an Insolvency Event); or
 - (ii) by way of set-off in respect of any of the Liabilities owed to it during a Standstill Period or after the occurrence of a Distress Event,

other than, in each case, any amount received or recovered in accordance with Clause 17 (*Application of proceeds*);
- 8.2.4 the proceeds of any enforcement of any Transaction Security except in accordance with Clause 17 (*Application of proceeds*); or
- 8.2.5 other than where Clause 7.3.1 (*Set-off*) applies, any distribution or Payment of, or on account of or in relation to, any of the Liabilities owed by any member of the Group or Third Party Security Provider which is not in accordance with

Clause 17 (*Application of proceeds*) and which is made as a result of, or after, the occurrence of an Insolvency Event,

that Creditor will:

- (i) in relation to receipts and recoveries not received or recovered by way of set-off:
 - (a) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or, if less, the amount received or recovered) on trust for the Security Agent and promptly pay or distribute that amount to the Security Agent for application in accordance with the terms of this Agreement; and
 - (b) promptly pay or distribute an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement; and
- (ii) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that receipt or recovery to the Security Agent for application in accordance with the terms of this Agreement.

8.3 Exclusions

Clause 8.2 (*Turnover by the Creditors*) shall not apply to any receipt or recovery:

8.3.1 by way of:

- (i) Close-Out Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
- (ii) Payment Netting by a Hedge Counterparty or a Hedging Ancillary Lender;
- (iii) Inter-Hedging Agreement Netting by a Hedge Counterparty; or
- (iv) Inter-Hedging Ancillary Document Netting by a Hedging Ancillary Lender;

8.3.2 by an Ancillary Lender by way of that Ancillary Lender's right of netting or set-off relating to a Multi-account Overdraft (to the extent that that netting or set-off represents a reduction of the Gross Outstandings of that Multi-account Overdraft to or towards an amount equal to its Net Outstandings); or

8.3.3 made in accordance with Clause 18 (*Equalisation*).

8.4 Turnover: Standstill Period

8.4.1 Any amounts received or recovered by the Security Agent during a Standstill Period will be held by the Security Agent for so long as the Standstill Period is continuing and:

- (i) following the occurrence of a Standstill Termination Event specified in Clause 3.4.3(ii) to 3.4.3(v), will be applied by the Security Agent in accordance with Clause 17 (*Application of proceeds*); or
- (ii) following the occurrence of a Standstill Termination Event specified in Clause 3.4.3(i), will be distributed to the Creditors in such manner and in such amounts due as such amounts would have been applied had no Standstill Period existed.

8.4.2 No Default or Event of Default will occur in respect of the discharge of any External Creditor Liabilities after their due date due to the operation of Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*) and this Clause 8.4.

8.5 Permitted assurance and receipts

Nothing in this Agreement shall restrict the ability of any External Creditor or any Subordinated Creditor to:

8.5.1 arrange with any person which is not a member of the Group or Third Party Security Provider any assurance against loss in respect of, or reduction of its credit exposure to, a Debtor (including assurance by way of credit-based derivative or sub-participation); or

8.5.2 make any assignment or transfer permitted by Clause 20 (*Changes to the Parties*),

which:

- (i) is permitted by the Initial Bank Facilities Agreement or the Additional Finance Documents; and
- (ii) is not in breach of:
 - (a) Clause 4.5 (*No acquisition of Hedging Liabilities*); or
 - (b) Clause 6.4 (*No acquisition of Subordinated Liabilities*),

and that External Creditor or Subordinated Creditor shall not be obliged to account to any other Party for any sum received by it as a result of that action.

8.6 Amounts received by Debtors, Third Party Security Providers and the Subordinated Creditors

If a Debtor, a Subordinated Creditor or a Third Party Security Provider receives or recovers any amount which, under the terms of any of the Debt Documents, should have been paid to the Security Agent, that Debtor, Subordinated Creditor or Third Party Security Provider will:

8.6.1 hold an amount of that receipt or recovery equal to the Relevant Liabilities (or, if less, the amount received or recovered) on trust for the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and

8.6.2 promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement.

8.7 Saving provision

If, for any reason, any of the trusts expressed to be created in this Clause 8 should fail or be unenforceable, the affected Creditor, Debtor or Third Party Security Provider will promptly pay or distribute an amount equal to that receipt or recovery, net of the costs directly attributable to achieving that receipt or recovery, to the Security Agent for application in accordance with the terms of this Agreement.

8.8 Turnover of Non-Cash Consideration

For the purposes of this Clause 8, if any Creditor receives or recovers any amount or distribution in the form of Non-Cash Consideration which is subject to Clause 8.2 (*Turnover by the Creditors*), the cash value of that Non-Cash Consideration shall be determined in accordance with Clause 13.2 (*Cash value of Non-Cash Recoveries*).

9 Redistribution

9.1 Recovering Creditor's rights

9.1.1 Any amount paid or distributed by a Creditor (a "**Recovering Creditor**") to the Security Agent under Clause 7 (*Effect of Insolvency Event*) or Clause 8 (*Turnover of Receipts*) shall be treated as having been paid or distributed by a Debtor or Third Party Security Provider and shall be applied by the Security Agent in accordance with Clause 17 (*Application of proceeds*) and, in the case of amounts held by the Security Agent pursuant to Clause 8.4 (*Turnover: Standstill Period*), only so treated when applied by the Security Agent pursuant to Clause 8.4.1(i).

9.1.2 On an application by the Security Agent pursuant to Clause 17 (*Application of proceeds*) of a Payment or distribution received by a Recovering Creditor from a Debtor or Third Party Security Provider, as between the relevant Debtor or Third Party Security Provider and the Recovering Creditor, an amount equal to the amount received or recovered by the Recovering Creditor and paid or distributed to the Security Agent by the Recovering Creditor (the "**Shared Amount**") will be treated as not having been paid or distributed by that Debtor or Third Party Security Provider.

9.2 Reversal of redistribution

9.2.1 If any part of the Shared Amount received or recovered by a Recovering Creditor becomes repayable or returnable to a Debtor or Third Party Security Provider and is repaid or returned by that Recovering Creditor to that Debtor or Third Party Security Provider, then:

- (i) each Party that received any part of that Shared Amount pursuant to an application by the Security Agent of that Shared Amount under Clause 9.1 (*Recovering Creditor's rights*) (a "**Sharing Party**") shall, upon request of the Security Agent, pay or distribute to the Security Agent for the account of that Recovering Creditor an amount equal to the appropriate part of its share of the Shared Amount (together with an amount as is necessary to reimburse that Recovering Creditor for its proportion of any interest on the Shared Amount which that Recovering Creditor is required to pay) (the "**Redistributed Amount**"); and
- (ii) as between the relevant Debtor or Third Party Security Provider, each Recovering Creditor and each relevant Sharing Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid or distributed by that Debtor or Third Party Security Provider.

9.2.2 The Security Agent shall not be obliged to pay or distribute any Redistributed Amount to a Recovering Creditor under Clause 9.2.1(i) until it has been able to

establish to its satisfaction that it has actually received that Redistributed Amount from the relevant Sharing Party.

9.3 Deferral of subrogation

9.3.1 No Creditor (other than a Subordinated Creditor), Debtor or Third Party Security Provider will exercise any rights which it may have by reason of the performance by it of its obligations under the Debt Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Debt Documents of any Creditor (other than a Subordinated Creditor) which ranks ahead of it in accordance with the priorities set out in Clause 2 (*Ranking and Priority*) until such time as all of the Liabilities owing to each prior ranking Creditor (or, in the case of a Debtor, owing to each Creditor (other than a Subordinated Creditor)) have been irrevocably discharged in full.

9.3.2 No Subordinated Creditor shall exercise any rights which it may have to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Debt Documents of any other Creditor until such time as all of the Liabilities owing to each other Creditor (other than any Subordinated Creditor) have been irrevocably discharged in full.

10 Enforcement of Transaction Security

10.1 Cash Cover

This Clause 10 is subject to Clause 17.3 (*Treatment of Cash Cover*).

10.2 Enforcement instructions

10.2.1 The Security Agent may refrain from enforcing the Transaction Security unless instructed otherwise by the Majority External Creditors.

10.2.2 Subject to the Transaction Security having become enforceable in accordance with its terms, the Majority External Creditors may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security as they see fit.

10.2.3 The Security Agent is entitled to rely on and comply with instructions given in accordance with this Clause 10.2.

10.3 Manner of enforcement

If the Transaction Security is being enforced pursuant to Clause 10.2 (*Enforcement instructions*), the Security Agent shall enforce the Transaction Security in such manner (including, without limitation, the selection of any administrator (or any analogous officer in any jurisdiction) of a Debtor or Third Party Security Provider to be appointed by the Security Agent) as the Majority External Creditors shall instruct or, in the absence of any such instructions, as the Security Agent considers in its discretion to be appropriate.

10.4 Exercise of voting rights

10.4.1 Each Creditor (other than each Creditor Representative or any Arranger) will cast its vote on any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any member of the Group or Third Party Security Provider as instructed by the Security Agent, and the

Security Agent shall give instructions for these purposes in accordance with any instructions given to it by the Majority External Creditors.

10.4.2 The Security Agent shall give instructions for the purposes of Clause 10.4.1 in accordance with the instructions given to it by the Majority External Creditors.

10.5 Waiver of rights

To the extent permitted under applicable law and subject to Clauses 10.2 (*Enforcement instructions*), 10.3 (*Manner of enforcement*), 11.1 (*Facilitation of Non-Distressed Disposals*), 12.4 (*Fair value*) and 17 (*Application of proceeds*), each of the Secured Parties, the Debtors and the Third Party Security Providers waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any amount received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

10.6 Enforcement through Security Agent only

The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Transaction Security Documents except through the Security Agent.

11 Non-Distressed Disposals

11.1 Facilitation of Non-Distressed Disposals

11.1.1 Notwithstanding anything to the contrary in this Agreement or any other Debt Document, the Security Agent (on behalf of itself and, if required to give effect to the same, the Secured Parties) and each other party to any Security Document hereby agrees (and is irrevocably authorised, instructed and obliged to do so by, and without any further consent, agreement, instruction, direction, confirmation, payment, certification or other document, request or information from, any Creditor, other Secured Party or Debtor) that it shall promptly following receipt of a written request from the Company to the Security Agent and at the cost of the Company:

- (i) release (or procure that any other relevant person releases) from the Transaction Security and the Secured Debt Documents:
 - (a) any Security (and/or any other claim relating to a Debt Document) over any asset which the Company has confirmed pursuant to Clause 11.1.3 below is the subject of:
 - (l) a sale, transfer or disposal not prohibited by the terms of any applicable Finance Document or Additional Finance Document (or, to the extent any applicable Finance Document or Additional Finance Document prohibits such disposal, the applicable Creditor Representative authorises the release in accordance with the terms of such Finance Document or Additional Finance Document or the consent of the Majority External Creditors has been obtained for such disposal) (including a disposal to a member of the

Group, but without prejudice to any obligation of any member of the Group in a Finance Document or Additional Finance Document to provide replacement security);

- (II) any other transaction or arrangement not prohibited by the terms of any Finance Document or Additional Finance Document pursuant to which that asset will cease to be held or owned by a member of the Group (or, to the extent any applicable Finance Document or Additional Finance Document prohibits such transaction the applicable Creditor Representative authorises the release in accordance with the terms of the applicable Finance Document or Additional Finance Document or the consent of the Majority External Creditors is obtained for such transaction);
- (III) any merger, consolidation, reorganisation or any other transaction whereby a release of an asset is required in order to enter into, effect, implement, consummate or complete (or any similar or analogous step) such disposal, merger, consolidation, reorganisation or other transaction (without prejudice to any obligation in any Finance Document or Additional Finance Document to provide replacement Security);
- (IV) any amendment or waiver of (or the exercise of rights or the performance of obligations, or taking of other action, under) any document or other agreement subject to any Transaction Security (and/or any other claim relating to a Debt Document and/or any present and future liabilities (both actual and contingent) under any Debt Document), where the release is required in order to enter into, effect, implement, consummate or complete (or any similar or analogous step) any such amendment or waiver of (or, as applicable, exercise the relevant rights or perform the relevant obligations, or take the relevant other action, under) that document or other agreement; and/or
- (V) any person (and/or any Subsidiaries of that person) and any asset of such person that has ceased to be (or will, on or about the date of the relevant release, cease to be) a member of Group (including by way of being designated as a Project Company (in accordance with, and as defined in, the Initial Bank Facilities Agreement) or any Additional Finance Document Equivalent);

and in each case where such disposal is not a Distressed Disposal (in each case, a "**Non-Distressed Disposal**");

- (b) any Security (and/or any other claim relating to a Debt Document) over any document or other agreement requested in order for any member of the Group to effect any amendment or waiver in respect

of that document or agreement or otherwise exercise any rights, comply with any obligations or take any action in relation to that document or agreement (in each case to the extent the Company has confirmed pursuant to Clause 11.1.3 below it is not prohibited by the terms of any Finance Document or Additional Finance Document);

- (c) any Security (and/or any other claim relating to a Debt Document) over any asset of any member of the Group which has ceased to be a Debtor or Guarantor (or will cease to be a Debtor or Guarantor simultaneously with such release) to the extent that the Company has confirmed pursuant to Clause 11.1.3 below that such cessation is otherwise in accordance with the terms of each applicable Finance Document and Additional Finance Document or the Agreed Guarantee/Security Principles; and
 - (d) any Security (and/or any other claim relating to a Debt Document) over any other asset to the extent that the Company has confirmed pursuant to Clause 11.1.3 below that such Security is not required to be given, or such release is otherwise permitted or not prohibited, in accordance with the terms of each Finance Document and Additional Finance Document or the Agreed Guarantee/Security Principles; and
- (ii) in the case of a disposal of shares or other ownership interests in a Debtor or other member of the Group (or any Holding Company of any Debtor), or any other transaction pursuant to which a Debtor or other member of the Group (or any Holding Company of any Debtor) will cease to be a member of the Group or a Debtor (including pursuant to Clause 20.16 (*Resignation of a Debtor/Guarantor*) or by reason of that Debtor, or a Holding Company of that Debtor, being designated as a Project Company (in accordance with, and as defined in, the Initial Bank Facilities Agreement) or any Additional Finance Document Equivalent)), release (or procure that any other relevant person releases) that Debtor or such other member of the Group and its Subsidiaries from all present and future liabilities (both actual and contingent) under the Secured Debt Documents and the respective assets of such Debtor and its Subsidiaries (and the shares in any such Debtor and/or Subsidiary) from the Transaction Security and the Secured Debt Documents (including any claim relating to a Debt Document);
- (iii) in the case of a floating charge or 'all asset' or similar Security (and which (without prejudice to any other provisions of this Agreement) does not purport to be fixed security), release such Transaction Security in full or issue any certificate of non-crystallisation thereof or consent to deal or any other similar or equivalent document that may be required or desirable (or procure that any other relevant person carries out the same), in the event of and prior to the grant of any fixed or other Security not prohibited by the terms of any Finance Document or Additional Finance Document over any assets otherwise subject thereto; and

(iv) effect a Debt Pushdown (as defined in the Initial Bank Facilities Agreement).

11.1.2 Any release or other step contemplated by this clause shall not be conditional upon the performance of any obligation of any counterparty to any disposal, Permitted Transaction (as defined below) or other agreement or arrangement, or upon the receipt of any consideration or asset by any member of the Group, provided that if such release is made in connection with a Non-Distressed Disposal and a Non-Distressed Disposal is not made:

- (i) each release of Transaction Security or any claim described in Clause 11.1 above shall have no effect and the Transaction Security or claim subject to that release shall continue in such force and effect as if that release had not been effected (to the extent possible under applicable law or regulation, and without prejudice to the facts and circumstances at such time); and
- (ii) the Parties agree that, to the extent required under applicable law or regulation, any Transaction Security released or purported to be released shall promptly be retaken on substantially the same terms.

11.1.3 When making any request for a release pursuant to Clause 11.1 above the Company shall confirm in writing to the Security Agent that:

- (i) in the case of any release requested pursuant to Clause 11.1.1(i)(a), 11.1.1(i)(b), 11.1.1(ii) or 11.1.1(iii), the relevant disposal or other action is not prohibited by the terms of any Finance Document or Additional Finance Document, in each case, as the case may be, as at the date of completion of such release, or at the option of the Company, on the date that the definitive agreement for such disposal or other similar transaction is entered into; or
- (ii) in the case of any release requested pursuant to Clause 11.1.1(i)(c) or 11.1.1(i)(d), such Security is not required to be given, or the relevant release or cessation is permitted or not otherwise prohibited by the terms of the Finance Documents and the Additional Finance Documents or the Agreed Guarantee/Security Principles,

and the Security Agent shall be entitled to rely on that confirmation for all purposes under the Debt Documents.

11.1.4 The Security Agent (on behalf of itself and, if required to give effect to the same, the Secured Parties) and each other party to any Security Document shall and hereby agrees to (and is irrevocably authorised, instructed and obliged to do so by, and without any further consent, agreement, sanction, authority, instruction, direction, confirmation, payment, certification or other document, request or information from any Creditor, other Secured Party or Debtor) (at the cost of the Company) promptly enter into (or procure that any relevant person enters into) and deliver such documentation and/or take such other action as the Company shall require to give effect to, or to evidence, any release (including in any official register) or other matter contemplated by or in connection with this Clause 11 (including the issuance of any certificates of non-crystallisation of floating

charges, any consent to dealing or any other similar or equivalent document that may be required or desirable).

- 11.1.5** Without prejudice to the foregoing and for the avoidance of doubt, if requested by the Company in accordance with the terms of any of the Finance Documents or Additional Finance Documents (and provided that the requested action is not expressly prohibited by any of the other Finance Documents or Additional Finance Documents), the Security Agent, the External Creditors and the other Secured Parties shall (at the cost of the Company) promptly execute any guarantee, security or other release and/or any amendment, supplement or other documentation relating to any Transaction Security or Transaction Security Documents as contemplated by the terms of any of the Finance Documents or Additional Finance Documents and the Security Agent (on behalf of itself and, if required to give effect to the same, the Secured Parties) hereby agrees to execute, and will promptly execute if requested by the Company (and is irrevocably authorised, instructed and obliged to do so by, and without any further consent, agreement, sanction, authority, instruction, direction, confirmation, payment, certification or other document, request or information from, any Creditor, other Secured Party or Debtor) (at the cost of the Company) any such release or document on behalf of the Creditors and the other Secured Parties. When making any request pursuant to this Clause 11.1.5 the Company shall confirm in writing to the Security Agent that such request is in accordance with the terms of a Finance Document or Additional Finance Document (and the requested action is not expressly prohibited by any of the other Finance Documents or Additional Finance Documents) and the Security Agent shall be entitled to rely on that confirmation for all purposes under the Secured Debt Documents.
- 11.1.6** Notwithstanding anything to the contrary in any Debt Document, nothing in any Security Document shall operate or be construed so as to prevent any transaction, arrangement, action, matter or other step permitted or not prohibited by the terms of this Agreement, the Finance Documents or the Additional Finance Documents (a "**Permitted Transaction**"). The Security Agent (on behalf of itself and, if required to give effect to the same, the Secured Parties) hereby agrees (and is irrevocably authorised, instructed and obliged to do so by, and without any further consent, agreement, sanction, authority, instruction, direction, confirmation, payment, certification or other document, request or information from, any Creditor, other Secured Party or Debtor) that it shall (at the cost of the Company) promptly execute any release or other document and/or take such other action or step under or in relation to any Debt Document (or any asset subject or expressed to be subject to any Transaction Security or any Security Document) as is requested by the Company in order to complete, implement or facilitate a Permitted Transaction. In the event that the Company makes any request pursuant to and in reliance on the preceding sentence, the Security Agent shall be permitted to request a confirmation from the Company that the relevant transaction, matter or other step is a Permitted Transaction and the Security Agent shall be entitled to rely on that confirmation for all purposes under the Secured Debt Documents.
- 11.1.7** Any condition, basket or ratio relating to the making of a disposal or similar transaction in any Finance Document or Additional Finance Document may be

satisfied, at the option of the Company either (i) as at the date of completion thereof, or (ii) on the date that the definitive agreement for such disposal or similar transaction is entered into (including by reference to any circumstance, basket or ratio calculated on that date and on a pro forma basis after giving effect to such disposal or similar transaction, including the receipt of proceeds). Provided that such condition, basket or ratio is satisfied (irrespective of any date specified in the relevant Finance Document or Additional Finance Document for its satisfaction), each Party irrevocably consents to and agrees that: (A) any disposal or similar transaction that is not a Distressed Disposal is permitted to be made by any member of the Group or Third Party Security Provider notwithstanding any other provision to the contrary in this Agreement or any other Debt Document; (B) (in the event of Clause 11.1 above) any condition, test or determination in any Finance Document or Additional Finance Document may be satisfied as at the date of entry into such definitive agreement and shall not be required to be satisfied at any time subsequent to such determination date and at or prior to the consummation of the relevant transaction; and as such any Default occurring, any fluctuation in any basket or ratio, or any change in any condition, test or determination (including in relation to fair market value) shall be ignored and shall not be tested at the time of the consummation of the relevant transaction; (C) in the case of such disposal or similar transaction of shares of any member of the Group which is a Guarantor and/or Debtor (and/or any Subsidiary thereof which is a Guarantor and/or Debtor) which is permitted to be made pursuant to paragraphs (A) and (B) above, notwithstanding any other provision to the contrary in this Agreement or any other Debt Document such member of the Group shall be permitted to resign as a Guarantor subject only to the delivery of the applicable resignation or similar letters to the applicable Agent and/or the Security Agent which shall be required to accept, counter-sign or effect the same.

- 11.1.8** Notwithstanding anything to the contrary in this Agreement or any other Debt Document, in the case of a disposal of shares or other ownership interests in a Debtor or other member of the Group (or Holding Company of any Debtor), or any other transactions pursuant to which a Debtor or other member of the Group (or Holding Company of any Debtor) will cease to be a member of the Group or a Debtor (including pursuant to Clause 20.16 (*Resignation of a Debtor/Guarantor*) or by becoming or by designation as a Project Company (in accordance with, and as defined in, the Initial Bank Facilities Agreement) or any Additional Finance Document Equivalent)) in each case to the extent the Company has confirmed to the Security Agent that such disposal or other transaction or designation is not prohibited by the Finance Documents or Additional Finance Documents, if such member of the Group or a Debtor is a borrower, issuer or other primary debtor under or in respect of any Debt Document, such person shall have the right to voluntarily prepay any or all Liabilities outstanding under any Debt Document to the applicable Creditors concurrently with ceasing to be a member of the Group or Debtor; and any right to decline, delay or prevent any prepayment in any Debt Document shall be disappplied to the extent that if exercised such right would prevent the repayment of all such Liabilities in full by such person (but without prejudice to any prepayment fees, make-whole payment, break costs or other payment required by the relevant Finance Documents or Additional Finance Documents).

11.2 Disposal Proceeds

If any Disposal Proceeds are required to be applied in prepayment of (or the making of an offer of payment in respect of) the External Creditor Liabilities then, subject to Clause 14.1 (*Adjustment of Mandatory Prepayments*), those Disposal Proceeds shall be applied in or towards Payment or (to the extent provided for in the relevant Debt Document) the making of an offer of Payment of the External Creditor Liabilities in accordance with the terms of the Finance Documents or Additional Finance Documents (if required to be applied in or towards Payment of External Creditor Liabilities), and the consent of any other Party shall not be required for that application.

12 Distressed Disposals and Appropriation

12.1 Facilitation of Distressed Disposals and Appropriation

12.1.1 If a Distressed Disposal or an Appropriation is being effected, the Security Agent is irrevocably authorised (at the cost of the Debtors' Agent and without any consent, sanction, authority or further confirmation from any Creditor, other Secured Party, Third Party Security Provider or Debtor):

- (i) *release of Transaction Security/non-crystallisation certificates*: to release the Transaction Security or any other claim over the asset subject to the Distressed Disposal or Appropriation and execute and deliver or enter into any release of that Transaction Security or claim and, if applicable, issue any letters of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable;
- (ii) *release of liabilities and Transaction Security on a share sale/Appropriation (Debtor)*: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of a Debtor, to release:
 - (a) that Debtor and any Subsidiary of that Debtor from all or any part of:
 - (I) its Borrowing Liabilities;
 - (II) its Guarantee Liabilities; and
 - (III) its Other Liabilities;
 - (b) any Transaction Security granted by any Subordinated Creditor, that Debtor or any Subsidiary of that Debtor over any of its assets; and
 - (c) any other claim of a Subordinated Creditor, an Intra-Group Lender or another Debtor over that Debtor's assets or over the assets of any Subsidiary of that Debtor,

on behalf of the relevant Creditors, relevant Third Party Security Providers and the Debtors;

- (iii) *release of liabilities and Transaction Security on a share sale/Appropriation (Holding Company)*: if the asset subject to the

Distressed Disposal or Appropriation consists of shares in the capital of any Holding Company of a Debtor, to release:

- (a) that Holding Company and any Subsidiary of that Holding Company from all or any part of:
 - (I) its Borrowing Liabilities;
 - (II) its Guarantee Liabilities; and
 - (III) its Other Liabilities;
- (b) any Transaction Security granted by that Holding Company and any Subsidiary of that Holding Company over any of its assets; and
- (c) any other claim of an Intra-Group Lender, a Subordinated Creditor or another Debtor over the assets of that Holding Company or the assets of any Subsidiary of that Holding Company,

on behalf of the relevant Creditors and Debtors;

- (iv) *facilitative disposal of liabilities on a share sale/Appropriation*: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of a Debtor or the Holding Company of a Debtor and the Security Agent decides to dispose of all or any part of:
 - (a) the Liabilities (other than Liabilities due to any Creditor Representative or any Arranger) owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company; or
 - (b) the Intra-Group Receivables,

on the basis that any transferee of those Liabilities or Intra-Group Receivables (the "**Transferee**") will not be treated as an External Creditor or a Secured Party for the purposes of this Agreement, to execute and deliver or enter into any agreement to dispose of all or part of those Liabilities or Intra-Group Receivables on behalf of the relevant Creditors and the Debtors, provided that, notwithstanding any other provision of any Debt Document, the Transferee shall not be treated as an External Creditor or a Secured Party for the purposes of this Agreement;

- (v) *sale of liabilities on a share sale/Appropriation*: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of a Debtor or the Holding Company of a Debtor and the Security Agent decides to dispose of all or any part of:
 - (a) the Liabilities (other than Liabilities due to any Creditor Representative or any Arranger) owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company; or
 - (b) the Intra-Group Receivables,

on the basis that any transferee of those Liabilities or Intra-Group Receivables will be treated as an External Creditor or a Secured Party for the purposes of this Agreement, to execute and deliver or enter into any agreement to dispose of:

- (I) all (and not part only) of the Liabilities owed to the External Creditors (other than to any Creditor Representative or any Arranger); and
- (II) all or part of any other Liabilities (other than Liabilities owed to any Creditor Representative or any Arranger) and the Intra-Group Receivables,

on behalf of, in each case, the relevant Creditors and Debtors.

- (vi) *transfer of obligations in respect of liabilities on a share sale/Appropriation*: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of a Debtor or the Holding Company of a Debtor (the "**Disposed Entity**") and the Security Agent decides, acting in accordance with Clause 12.6 (*Security Agent's actions*), to transfer to another Debtor (the "**Receiving Entity**") all or any part of the Disposed Entity's obligations or any obligations of any Subsidiary of that Disposed Entity in respect of the Intra-Group Liabilities or the Intra-Group Receivables to execute and deliver or enter into any agreement to:
 - (a) agree to the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or those Intra-Group Receivables on behalf of the relevant Intra-Group Lenders and Debtors to which those obligations are owed and on behalf of the Debtors which owe those obligations; and
 - (b) to accept the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Intra-Group Receivables on behalf of the Receiving Entity or Receiving Entities to which the obligations in respect of those Intra-Group Liabilities or Intra-Group Receivables are to be transferred.

12.2 Form of consideration for Distressed Disposals and Debt Disposals

Subject to Clause 13.5 (*Security Agent protection*), a Distressed Disposal or a Debt Disposal may be made in whole or in part for consideration in the form of cash or, if not for cash, for Non-Cash Consideration which is acceptable to the Security Agent.

12.3 Proceeds of Distressed Disposals and Debt Disposals

The net proceeds of each Distressed Disposal and each Debt Disposal shall be paid, or distributed, to the Security Agent for application in accordance with Clause 17 (*Application of proceeds*) and, to the extent that:

12.3.1 any Liabilities Sale has occurred; or

12.3.2 any Appropriation has occurred,

as if that Liabilities Sale, or any reduction in the Secured Obligations resulting from that Appropriation, had not occurred.

12.4 Fair value

12.4.1 In the case of:

- (i) a Distressed Disposal; or

- (ii) a Liabilities Sale,

effected by, or at the request of, the Security Agent, the Security Agent shall take reasonable care to obtain a fair market value having regard to the prevailing market conditions (though the Security Agent shall have no obligation to postpone (or request the postponement of) any Distressed Disposal or Liabilities Sale in order to achieve a higher value).

12.4.2 The requirement in Clause 12.4.1 shall be satisfied (and as between the External Creditors, Intra-Group Lenders, Subordinated Creditors, Debtors and Third Party Security Providers shall be conclusively presumed to be satisfied) and the Security Agent will be taken to have discharged all its obligations in this respect under this Agreement, the other Debt Documents and generally at law if:

- (i) that Distressed Disposal or Liabilities Sale is made pursuant to any process or proceedings approved or supervised by or on behalf of any court of law;
- (ii) that Distressed Disposal or Liabilities Sale is made by, at the direction of or under the control of, a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer (or any analogous officer in any jurisdiction) appointed in respect of a member of the Group or Third Party Security Provider or the assets of a member of the Group or Third Party Security Provider;
- (iii) that Distressed Disposal or Liabilities Sale is made pursuant to a Competitive Sales Process; or
- (iv) a Financial Adviser appointed by the Security Agent pursuant to Clause 12.5 (*Appointment of Financial Adviser*) has delivered a Fairness Opinion to the Security Agent in respect of that Distressed Disposal or Liabilities Sale.

12.5 Appointment of Financial Adviser

12.5.1 Without prejudice to Clause 19.9 (*Rights and discretions*), the Security Agent may engage, or approve the engagement of (in each case, on such terms as it may consider appropriate (including, without limitation, restrictions on that Financial Adviser's liability and the extent to which any advice, valuation or opinion may be relied on or disclosed)), pay for and rely on the services of a Financial Adviser to provide advice, a valuation or an opinion in connection with:

- (i) a Distressed Disposal or a Debt Disposal;
- (ii) the application or distribution of any proceeds of a Distressed Disposal or a Debt Disposal; or
- (iii) any amount of Non-Cash Consideration which is subject to Clause 8.2 (*Turnover by the Creditors*).

12.5.2 For the purposes of Clause 12.5.1, the Security Agent shall act:

- (i) on the instructions of the Majority External Creditors if the Financial Adviser is providing a valuation for the purposes of Clause 13.2 (*Cash value of Non-Cash Recoveries*); or

- (ii) otherwise in accordance with Clause 12.6 (*Security Agent's actions*).

12.6 Security Agent's actions

For the purposes of Clauses 12.1 (*Facilitation of Distressed Disposals and Appropriation*), 12.2 (*Form of consideration for Distressed Disposals and Debt Disposals*), 12.4 (*Fair value*) and 12.5.2(ii) (*Appointment of Financial Adviser*), the Security Agent shall act:

12.6.1 in the case of an Appropriation or if the relevant Distressed Disposal is being effected by way of enforcement of the Transaction Security, in accordance with Clause 10.3 (*Manner of enforcement*); and

12.6.2 in any other case:

- (i) on the instructions of the Majority External Creditors; or
- (ii) in the absence of any such instructions, as it considers in its discretion to be appropriate.

13 Non-Cash Recoveries

13.1 Security Agent and Non-Cash Recoveries

To the extent that the Security Agent receives or recovers any Non-Cash Recoveries, it may (acting on the instructions of the Majority External Creditors but without prejudice to its ability to exercise discretion under Clause 17.2 (*Prospective liabilities*)):

13.1.1 distribute those Non-Cash Recoveries pursuant to Clause 17 (*Application of proceeds*) as if they were Cash Proceeds;

13.1.2 hold, manage, exploit, collect, realise and dispose of those Non-Cash Recoveries; and

13.1.3 hold, manage, exploit, collect, realise and distribute any resulting Cash Proceeds.

13.2 Cash value of Non-Cash Recoveries

13.2.1 The cash value of any Non-Cash Recoveries shall be determined by reference to a valuation obtained by the Security Agent from a Financial Adviser appointed by the Security Agent pursuant to Clause 12.5 (*Appointment of Financial Adviser*) taking into account any notional conversion made pursuant to Clause 17.5 (*Currency conversion*).

13.2.2 If any Non-Cash Recoveries are distributed pursuant to Clause 17 (*Application of proceeds*), the extent to which such distribution is treated as discharging the Liabilities shall be determined by reference to the cash value of those Non-Cash Recoveries determined pursuant to Clause 13.2.1.

13.3 Creditor Representatives and Non-Cash Recoveries

13.3.1 Subject to Clause 8.4 (*Turnover: Standstill Period*), Clause 13.3.2 and Clause 13.4 (*Alternative to Non-Cash Consideration*), if, pursuant to Clause 17.1 (*Order of application*), a Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance

Document) receives Non-Cash Recoveries for application towards the discharge of any Liabilities, it shall apply those Non-Cash Recoveries in accordance with the relevant Creditor Document as if they were Cash Proceeds.

13.3.2 A Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance Document) may:

- (i) use any reasonably suitable method of distribution, as it may determine in its discretion, to distribute those Non-Cash Recoveries in the order of priority that would apply under the relevant Creditor Document if those Non-Cash Recoveries were Cash Proceeds;
- (ii) hold any Non-Cash Recoveries through another person; and
- (iii) hold any amount of Non-Cash Recoveries for so long as the Creditor Representative (or Initial Bank Facilities Creditor or Additional Creditor where applicable) shall think fit for later application pursuant to Clause 13.3.1.

13.4 Alternative to Non-Cash Consideration

13.4.1 If any Non-Cash Recoveries are to be distributed pursuant to Clause 17 (*Application of proceeds*), the Security Agent shall (prior to that distribution and taking into account the Liabilities then outstanding and the cash value of those Non-Cash Recoveries) notify the External Creditors entitled to receive those Non-Cash Recoveries pursuant to that distribution (the "**Entitled Creditors**").

13.4.2 If:

- (i) it would be unlawful for an Entitled Creditor to receive such Non-Cash Recoveries (or it would otherwise conflict with that Entitled Creditor's constitutional documents for it to do so); and
 - (ii) that Entitled Creditor promptly so notifies the Security Agent and supplies such supporting evidence as the Security Agent may reasonably require,
- that External Creditor shall be a "**Cash Only Creditor**" and the Non-Cash Recoveries to which it is entitled shall be "**Retained Non-Cash**".

13.4.3 To the extent that, in relation to any distribution of Non-Cash Recoveries, there is a Cash Only Creditor:

- (i) the Security Agent shall not distribute any Retained Non-Cash to that Cash Only Creditor (or to any Creditor Representative on behalf of that Cash Only Creditor) but shall otherwise treat the Non-Cash Recoveries in accordance with this Agreement;
- (ii) if that Cash Only Creditor is an Initial Bank Facilities Creditor or an Additional Creditor, the Security Agent shall notify the relevant Creditor Representative of that Cash Only Creditor's identity and its status as a Cash Only Creditor; and
- (iii) to the extent notified pursuant to paragraph (ii) above, the relevant Creditor Representative shall not distribute any of those Non-Cash Recoveries to that Cash Only Creditor.

- 13.4.4** Subject to Clause 13.5 (*Security Agent protection*), the Security Agent shall hold any Retained Non-Cash and shall, acting on the instructions of the Cash Only Creditor entitled to it, manage, exploit, collect, realise and dispose of that Retained Non-Cash for cash consideration and shall distribute any Cash Proceeds of that Retained Non-Cash to that Cash Only Creditor in accordance with Clause 17 (*Application of proceeds*).
- 13.4.5** On any distribution of Cash Proceeds in accordance with Clause 13.4.4 which are attributable to a disposal of any Retained Non-Cash, the extent to which such distribution is treated as discharging the Liabilities due to the relevant Cash Only Creditor shall be determined by reference to:
- (i) the valuation which determined the extent to which the distribution of the Non-Cash Recoveries to the other Entitled Creditors discharged the Liabilities due to those Entitled Creditors; and
 - (ii) the Retained Non-Cash to which those Cash Proceeds are attributable.
- 13.4.6** Each External Creditor shall, following a request by the Security Agent (acting in accordance with Clause 12.6 (*Security Agent's actions*)), notify the Security Agent of the extent to which Clause 13.4.2(i) would apply to it in relation to any distribution or proposed distribution of Non-Cash Recoveries.

13.5 Security Agent protection

- 13.5.1** Notwithstanding anything to the contrary in any Debt Document, no Distressed Disposal or Debt Disposal may be made in whole or part for Non-Cash Consideration if the Security Agent has reasonable grounds for believing that its receiving, distributing, holding, managing, exploiting, collecting, realising or disposing of that Non-Cash Consideration would have an adverse effect on it.
- 13.5.2** If Non-Cash Consideration is distributed to the Security Agent pursuant to Clause 8.2 (*Turnover by the Creditors*), the Security Agent may, at any time, after notifying the Creditors entitled to that Non-Cash Consideration and notwithstanding any instruction from a Creditor or group of Creditors pursuant to the terms of any Debt Document, immediately realise and dispose of that Non-Cash Consideration for cash consideration (and distribute any Cash Proceeds of that Non-Cash Consideration to the relevant Creditors in accordance with Clause 17 (*Application of proceeds*)) if the Security Agent has reasonable grounds for believing that holding, managing, exploiting or collecting that Non-Cash Consideration would have an adverse effect on it.
- 13.5.3** If the Security Agent holds Retained Non-Cash for a Cash Only Creditor (each as defined in Clause 13.4 (*Alternative to Non-Cash Consideration*)), the Security Agent may, at any time, after notifying that Cash Only Creditor and notwithstanding any instruction from a Creditor or group of Creditors pursuant to the terms of any Debt Document, immediately realise and dispose of that Retained Non-Cash for cash consideration (and distribute any Cash Proceeds of that Retained Non-Cash to that Cash Only Creditor in accordance with Clause 17 (*Application of proceeds*)) if the Security Agent has reasonable grounds for believing that holding, managing, exploiting or collecting that Retained Non-Cash would have an adverse effect on it.

14 Application of prepayments

14.1 Adjustment of Mandatory Prepayments

14.1.1 In this Clause 14.1:

“**Relevant Outstanding Principal Amount**” means:

- (i) in respect of the Initial Bank Facilities Agreement or amounts made available under any Additional Facility, the principal amount of any drawn or issued amounts that are outstanding or committed under the Initial Bank Facilities Agreement or amounts made available under any Additional Facility; and
- (ii) in respect of any other Secured Obligations, the outstanding principal amount of such debt on such date in accordance with the relevant Finance Document or Additional Finance Document (as applicable),

on the date on which the applicable prepayment of Total Outstandings is to be made.

14.1.2 If the making of any Mandatory Prepayment (an “**Original Mandatory Prepayment**”) would result in a payment (a “**Hedge Reduction Payment**”) becoming due to any Hedge Counterparty pursuant to Clause 4.3 (*Permitted Payments: Hedging Liabilities*), Clause 4.9 (*Permitted enforcement: Hedge Counterparties*) or Clause 4.13 (*Total Interest Rate Hedged Amount*), the amount of that Mandatory Prepayment will be reduced so that the aggregate of:

- (i) the reduced Mandatory Prepayment; and
- (ii) each Hedge Reduction Payment which would result from that reduced Mandatory Prepayment,

is equal to the amount of the Original Mandatory Prepayment.

14.1.3 If a Mandatory Prepayment is required to be made in one or more Finance Documents or Additional Finance Documents (each a “**Relevant Prepayment Provision**”) then:

- (i) the total amount required to be applied in prepayment of applicable Total Outstandings shall be calculated in accordance with each Relevant Prepayment Provision and subject to Clause 14.1.2 above, and where multiple Finance Documents and/or Additional Finance Documents (as applicable) require the prepayment of the same proceeds, this shall not increase the total amount required to be prepaid (the “**Prepayment Amount**”);
- (ii) subject to paragraph (iv) below, the Prepayment Amount shall be applied to prepay the applicable Total Outstandings on a pro rata basis across all such applicable Total Outstandings (calculated by reference to the Relevant Outstanding Principal Amount of such applicable Total Outstandings);
- (iii) if one or more Finance Documents or Additional Finance Documents (each, a “**Relevant Finance Document**”) requires the payment of interest, break costs or make-whole amounts (“**Repayment Costs**”) in

connection with any such Mandatory Prepayment, then the amount of such Mandatory Prepayment allocated to such Relevant Finance Document in accordance with the terms of the Debt Documents (the “**Relevant Finance Document Original Prepayment Amount**”) shall be reduced so that the aggregate of:

- (a) the reduced Mandatory Prepayment; and
- (b) the Repayment Costs payable under that Relevant Finance Document in connection with such reduced Mandatory Prepayment,

is equal to the amount of the Relevant Finance Document Original Prepayment Amount;

- (iv) if the provisions of a Finance Document or Additional Finance Document allow a provider of Total Outstandings to elect not to receive its pro rata proportion of the Prepayment Amount either in whole or in part and such election is exercised (the “**Declining Total Outstandings**”), the relevant amount allocated to the Declining Total Outstandings shall be re-applied to prepay applicable Total Outstandings on a pro rata basis across all such applicable Total Outstandings (calculated by reference to the Relevant Outstanding Principal Amount of such applicable Total Outstandings) but, for these purposes, excluding the Declining Total Outstandings; and
- (v) if, following the application of paragraph (iv) above, there remains an excess Prepayment Amount then such excess shall be applied in the Company's discretion in a manner not prohibited by the Finance Documents or Additional Finance Documents.

15 Further Assurance – Disposals and Releases

Subject to the Agreed Guarantee/Security Principles, each Creditor, Debtor and Third Party Security Provider will:

15.1.1 do all things that the Security Agent requests in order to give effect to Clauses 11 (*Non-Distressed Disposals*), 12 (*Distressed Disposals and Appropriation*) and 14 (*Application of prepayments*) (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Security Agent may consider to be necessary to give effect to the releases or disposals contemplated by those Clauses); and

15.1.2 if the Security Agent is not entitled to take any of the actions contemplated by those Clauses or if the Security Agent requests that any Creditor, Debtor or Third Party Security Provider take any such action, take that action itself in accordance with the instructions of the Security Agent,

provided that the proceeds of those disposals are applied in accordance with Clause 11 (*Non-Distressed Disposals*) or Clause 12 (*Distressed Disposals and Appropriation*), as the case may be.

16 Guarantee and Indemnity

16.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

- 16.1.1** guarantees to each Secured Party punctual performance by each other Debtor of all that Debtor's obligations under the Secured Debt Documents;
- 16.1.2** undertakes with each Secured Party that whenever another Debtor does not pay any amount when due under or in connection with any Secured Debt Document, it shall immediately on demand pay that amount as if it was the principal obligor; and
- 16.1.3** agrees with each Secured Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal (including, without limitation, by operation of law), it will, as an independent and primary obligation, indemnify that Secured Party immediately on demand against any cost, loss or liability it incurs as a result of a Debtor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Secured Debt Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 16 if the amount claimed had been recoverable on the basis of a guarantee.

16.2 Continuing guarantee

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

16.3 Reinstatement

Subject to mandatory laws of any Relevant Jurisdiction, if any discharge, release or arrangement (whether in respect of the obligations of any Debtor or any security for those obligations or otherwise) is made by an External Creditor 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 a Guarantor under this Clause 16 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

16.4 Waiver of defences

Subject to mandatory laws of any Relevant Jurisdiction, the obligations of each Guarantor under this Clause 16 will not be affected by an act, omission, matter or thing which, but for this Clause 16, would reduce, release or prejudice any of its obligations under this Clause 16 (without limitation and whether or not known to it or any Secured Party) including:

- 16.4.1** any time, waiver or consent granted to, or composition with, any Debtor or other person;
- 16.4.2** the release of any other Debtor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- 16.4.3** the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Debtor or other person or any non-presentation or non-observance of any

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

16.4.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Debtor or any other person;

16.4.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Secured Debt 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 Secured Debt Document or other document or security;

16.4.6 any unenforceability, illegality or invalidity of any obligation of any person under any Secured Debt Document or any other document or security; or

16.4.7 any insolvency or similar proceedings.

16.5 Guarantor intent

Without prejudice to the generality of Clause 16.4 (*Waiver of defences*), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental and of whatsoever nature and whether or not more onerous) variation, increase, extension or addition of or to any of the Secured Debt Documents and/or any facility or amount made available under any of the Secured Debt 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.

16.6 Immediate recourse

Each Guarantor waives any right it may have of first requiring any Secured 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 16. This waiver applies irrespective of any law or any provision of a Secured Debt Document to the contrary.

16.7 Appropriations

Until all amounts which may be or become payable by a Debtor under or in connection with the Secured Debt Documents have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may:

16.7.1 refrain from applying or enforcing any other moneys, security or rights held or received by that Secured 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

16.7.2 hold in an interest-bearing suspense account (bearing interest at commercial rates) any moneys received from any Guarantor or on account of any Guarantor's liability under this Clause 16.

16.8 Deferral of Guarantors' rights

Until all amounts which may be or become payable by the Debtors under or in connection with the Secured Debt Documents have been irrevocably paid in full and unless the Security Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Secured Debt Documents or by reason of any amount being payable, or liability arising, under this Clause 16:

- 16.8.1 to be indemnified by a Debtor;
- 16.8.2 to claim any contribution from any other guarantor of any Debtor's obligations under the Secured Debt Documents;
- 16.8.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Party under the Secured Debt Documents or of any other guarantee or security taken pursuant to, or in connection with, the Secured Debt Documents by any Secured Party;
- 16.8.4 to bring legal or other proceedings for an order requiring any Debtor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 16.1 (*Guarantee and indemnity*);
- 16.8.5 to exercise any right of set-off against any Debtor; and/or
- 16.8.6 to claim or prove as a creditor of any Debtor in competition with any Secured 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 Secured Parties by the Debtors under or in connection with the Secured Debt Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with, prior to the taking of any Security Enforcement Action, the partial payment provisions in the Initial Bank Facilities Agreement and any Additional Finance Document on a pro rata and *pari passu* basis and thereafter in accordance with Clause 17 (*Application of proceeds*).

16.9 Release of Guarantor's right of contribution

If any Guarantor (a "**Retiring Guarantor**") ceases to be a Guarantor in accordance with the terms of the Secured Debt Documents, then on the date such Retiring Guarantor ceases to be a Guarantor:

- 16.9.1 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 Secured Debt Documents; and
- 16.9.2 each other Guarantor waives any rights it may have by reason of the performance of its obligations under the Secured Debt Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under any Secured Debt Document or of any other security taken pursuant to, or in connection with, any Secured Debt Document where such rights or security are granted by or in relation to the assets of the Retiring Guarantor.

16.10 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 Secured Party.

16.11 Guarantee limitations

16.11.1 Notwithstanding anything to the contrary in this Agreement or any Debt Document, this guarantee and any guarantee, indemnity, security, obligations and liabilities of a Guarantor or any member of the Group (including, without limitation, its obligations under and in connection with this Clause 16 and any similar provision of any Debt Document:

- (i) shall not apply to or include any liability or obligations to the extent that it would (or would result in) or constitute unlawful financial assistance (notwithstanding any applicable exceptions and/or the undertaking of any prescribed “white wash” or other procedures) within the meaning of section 678 or 679 of the Companies Act 2006 or any equivalent and applicable provisions under any applicable law or regulation; and
- (ii) shall be subject to the Legal Reservations and Perfection Requirements and any limitations, restrictions or other matters or constraints set out in any Debtor/Guarantor Accession Deed or Debt Document applicable to such new Guarantor.

16.11.2 Notwithstanding anything to the contrary in this Agreement or any Debt Document:

- (i) the liabilities and obligations of Parent under and in connection with this Agreement and the Transaction Security are limited to the Charged Property of the Parent over which Parent grants Transaction Security in favour of the Security Agent pursuant to the Transaction Security Documents (the “**Parent Charged Property**”), the rights and recourse of the Secured Parties to or against Parent are limited to a right to enforce the Transaction Security in respect of the Parent Charged Property (and to receive from the enforcement of such Transaction Security) and no Secured Party shall have any right or recourse to any assets of Parent which are not Parent Charged Property;
- (ii) if any member of the Target Group is or becomes a party to this Agreement or any applicable Debt Document as a Borrower, such member of the Target Group shall be a party to this Agreement and such Debt Document solely for the purpose of borrowing (in its capacity as Borrower) that amount of the loans borrowed by it and no such member of the Target Group shall be, or shall be regarded as, a Guarantor or be required to give or provide any guarantee (but, for the avoidance of doubt, without prejudice to the Guarantor Coverage Test under and as defined in the Initial Bank Facilities Agreement from the First Guarantor Accession Date under and as defined in the Initial Bank Facilities Agreement), and any guarantee, indemnity, security, obligations and liabilities of any member of the Target Group (including, without limitation, its obligations under and in connection with this Clause 16) shall be limited to amounts of the loans borrowed by such member of the Target Group under the relevant Debt Document and apply only insofar as such member of the Target Group is the borrower of such liabilities; and
- (iii) until after the First Guarantor Accession Date under and as defined in the Initial Bank Facilities Agreement, any guarantee, indemnity, security, obligations and liabilities of a member of the Target Group shall:

- (a) not apply to or in relation to the obligations of the Company or any person which is not the Target or a member of the Target Group; and
- (b) shall be limited solely to the outstanding amount of the Facilities actually borrowed by (or on-lent to) a member of the Target Group under the Initial Bank Facilities Agreement,

and, for the avoidance of doubt, no member of the Target Group shall be or be regarded as a guarantor of, or be required to provide any guarantee, indemnity, security or other assurance against loss in respect of any Debt Document or any amount of the Liabilities other than as contemplated by paragraph (ii) above, and any guarantee, indemnity, security, obligations and liabilities of any member of the Target Group (including, without limitation, its obligations under and in connection with this Clause 16) shall be limited accordingly.

16.12 Guarantee Limitations: Belgium

16.12.1 Notwithstanding any provision to the contrary in this Agreement or in any other Debt Document, the liability of any Guarantor incorporated in Belgium (a “**Belgian Guarantor**”) under this Clause 16 or any other Debt Documents for the obligations of any Debtor which is not a direct or indirect Subsidiary of that Belgian Guarantor will be limited to the greater of:

- (i) an amount equal to 85 per cent. of the Net Assets of that Belgian Guarantor calculated on the basis of its latest available annual financial statements at the date it becomes a party to this Agreement;
- (ii) an amount equal to 85 per cent. of the Net Assets of that Belgian Guarantor calculated on the basis of its latest available annual financial statements at the date on which a demand is made against it under this Clause 16 or any other Debt Documents; and
- (iii) the highest amount of On-Lending to that Belgian Guarantor and its Subsidiaries at any time between its accession to this Agreement and the date on which a demand is made against it under this Clause 16 or any other Debt Documents.

16.12.2 For the purpose of Clause 16.12.1:

- (i) “**Net Assets**” means, irrespective of the corporate form of the Belgian Guarantor, the net assets (*netto actief/actif net*) of the Belgian Guarantor as calculated in accordance with rules under the Belgian Code of Companies and Associations to determine whether a dividend can be distributed and, in the event of a dispute on the amount thereof, a certificate of such amount from the statutory auditor of the Belgian Guarantor (or, if no statutory auditor is appointed or the statutory auditor refuses to issue such certificate, from an accountant appointed upon the Security Agent’s request by the “*Instituut van de Bedrijfsrevisoren/Institut des Réviseurs d’Entreprises*”) shall be conclusive, save in the case of manifest error; and
- (ii) “**On-Lending**” means, without double counting, the aggregate amount of any proceeds under any Debt Document made available by any Debtor, directly or indirectly, to the Belgian Guarantor or any of its Subsidiaries (in each case,

irrespective of whether retained or on-lent by the Belgian Guarantor or its Subsidiary).

16.12.3 Except to the extent already taken into account for the calculation of Net Assets and without double counting, any amount paid by a Belgian Guarantor under this Clause 16 and the other Debt Documents and any proceeds received by the Secured Parties in connection with any Transaction Security granted by it, shall reduce the maximum liability of that Belgian Guarantor under this Clause 16 and the other Debt Documents as determined in accordance with the formula under Clause 16.12.1.

16.12.4 For the avoidance of doubt, any guarantee granted by a Belgian Guarantor under this Clause 16 shall not include any liability to the extent it would constitute unlawful financial assistance, within the meaning of Articles 5:152 and 7:227 of the Belgian Code of Companies and Associations.

17 Application of proceeds

17.1 Order of application

Subject to Clause 8.4 (*Turnover: Standstill Period*), Clause 17.2 (*Prospective liabilities*) and Clause 17.3 (*Treatment of Cash Cover*), all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Debt Document or in connection with the realisation or enforcement of all or any part of the Transaction Security (for the purposes of this Clause 17, the "**Recoveries**"), shall be held by the Security Agent on trust as trustee or as security agent to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 17), in the following order of priority:

17.1.1 in discharging any sums owing to the Security Agent (other than pursuant to Clause 19.3 (*Parallel debt*)), any Receiver or any Delegate;

17.1.2 in discharging all costs and expenses incurred by any External Creditor in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of this Agreement or any action taken at the request of the Security Agent under Clause 7.6 (*Further assurance – Insolvency Event*);

17.1.3 in payment or distribution to:

- (i) each Creditor Representative on its own behalf and on behalf of the Initial Bank Facilities Creditors or Additional Creditors for which it acts; or
- (ii) where no Creditor Representative has been appointed under the relevant Finance Document or Additional Finance Document, each Initial Bank Facilities Creditor or Additional Creditor, as applicable, under that Finance Document or Additional Finance Document, as applicable; and
- (iii) the Hedge Counterparties,

for application towards the discharge of:

- (a) the Initial Bank Facilities Liabilities (on a *pro rata* basis between the Initial Bank Facilities Liabilities of the Initial Bank Facilities Creditors) (in accordance with the terms of the Finance Documents);

- (b) the Additional Liabilities (on a *pro rata* basis between the Additional Liabilities of the Additional Creditors) (in accordance with the terms of the Additional Finance Documents and including any Make Whole Amounts); and
- (c) the Hedging Liabilities (on a *pro rata* basis between the Hedging Liabilities of each Hedge Counterparty),

on a *pro rata* and *pari passu* basis between paragraphs (a), (b) and (c) above;

17.1.4 if a Debtor is not under any further actual or contingent liability under any Creditor Document, in payment or distribution to any person to whom the Security Agent is obliged to pay or distribute in priority to the Debtor; and

17.1.5 the balance, if any, in payment or distribution to a Debtor.

17.2 Prospective liabilities

Following a Distress Event, the Security Agent may, in its discretion:

17.2.1 hold any amount of the Recoveries as to the Expected Amount (as defined below) which is in the form of cash, and any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any Non-Cash Consideration, in one or more interest-bearing suspense or impersonal accounts in the name of the Security Agent with such financial institution (including itself) as the Security Agent shall think fit (the interest being credited to the relevant account); and

17.2.2 hold, manage, exploit, collect and realise any amount of the Recoveries which is in the form of Non-Cash Consideration,

in each case, for so long as the Security Agent shall think fit for later application under Clause 17.1 (*Order of application*) in respect of:

- (i) any sum to any Security Agent, any Receiver or any Delegate; and
- (ii) any part of the Liabilities,

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future (the “**Expected Amount**”).

17.3 Treatment of Cash Cover

17.3.1 Nothing in this Agreement shall prevent any Issuing Bank or Ancillary Lender taking any Enforcement Action in respect of any Cash Cover which has been provided for it in accordance with the Initial Bank Facilities Agreement or any Additional Facility Documents.

17.3.2 To the extent that any Cash Cover is not held with the Relevant Issuing Bank or Relevant Ancillary Lender, all amounts from time to time received or recovered in connection with the realisation or enforcement of that Cash Cover shall be paid to the Security Agent and shall be held by the Security Agent on trust as trustee or as security agent to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law, in the following order of priority:

- (i) to the Relevant Issuing Bank or Relevant Ancillary Lender towards the discharge of the Initial Bank Facilities Liabilities or Additional Liabilities for which that Cash Cover was provided; and
- (ii) the balance, if any, in accordance with Clause 17.1 (*Order of application*).

17.3.3 To the extent that any Cash Cover is held with the Relevant Issuing Bank or Relevant Ancillary Lender, nothing in this Agreement shall prevent that Relevant Issuing Bank or Relevant Ancillary Lender receiving and retaining any amount in respect of that Cash Cover.

17.4 Investment of Cash Proceeds

Prior to the application of the proceeds of the Security Property in accordance with Clause 17.1 (*Order of application*), the Security Agent may, in its discretion, hold all or part of any Cash Proceeds in one or more interest-bearing suspense or impersonal accounts in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those moneys in the Security Agent's discretion in accordance with the provisions of this Clause 17.

17.5 Currency conversion

17.5.1 For the purpose of, or pending the discharge of, any of the Secured Obligations, the Security Agent may:

- (i) convert any moneys received or recovered by the Security Agent (including, without limitation, any Cash Proceeds) from one currency to another, at the Security Agent's Spot Rate of Exchange; and
- (ii) notionally convert the valuation provided in any opinion or valuation from one currency to another, at the Security Agent's Spot Rate of Exchange.

17.5.2 The obligations of any Debtor to pay in the due currency shall only be satisfied:

- (i) in the case of Clause 17.5.1(i), to the extent of the amount of the due currency purchased after deducting the costs of conversion; and
- (ii) in the case of Clause 17.5.1(ii), to the extent of the amount of the due currency which results from the notional conversion referred to in that Clause.

17.6 Permitted deductions

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

17.7 Good discharge

17.7.1 Any distribution or payment to be made in respect of the Secured Obligations by the Security Agent:

- (i) may be made to a Creditor Representative on behalf of its External Creditors (or, if there is no such Creditor Representative, to the relevant External Creditor directly);
- (ii) may be made to the Relevant Issuing Bank or Relevant Ancillary Lender in accordance with Clause 17.3.2(i) (*Treatment of Cash Cover*) or
- (iii) shall be made directly to the Hedge Counterparties.

17.7.2 Any distribution or payment made as described in Clause 17.7.1 shall be a good discharge, to the extent of that payment or distribution, by the Security Agent:

- (i) in the case of a payment made in cash, to the extent of that payment; and
- (ii) in the case of a distribution of Non-Cash Recoveries, as determined by Clause 13.2.1 (*Cash value of Non-Cash Recoveries*).

17.7.3 The Security Agent is under no obligation to make the payments to the Creditor Representatives (or, if there is no such Creditor Representative, the relevant External Creditors directly) or the Hedge Counterparties under Clause 17.7.1 in the same currency as that in which the Liabilities owing to the relevant External Creditor are denominated pursuant to the relevant Debt Document.

17.8 Calculation of amounts

For the purpose of calculating any person's share of any amount payable to or by it, the Security Agent shall be entitled to:

17.8.1 notionally convert the Liabilities owed to any person into a common base currency (decided in its discretion by the Security Agent), that notional conversion to be made at the Security Agent's Spot Rate of Exchange in respect of the conversion of the actual currency of the Liabilities owed to that person at the time at which that calculation is to be made into the notional base currency; and

17.8.2 assume that all amounts received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Liabilities in accordance with the terms of the Debt Documents under which those Liabilities have arisen.

18 Equalisation

18.1 Equalisation definitions

For the purposes of this Clause 18:

"**Enforcement Date**" means the first date (if any) on which an External Creditor takes enforcement action of the type described in paragraph (a)(i), (a)(iv) or (c) of the definition of "Enforcement Action" in accordance with the terms of this Agreement.

"Exposure" means:

- (a) in relation to a Senior Lender or Additional Lender, the aggregate amount of its participation (if any, and without double counting) in all utilisations outstanding under the Initial Bank Facilities Agreement and/or Additional Finance Documents at the Enforcement Date (assuming all contingent liabilities which have become actual liabilities since the Enforcement Date to have been actual liabilities at the Enforcement Date (but not including, for these purposes only, any interest that would have accrued from the Enforcement Date to the date of actual maturity in respect of those liabilities) and assuming any transfer of claims between Senior Lenders pursuant to any loss-sharing arrangement in the Initial Bank Facilities Agreement and/or between Additional Lenders pursuant to any loss-sharing arrangement in the relevant Additional Finance Document which has taken place since the Enforcement Date to have taken place at the Enforcement Date) together with the aggregate amount of all accrued interest, fees and commission owed to it under the Initial Bank Facilities Agreement and/or Additional Finance Documents and amounts owed to it by a Debtor in respect of any Ancillary Facility but excluding:
 - (i) any amount owed to it by a Debtor in respect of any Ancillary Facility to the extent that that amount would not be outstanding but for a breach by that Senior Lender of any provision of the Initial Bank Facilities Agreement or the relevant Additional Finance Document (as applicable);
 - (ii) any amount owed to it by a Debtor in respect of any Ancillary Facility to the extent (and in the amount) that Cash Cover has been provided by a Debtor in respect of that amount and is available to that Senior Lender or Additional Lender pursuant to the relevant Cash Cover Document; and
 - (iii) any amount outstanding in respect of a Letter of Credit to the extent (and in the amount) that Cash Cover has been provided by a Debtor in respect of that amount and is available to the party it has been provided for pursuant to the relevant Cash Cover Document;
- (b) in relation to an Additional PP Noteholder, the aggregate principal amount of its entitlement to all outstanding in respect of its Additional PP Notes at the Enforcement Date (assuming all contingent liabilities which have become actual liabilities since the Enforcement Date to have been actual liabilities at the Enforcement Date (but not including, for these purposes only, any interest that would have accrued from the Enforcement Date to the date of actual maturity in respect of those liabilities)) together with the aggregate amount of all accrued interest, fees and commission owed to it under the Additional PP Notes; and
- (c) in relation to a Hedge Counterparty:
 - (i) if that Hedge Counterparty has terminated or closed out any hedging transaction under any Hedging Agreement in accordance with the terms of this Agreement on or prior to the Enforcement Date, the amount, if any, payable to it under that Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (taking into account any interest accrued on that amount) to the extent that amount is unpaid at the Enforcement Date (that amount to be certified by the relevant Hedge

Counterparty and as calculated in accordance with the relevant Hedging Agreement); and

- (ii) if that Hedge Counterparty has not terminated or closed out any hedging transaction under any Hedging Agreement on or prior to the Enforcement Date:
 - (A) if the relevant Hedging Agreement is based on an ISDA Master Agreement, the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction if the Enforcement Date was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which a Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement); or
 - (B) if the relevant Hedging Agreement is not based on an ISDA Master Agreement, the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction if the Enforcement Date was deemed to be the date on which an event similar in meaning and effect (under that Hedging Agreement) to an Early Termination Date (as defined in any ISDA Master Agreement) occurred under that Hedging Agreement for which a Debtor is in a position similar in meaning and effect (under that Hedging Agreement) to that of a Defaulting Party (under and as defined in the same ISDA Master Agreement),

that amount, in each case, to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

18.2 Implementation of equalisation

18.2.1 The provisions of this Clause 18 shall be applied at such time or times after the Enforcement Date as the Security Agent shall consider appropriate.

18.2.2 Without prejudice to the generality of Clause 18.2.1, if the provisions of this Clause 18 have been applied before all the Liabilities have matured and/or been finally quantified, the Security Agent may elect to reapply those provisions on the basis of revised Exposures, and the relevant External Creditors shall make appropriate adjustment payments among themselves.

18.3 Equalisation

If, for any reason, any External Creditor Liabilities remain unpaid after the Enforcement Date and the resulting losses are not borne by the Senior Lenders, the Additional Creditors and the Hedge Counterparties in the proportions which their respective Exposures at the Enforcement Date bore to the aggregate Exposures of all the Senior Lenders, the Additional Creditors and the Hedge Counterparties at the Enforcement Date, the Senior Lenders, the Additional Creditors and the Hedge Counterparties will make such payments among themselves as the Security Agent shall require to put the Senior Lenders, the Additional Creditors and the Hedge Counterparties in such a position that (after taking into account such payments) those losses are borne in those proportions.

18.4 Turnover of enforcement proceeds

If:

18.4.1 the Security Agent or a Creditor Representative is not entitled, for reasons of applicable law, to pay or distribute amounts received pursuant to the making of a demand under any guarantee, indemnity or other assurance against loss or the enforcement of the Transaction Security to the External Creditors but is entitled to pay or distribute those amounts to Creditors (such Creditors, the "**Receiving Creditors**") who, in accordance with the terms of this Agreement, are subordinated in right and priority of payment to the External Creditors; and

18.4.2 the Final Discharge Date has not yet occurred,

then the Receiving Creditors shall make such payments or distributions to the External Creditors as the Security Agent shall require to place the External Creditors in the position they would have been in had such amounts been available for application against the External Creditor Liabilities.

18.5 Notification of Exposure

Before each occasion on which it intends to implement the provisions of this Clause 18, the Security Agent shall send notice to each Hedge Counterparty and each Creditor Representative (on behalf of the External Creditors that it represents or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance Document) requesting that it notify the Security Agent of, respectively, its Exposure and that of each Senior Lender and each Additional Creditor (if any) that it represents.

18.6 Default in payment

If an External Creditor fails to make a payment due from it under this Clause 18, the Security Agent shall be entitled (but not obliged) to take action on behalf of the External Creditor(s) to whom such payment was to be redistributed (subject to being indemnified to its satisfaction by such External Creditor(s) in respect of costs) but shall have no liability or obligation towards such External Creditor(s) or any other External Creditor as regards such default in payment and any loss suffered as a result of such default shall lie where it falls.

19 The Security Agent

19.1 Appointment of the Security Agent

19.1.1 Each other Secured Party appoints the Security Agent to act as security trustee under and in connection with the relevant Creditor Documents and this Agreement in relation to any security interest which is expressed to be or is construed to be governed by English law, or any other law from time to time designated by the Security Agent and the Company.

19.1.2 Except as expressly provided in Clause 19.1.1, each other Secured Party appoints the Security Agent to act as security agent (including as representative (*vertegenwoordiger/representant*) for the purposes of article 5 of the Belgian Financial Collateral Law and article 3 of the Belgian MAS Law) for and on behalf of the Secured Parties under and in connection with the relevant Creditor Documents and this Agreement.

19.1.3 Each other Secured Party authorises the Security Agent to perform the duties, obligations and responsibilities, and to exercise the rights, powers, authorities and discretions specifically given to it under or in connection with the relevant Creditor Documents and this Agreement.

19.1.4 The above notwithstanding, the Security Agent, acting at its discretion and to the extent reasonably possible, may invite the Secured Parties to enter into and/or to enforce the rights under each Finance Document and/or Additional Finance Document jointly with the Security Agent. For the avoidance of doubt, the provision above does not grant any right to the Secured Parties to enter into and/or to enforce the rights under each Finance Document and/or Additional Finance Document jointly with the Security Agent.

19.2 Security Agent as trustee

19.2.1 The Security Agent declares that it holds the Security Property on trust for the Secured Parties on the terms contained in this Agreement.

19.2.2 Subject to Clause 19.2.3, Clause 19.2.1 shall not apply to any Security Document which is expressed to be or is construed to be governed by any law other than English law or any other law from time to time designated by the Security Agent and a Debtor or any Security Property arising under any such Security Document.

19.2.3 Clause 19.2.2 shall not affect or limit the applicability of the provisions of this Clause 19 with respect to any Security Document which is expressed to be or is construed to be governed by any law other than English law or any other law from time to time designated by the Security Agent and a Debtor or any Security Property arising under any such Security Document.

19.2.4 Each of the Parties to this Agreement authorises the Security Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Debt Documents together with any other incidental rights, powers, authorities and discretions.

19.3 Parallel Debt

19.3.1 Each Debtor hereby irrevocably and unconditionally undertakes to pay to the Security Agent amounts equal to any amounts owing from time to time by that Debtor to any Secured Party under any Debt Document as and when those amounts are due.

19.3.2 Each Debtor and the Security Agent acknowledge that the obligations of each Debtor under Clause 19.3.1 are several and are separate and independent from, and shall not in any way limit or affect, the corresponding obligations of that Debtor to any Secured Party under any Debt Document (its "**Corresponding Debt**") nor shall the amounts for which each Debtor is liable under Clause 19.3.1 (its "**Parallel Debt**") be limited or affected in any way by its Corresponding Debt provided that:

- (i) the Parallel Debt of each Debtor shall be decreased to the extent that its Corresponding Debt has been irrevocably paid or (in the case of guarantee obligations) discharged; and

- (ii) the Corresponding Debt of each Debtor shall be decreased to the extent that its Parallel Debt has been irrevocably paid or (in the case of guarantee obligations) discharged; and
 - (iii) the amount of the Parallel Debt of each Debtor shall at all times be equal to the amount of its Corresponding Debt.
- 19.3.3** For the purpose of this Clause 19.3, the Security Agent acts in its own name and not as a trustee, and its claims in respect of the Parallel Debt shall not be held on trust. The Security granted under the Debt Documents to the Security Agent to secure the Parallel Debt is granted to the Security Agent in its capacity as creditor of the Parallel Debt and shall not be held on trust.
- 19.3.4** All monies received or recovered by the Security Agent pursuant to this Clause 19.3, and all amounts received or recovered by the Security Agent from or by the enforcement of any Security granted to secure the Parallel Debt, shall be applied in accordance with Clause 17 (*Application of proceeds*).
- 19.3.5** The Security Agent may enforce performance of any Parallel Debt in its own name as an independent and separate right. This includes any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding.
- 19.3.6** Each Secured Party shall, at the request of the Security Agent:
- (i) do anything required in connection with the enforcement of any Parallel Debt (including joining in any proceedings as co-claimant with the Security Agent); and
 - (ii) enforce any Parallel Debt.
- 19.3.7** Each Debtor irrevocably and unconditionally waives any right it may have to require a Secured Party to join in any proceedings as co-claimant with the Security Agent in respect of any Parallel Debt.
- 19.3.8** If the Security Agent returns to any Debtor, whether in any kind of insolvency proceedings or otherwise, any recovery in respect of which it has made a payment to a Secured Party, that Secured Party must repay an amount equal to that recovery to the Security Agent.
- 19.3.9** Without limiting or affecting the Security Agent's rights against the Debtors (whether under this Clause 19.3 or under any other provision of the Debt Documents), each Debtor acknowledges that:
- (i) nothing in this Clause 19.3 shall impose any obligation on the Security Agent to advance any sum to any Debtor or otherwise under any Debt Document, except in its capacity as Senior Lender; and
 - (ii) for the purpose of any vote taken under any Debt Document, the Security Agent shall not be regarded as having any participation or commitment other than those which it has in its capacity as a Senior Lender.

19.4 Instructions

19.4.1 The Security Agent shall:

- (i) subject to Clauses 19.4.4 and 19.4.5, exercise or refrain from exercising any right, power, authority or discretion vested in it as Security Agent in accordance with any instructions given to it by the Majority External Creditors; and
- (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above (or, if this Agreement stipulates the matter is a decision for any other Creditor or group of Creditors, in accordance with instructions given to it by that Creditor or group of Creditors).

19.4.2 The Security Agent shall be entitled to request instructions, or clarification of any instruction from the Majority External Creditors (or, if this Agreement stipulates the matter is a decision for any other Creditor or group of Creditors, from that Creditor or group of Creditors), as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion, and the Security Agent may refrain from acting unless and until it receives those instructions or that clarification.

19.4.3 Save in the case of decisions stipulated to be a matter for any other Creditor or group of Creditors under this Agreement and unless a contrary intention appears in this Agreement, any instructions given to the Security Agent by the Majority External Creditors shall override any conflicting instructions given by any other Parties and will be binding on all Secured Parties.

19.4.4 Clause 19.4.1 shall not apply:

- (i) where a contrary indication appears in this Agreement;
- (ii) where this Agreement requires the Security Agent to act in a specified manner or to take a specified action;
- (iii) in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role of Security Agent for the Secured Parties, including, without limitation, Clauses 19.7 (*No duty to account*) to 19.12 (*Exclusion of liability*), Clauses 19.15 (*Confidentiality*) to 19.22 (*Custodians and nominees*) and Clauses 19.25 (*Acceptance of title*) to 19.28 (*Disapplication of Trustee Acts*); or
- (iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:
 - (a) Clause 11 (*Non-Distressed Disposals*);
 - (b) Clause 17.1 (*Order of application*);
 - (c) Clause 17.2 (*Prospective liabilities*);
 - (d) Clause 17.3 (*Treatment of Cash Cover*); and
 - (e) Clause 17.6 (*Permitted deductions*).

19.4.5 If giving effect to instructions given by the Majority External Creditors would (in the Security Agent's opinion) have an effect equivalent to an Intercreditor Amendment, the Security Agent shall not act in accordance with those instructions unless consent to its so acting is obtained from each Party (other than the Security Agent) whose consent would have been required in respect of that Intercreditor Amendment.

19.4.6 In exercising any discretion to exercise a right, power or authority under the Debt Documents where either:

(i) it has not received any instructions as to the exercise of that discretion;
or

(ii) the exercise of that discretion is subject to Clause 19.4.4(iv),

the Security Agent shall

(a) other than where paragraph (b) below applies, do so having regard to the interests of all the Secured Parties; or

(b) if, in its opinion, there is a conflict between the interests of one group of External Creditors and the interests of another group of External Creditors in relation to the matter in respect of which the discretion is to be exercised, do so having regard only to the interests of all the External Creditors.

19.4.7 The Security Agent may refrain from acting in accordance with any instructions of any Creditor or group of Creditors until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Debt Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.

19.4.8 Without prejudice to the provisions of Clause 10 (*Enforcement of Transaction Security*) and the remainder of this Clause 19.4, in the absence of instructions, the Security Agent may act (or refrain from acting) as it considers in its discretion to be appropriate.

19.4.9 This Clause 19.4 is without prejudice to Clause 11.1 (*Facilitation of Non-Distressed Disposals*).

19.5 Duties of the Security Agent

19.5.1 The Security Agent's duties under the Debt Documents are solely mechanical and administrative in nature.

19.5.2 The Security Agent shall promptly:

(i) forward to the Creditor Representatives (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance Document) and to each Hedge Counterparty a copy of any document received by the Security Agent from a Debtor under any Debt Document; and

- (ii) forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party.

19.5.3 Except where a Debt Document specifically provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

19.5.4 Without prejudice to Clause 24.3 (*Notification of prescribed events*), if the Security Agent receives notice from a Party referring to any Debt Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the External Creditors.

19.5.5 To the extent that a Party (other than the Security Agent) is required to calculate a Common Currency Amount, the Security Agent shall, upon a request by that Party, promptly notify that Party of the relevant Security Agent's Spot Rate of Exchange.

19.5.6 The Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Debt Documents to which it is expressed to be a party (and no others shall be implied).

19.6 No fiduciary duties to the Debtors, Third Party Security Providers or Subordinated Creditors

Nothing in this Agreement constitutes the Security Agent as an agent, trustee or fiduciary of a Debtor, Third Party Security Provider or Subordinated Creditor.

19.7 No duty to account

The Security Agent shall not be bound to account to any other Secured Party for any sum or the profit element of any sum received by it for its own account.

19.8 Business with the Group

The Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group or any Subordinated Creditor.

19.9 Rights and discretions

19.9.1 The Security Agent may:

- (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
- (ii) assume that:
 - (a) any instructions received by it from the Majority External Creditors, any Creditors or any group of Creditors are duly given in accordance with the terms of the Debt Documents;
 - (b) unless it has received notice of revocation, those instructions have not been revoked; and
 - (c) if it receives any instructions to act in relation to the Transaction Security, all applicable conditions under the Debt Documents for so acting have been satisfied; 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 (iii)(a) above, may assume the truth and accuracy of that certificate.

19.9.2 The Security Agent may assume (unless it has received notice to the contrary in its capacity as security trustee or security agent for the Secured Parties) that:

- (i) no Default has occurred;
- (ii) any right, power, authority or discretion vested in any Party or any group of Creditors has not been exercised; and
- (iii) any notice made by the Debtors' Agent is made on behalf of and with the consent and knowledge of all the Debtors, the Subordinated Creditors, the Intra-Group Lenders and the Third Party Security Providers.

19.9.3 Without prejudice to the generality of Clause 19.9.4, the Security Agent may, at any time, engage, pay for and rely without liability on the services of any lawyers to act as independent counsel to the Security Agent (and so separate from any lawyers instructed by any External Creditor) if the Security Agent in its reasonable opinion deems this to be necessary or, following a Distress Event, desirable.

19.9.4 The Security Agent may, at any time, engage, pay for and rely without liability on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Security Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.

19.9.5 The Security Agent, any Receiver and any Delegate may act in relation to the Debt Documents and the Security Property through its officers, employees and agents and shall not:

- (i) be liable for any error of judgement made by any such person; or
- (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of, any such person,

unless such error or such loss was directly caused by the Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct.

19.9.6 Unless this Agreement expressly specifies otherwise, the Security Agent may disclose to any other Party any information it reasonably believes it has received as security trustee or security agent under this Agreement.

19.9.7 Notwithstanding any other provision of any Debt Document to the contrary, the Security Agent is not 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.

- 19.9.8** Notwithstanding any provision of any Debt Document to the contrary, the Security 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 that the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

19.10 Responsibility for documentation

None of the Security Agent, any Receiver or any Delegate is responsible or liable for:

- 19.10.1** the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent, a Debtor, a Third Party Security Provider or any other person in or in connection with any Debt Document or the transactions contemplated in the Debt Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document;
- 19.10.2** the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property, any Report, any reliance letter entered into by the Security Agent in respect of any Report or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property; or
- 19.10.3** any determination as to whether any information provided or to be provided to any Secured 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.

19.11 No duty to monitor

The Security Agent shall not be bound to enquire:

- 19.11.1** whether or not any Default has occurred;
- 19.11.2** as to the performance, default or any breach by any Party or Third Party Security Provider of its obligations under any Debt Document;
- 19.11.3** whether any other event specified in any Debt Document has occurred; or
- 19.11.4** whether a Sponsor Affiliate beneficially owns or has any participation in any External Credit Participations for the purposes of Clause 27.6 (*Disenfranchisement of Sponsor Affiliates*).

19.12 Exclusion of liability

- 19.12.1** Without limiting Clause 19.12.2 (and without prejudice to any other provision of any Debt Document excluding or limiting the liability of the Security Agent, any Receiver or any Delegate), none of the Security Agent, any Receiver or any Delegate 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 Debt Document or the Security

Property 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 Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Debt Document or the Security Property;
- (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
- (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, 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; 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.

19.12.2 No Party (other than the Security Agent, that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Debt Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause 19 subject to Clause 1.7 (*Third party rights*) and the provisions of the Third Parties Act.

19.12.3 Nothing in this Agreement shall oblige the Security Agent 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 External Creditor,

on behalf of any External Creditor, and each External Creditor confirms to the Security Agent 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 Security Agent.

19.12.4 Without prejudice to any provision of any Debt Document excluding or limiting the liability of the Security Agent, any Receiver or any Delegate, any liability of the Security Agent, any Receiver or any Delegate arising under or in connection with any Debt Document or the Security Property shall be limited to the amount

of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Agent, Receiver or Delegate (as the case may be) 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 Security Agent, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Agent, any Receiver or any Delegate 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 Security Agent, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

19.13 External Creditors' indemnity to the Security Agent

19.13.1 Each External Creditor shall (in the proportion that the Liabilities due to it bear to the aggregate of the Liabilities due to all the External Creditors for the time being (or, if the Liabilities due to the External Creditors are zero, immediately prior to their being reduced to zero)) indemnify the Security Agent and every Receiver and every Delegate, within five Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct) in acting as Security Agent, Receiver or Delegate under, or exercising any authority conferred under, the Debt Documents (unless the relevant Security Agent, Receiver or Delegate has been reimbursed by a Debtor pursuant to a Debt Document).

19.13.2 For the purposes only of Clause 19.13.1, to the extent that any hedging transaction under a Hedging Agreement has not been terminated or closed out, the Hedging Liabilities due to any Hedge Counterparty in respect of that hedging transaction will be deemed to be:

- (i) if the relevant Hedging Agreement is based on an ISDA Master Agreement, the amount, if any, which would be payable to it under that Hedging Agreement in respect of those hedging transactions, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which a Debtor is the Defaulting Party (as defined in the relevant ISDA Master Agreement); or
- (ii) if the relevant Hedging Agreement (i) is not based on an ISDA Master Agreement, the amount, if any, which would be payable to it under that Hedging Agreement in respect of those hedging transactions, if the date on which the calculation is made was deemed to be the date on which an event similar in meaning and effect (under that Hedging Agreement) to an Early Termination Date (as defined in any ISDA Master Agreement) occurred under that Hedging Agreement for which a Debtor is in a position similar in meaning and effect (under that Hedging Agreement) to that of a Defaulting Party (under and as defined in the same ISDA Master Agreement),

that amount, in each case, as calculated in accordance with the relevant Hedging Agreement.

19.13.3 Subject to Clause 19.13.4, the Debtors' Agent shall within five Business Days of demand (giving reasonable details of the subject of such demand) reimburse any External Creditor for any payment that External Creditor makes to the Security Agent pursuant to Clause 19.13.1.

19.13.4 Clause 19.13.3 shall not apply to the extent that the indemnity payment in respect of which the External Creditor claims reimbursement relates to a liability of the Security Agent to a Debtor or Third Party Security Provider.

19.14 Resignation of the Security Agent

19.14.1 The Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the External Creditors and the Debtors' Agent.

19.14.2 Alternatively, the Security Agent may resign by giving 30 days' notice to the External Creditors and the Debtors' Agent, in which case, the Majority External Creditors may (after consultation with the Company) appoint a successor Security Agent.

19.14.3 If the Majority External Creditors have not appointed a successor Security Agent in accordance with Clause 19.14.2 within 20 days after notice of resignation was given, the retiring Security Agent (after consultation with the Creditor Representatives (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance Document) and the Hedge Counterparties) may appoint a successor Security Agent.

19.14.4 The retiring Security Agent shall, at its own cost, make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Debt Documents.

19.14.5 The Security Agent's resignation notice shall only take effect upon:

- (i) the appointment of a successor; and
- (ii) the transfer of all the Security Property to that successor.

19.14.6 Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Debt Documents (other than its obligations under Clause 19.26.2 (*Winding-up of trust*) and Clause 19.14.4) but shall remain entitled to the benefit of this Clause 19 and Clause 23.1 (*Indemnity to the Security Agent*) (and any Security Agent fees for the account of the retiring Security 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 among themselves as they would have had if that successor had been an original Party.

19.15 Confidentiality

19.15.1 In acting as trustee or security agent for the Secured Parties, the Security Agent shall be regarded as acting through its trustee or agency (as applicable) division which shall be treated as a separate entity from any other of its divisions or departments.

19.15.2 If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

19.15.3 Notwithstanding any other provision of any Debt Document to the contrary, the Security Agent is not obliged to disclose to any other person: (i) any confidential information; or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

19.16 Information from the Creditors

19.16.1 Each Creditor shall supply the Security Agent with any information that the Security Agent may reasonably specify as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent.

19.16.2 Each Hedge Counterparty shall promptly provide to the Security Agent copies of all Hedging Agreements to which that Hedge Counterparty is a party.

19.16.3 Each Creditor Representative shall, promptly upon request by the Security Agent, notify the Security Agent of the relevant Agent's Spot Rate of Exchange (as defined in the Initial Bank Facilities Agreement or each Additional Finance Document).

19.17 Credit appraisal by the Secured Parties

Without affecting the responsibility of a Debtor or Third Party Security Provider for information supplied by it or on its behalf in connection with any Debt Document, each Secured Party confirms to the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Debt Document, including, but not limited to:

19.17.1 the financial condition, status and nature of each member of the Group and any Third Party Security Provider;

19.17.2 the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;

19.17.3 whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or Third Party Security Provider or any of its respective assets under or in connection with any Debt Document, the Security Property, the transactions contemplated by the Debt Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;

19.17.4 the adequacy, accuracy or completeness of any information provided by the Security Agent, any Party or Third Party Security Provider or by any other person under or in connection with any Debt Document, the transactions contemplated by any Debt Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document; and

19.17.5 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.

19.18 Security Agent's additional remuneration

19.18.1 If an Event of Default has occurred and is continuing, the Company shall pay to the Security Agent any additional remuneration (together with any applicable VAT) that may be agreed between them or determined pursuant to Clause 19.18.2.

19.18.2 If the Security Agent and the Company fail to agree upon the nature of the duties or upon the additional remuneration referred to in Clause 19.18.1 or whether additional remuneration is appropriate in the circumstances, any dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Company or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Company) and the determination of any investment bank shall be final and binding upon the Parties.

19.19 Reliance and engagement letters

The Security Agent may obtain and rely on any certificate or report from a Debtor's auditor and may enter into any reliance letter or engagement letter relating to that certificate or report on such terms as it may consider appropriate (including, without limitation, restrictions on the auditor's liability and the extent to which that certificate or report may be relied on or disclosed).

19.20 No responsibility to perfect Transaction Security

The Security Agent shall not be liable for any failure to:

19.20.1 require the deposit with it of any deed or document certifying, representing or constituting the title of a Debtor or Third Party Security Provider to any of the Charged Property;

19.20.2 obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Debt Document or the Transaction Security;

19.20.3 register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Debt Document or of the Transaction Security;

19.20.4 take, or to require a Debtor or Third Party Security Provider to take, any step to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or

19.20.5 require any further assurance in relation to any Security Document.

19.21 Insurance by Security Agent

19.21.1 The Security Agent shall not be obliged:

- (i) to insure any of the Charged Property;
- (ii) to require any other person to maintain any insurance; or
- (iii) to verify any obligation to arrange or maintain insurance contained in any Debt Document,

and the Security Agent shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.

19.21.2 Where the Security Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Majority External Creditors request it to do so in writing and the Security Agent fails to do so within 14 days after receipt of that request.

19.22 Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets held by the Security Agent as trustee or Security Agent for the Secured Parties may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement, and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

19.23 Delegation by the Security Agent

19.23.1 Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period all or any right, power, authority or discretion vested in it in its capacity as such.

19.23.2 That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.

19.23.3 No Security Agent, Receiver or Delegate shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

19.24 Additional Security Agents

19.24.1 The Security Agent may, at any time, appoint (and subsequently remove) any person to act as a separate trustee or security agent or as a co-trustee or co-security agent jointly with it:

- (i) if it considers (acting reasonably) that appointment to be in the interests of the Secured Parties;

(ii) for the purposes of conforming to any legal requirement, restriction or condition which the Security Agent (acting reasonably) deems to be relevant; or

(iii) for obtaining or enforcing any judgment in any jurisdiction,

and the Security Agent shall give prior notice to the Company and the External Creditors of that appointment.

19.24.2 Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Debt Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.

19.24.3 The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions, pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

19.25 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that a Debtor or Third Party Security Provider may have to any of the Charged Property and shall not be liable for, or bound to require a Debtor or Third Party Security Provider to remedy, any defect in its right or title.

19.26 Winding-up of trust

If the Security Agent, with the approval of each Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, the Requisite Majority of Additional Creditors) and each Hedge Counterparty, determines that:

19.26.1 all of the Secured Obligations and all other obligations secured by the Security Documents have been fully and finally discharged; and

19.26.2 no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to a Debtor pursuant to the Debt Documents,

then:

(i) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and

(ii) any Security Agent which has resigned pursuant to Clause 19.14 (*Resignation of the Security Agent*) shall release, without recourse or warranty, all of its rights under each Security Document.

19.27 Powers supplemental to Trustee Acts

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Debt Documents shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

19.28 Disapplication of Trustee Acts

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent permitted by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

19.29 Subordinated Creditors, Third Party Security Providers, Intra-Group Lenders and Debtors: Power of Attorney

Each Subordinated Creditor, each Third Party Security Provider, each Intra-Group Lender and each Debtor by way of security for its obligations under this Agreement irrevocably appoints the Security Agent (at the cost of the relevant Subordinated Creditor, Third Party Security Provider, Intra-Group Lender or Debtor and without any consent, sanction, authority or further confirmation from any Subordinated Creditor, Third Party Security Provider, Intra-Group Lender or Debtor) to be its attorney to do anything which such Subordinated Creditor, Intra-Group Lender, Debtor or Third Party Security Provider has authorised the Security Agent or any other Party to do under this Agreement or is itself required to do under this Agreement but (i) prior to an Acceleration Event, such Subordinated Creditor, Intra-Group Lender, Debtor or Third Party Security Provider has failed to do within ten Business Days of receiving notice from the Security Agent requiring it to do so; or (ii) following an Acceleration Event which is continuing, has failed to do so (and the Security Agent may delegate that power on such terms as it sees fit).

19.30 Replacement of the Security Agent

19.30.1 After consultation with the Company, the Majority External Creditors may, by giving 30 days' notice to the Security Agent, replace the Security Agent by appointing a successor Security Agent (acting through an office in the same jurisdiction as the retiring Security Agent).

19.30.2 The retiring Security Agent shall (at the expense of the External Creditors if replaced pursuant to Clause 19.30.1) make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Debt Documents.

19.30.3 The appointment of the successor Security Agent shall only take effect upon the date specified in the notice from the Majority External Creditors or the Company (as applicable) to the retiring Security Agent provided that:

- (i) a successor has been appointed; and
- (ii) all the Security Property has been transferred to that successor.

19.30.4 As from that date, the retiring Security Agent shall be discharged from any further obligation in respect of the Debt Documents (other than its obligations under Clause 19.26.2 (*Winding-up of trust*) and Clause 19.30.2) but shall remain entitled to the benefit of Clause 23.1 (*Indemnity to the Security Agent*) (and any

agency fees for the account of the retiring Security Agent shall cease to accrue from (and shall be payable on) that date).

19.30.5 Any successor Security Agent and each of the other Parties shall have the same rights and obligations among themselves as they would have had if such successor had been an original Party.

20 Changes to the Parties

20.1 Assignments and transfers

No Party may:

20.1.1 assign any of its rights; or

20.1.2 transfer any of its rights and obligations,

in respect of any Debt Documents or the Liabilities except as permitted by this Clause 20.

20.2 Change of Senior Lender

20.2.1 A Senior Lender may:

(i) assign any of its rights; or

(ii) transfer by novation any of its rights and obligations,

in respect of any Debt Documents or the Liabilities if:

(a) that assignment or transfer is in accordance with the terms of the Initial Bank Facilities Agreement; and

(b) subject to Clause 20.2.2, any assignee or transferee has (if not already a Party as a Senior Lender) acceded to this Agreement, as a Senior Lender, pursuant to Clause 20.13 (*Creditor Accession Undertaking*).

20.2.2 Clause 20.2.1(b) shall not apply in respect of:

(i) any Debt Purchase Transaction permitted by clause 31.1 (*Permitted Debt Purchase Transactions*) of the Initial Bank Facilities Agreement; or

(ii) any Liabilities Acquisition of Initial Bank Facilities Liabilities by a member of the Group permitted under the Initial Bank Facilities Agreement as a result of which the relevant Initial Bank Facilities Liabilities are discharged (and any equivalent provision in any Additional Finance Document as a result of which the relevant Additional Liabilities are discharged),

entered into by a Debtor and effected in accordance with the terms of the Debt Documents.

20.3 Change of Additional Lender

An Additional Lender may:

20.3.1 assign any of its rights; or

20.3.2 transfer by novation any of its rights and obligations,

in respect of any Debt Documents or the Liabilities if:

- (i) that assignment or transfer is in accordance with the terms of the relevant Additional Finance Documents; and
- (ii) any assignee or transferee has (if not already a Party as an Additional Lender) acceded to this Agreement, as an Additional Lender, pursuant to Clause 20.13 (*Creditor Accession Undertaking*).

20.4 Change of Additional PP Noteholder

Any Additional PP Noteholder (to the extent that there is a Creditor Representative in relation to those Additional PP Notes) may assign, transfer or novate its rights and obligations to any person without the need for such person to execute and deliver to the Security Agent a Creditor Accession Undertaking.

20.5 Accession of Additional Creditors

In order for Financial Indebtedness to constitute "**Additional Liabilities**" for the purposes of this Agreement:

20.5.1 the relevant Financial Indebtedness must constitute Permitted Additional Debt; and

20.5.2 in respect of:

- (i) an issuance of private placement notes intended to constitute Additional PP Notes, the agent, trustee or other representative in respect of those private placement notes (or, where no trustee or other representative has been appointed in respect of those private placement notes, each Additional PP Noteholder) must have acceded to this Agreement as the Creditor Representative (or as an Additional Creditor in case of an Additional PP Noteholder) in relation to those Additional PP Notes pursuant to Clause 20.13 (*Creditor Accession Undertaking*); or
- (ii) any other indebtedness:
 - (a) the creditors in respect of that indebtedness must have acceded to this Agreement as Additional Lenders;
 - (b) each arranger in respect of that indebtedness must have acceded to this Agreement as an Additional Arranger; and
 - (c) the facility agent in respect of that credit facility must have acceded to this Agreement as the Creditor Representative in relation to that indebtedness,

in each case pursuant to Clause 20.13 (*Creditor Accession Undertaking*).

20.6 Change of Hedge Counterparty

A Hedge Counterparty may (in accordance with Clause 4.14 (*Transfers by Hedge Counterparties*) and with the terms of the relevant Hedging Agreement and subject to any consent required under that Hedging Agreement) transfer any of its rights or obligations in respect of the Hedging Agreements to which it is a party if any transferee has (if not already a Party as a Hedge Counterparty and a party to the Initial Bank Facilities Agreement as a Hedge Counterparty) acceded to this Agreement, pursuant to Clause 20.13 (*Creditor Accession Undertaking*) as a Hedge Counterparty.

20.7 Change of Creditor Representative

No person shall become a Creditor Representative unless, at the same time, it accedes to this Agreement as a Creditor Representative, pursuant to Clause 20.13 (*Creditor Accession Undertaking*).

20.8 Change of Intra-Group Lender

Subject to Clause 5.4 (*Acquisition of Intra-Group Liabilities*) and to the terms of the other Debt Documents, any Intra-Group Lender may:

20.8.1 assign any of its rights; or

20.8.2 transfer any of its rights and obligations,

in respect of the Intra-Group Liabilities to another member of the Group (the “**New Intra-Group Lender**”) provided that if these liabilities when aggregated with any other liabilities of any member of the Group to such New Intra-Group Lender are equal to or exceed EUR 25,000,000 (or its equivalent in any other currencies) that New Intra-Group Lender has (to the extent it is a Debtor and provided it is not already a Party as a Debtor or an Intra-Group Lender) acceded to this Agreement as a Debtor or an Intra-Group Lender, pursuant to Clause 20.13 (*Creditor Accession Undertaking*).

20.9 New Intra-Group Lender

If any member of the Group which is a Debtor makes any loan to any Debtor (but excluding any pooling, tax, treasury, trade credit or similar arrangements entered into in the ordinary course of business), in an aggregate amount of EUR 25,000,000 (or its equivalent in any other currencies) or more, the Company will procure that the person giving that loan (if not already a Party as a Debtor or an Intra-Group Lender) accedes (unless prohibited by law and subject to the Agreed Guarantee/Security Principles) to this Agreement as a Debtor or an Intra-Group Lender, pursuant to Clause 20.13 (*Creditor Accession Undertaking*).

20.10 Change of Subordinated Creditor

Any Subordinated Creditor may:

20.10.1 assign any of its rights; or

20.10.2 transfer any of its rights and obligations,

in respect of the Subordinated Liabilities to another Holding Company of the Company (the “**New Subordinated Creditor**”) provided that that New Subordinated Creditor has acceded to this Agreement as a Subordinated Creditor, pursuant to Clause 20.13 (*Creditor Accession Undertaking*).

20.11 New Subordinated Creditor

If any Holding Company of the Company makes any loan to the Company, the Company will procure that the person giving that loan accedes (unless prohibited by law and subject to the Agreed Guarantee/Security Principles) to this Agreement as a Subordinated Creditor, pursuant to Clause 20.13 (*Creditor Accession Undertaking*).

20.12 New Ancillary Lender

If any Affiliate of an Initial Bank Facilities Creditor or Additional Lender becomes an Ancillary Lender in accordance with the Initial Bank Facilities Agreement or an Additional

Facility Document, it shall not be entitled to share in any of the Transaction Security or in the benefit of any guarantee or indemnity in respect of any of the liabilities arising in relation to its Ancillary Facilities unless it has (if not already a Party as an Initial Bank Facilities Creditor or Additional Lender) acceded to this Agreement as an Initial Bank Facilities Creditor or Additional Lender pursuant to Clause 20.13 (*Creditor Accession Undertaking*) and, to the extent required by the Initial Bank Facilities Agreement or the relevant Additional Facility Document, to the Initial Bank Facilities Agreement or relevant Additional Facility Document as an Ancillary Lender.

20.13 Creditor Accession Undertaking

With effect from the date of acceptance by the Security Agent and, in the case of a Hedge Counterparty or any Affiliate of an Initial Bank Facilities Creditor or Additional Creditor, by the relevant Creditor Representative of a Creditor Accession Undertaking duly executed and delivered to the Security Agent by the relevant acceding party or, if later, the date specified in that Creditor Accession Undertaking:

20.13.1 any Party ceasing entirely to be a Creditor or Creditor Representative shall be discharged from further obligations towards the Security Agent and other Parties under this Agreement and their respective rights against one another shall be cancelled (except, in each case, for those rights which arose prior to that date);

20.13.2 as from that date, the replacement or new Creditor or Creditor Representative shall assume the same obligations and become entitled to the same rights, as if it had been an original Party in the capacity specified in the Creditor Accession Undertaking;

20.13.3 to the extent envisaged by any Facilities Agreement, any party acceding to this Agreement as a Hedge Counterparty shall also become party to the relevant Facilities Agreement as a Hedge Counterparty and shall assume the same obligations and become entitled to the same rights as if it had been an original party to the Facilities Agreement as a Hedge Counterparty; and

20.13.4 to the extent envisaged by the Initial Bank Facilities Agreement or the relevant Additional Facility Document, any new Ancillary Lender (which is an Affiliate of an Initial Bank Facilities Creditor or Additional Lender) shall also become party to the Initial Bank Facilities Agreement or the relevant Additional Facility Document as an Ancillary Lender and shall assume the same obligations and become entitled to the same rights as if it had been an original party to the Initial Bank Facilities Agreement or the relevant Additional Facility Documents.

20.14 New Debtor or Guarantor

20.14.1 If any member of the Group:

- (i) incurs any Liabilities under the Secured Debt Documents;
- (ii) gives any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities under the Secured Debt Documents; or
- (iii) is required to accede to this Agreement as a Guarantor pursuant to the terms of any Finance Document or Additional Finance Document,

the Company will procure that the person incurring those Liabilities or giving that assurance accedes to this Agreement as a Debtor and, if required under any relevant

Finance Document to become a Party as a Guarantor (unless waived under such Finance Document and provided that nothing in this Agreement shall require a Debtor to become a Party as a Guarantor), as a Guarantor, in each case in accordance with Clause 20.14.3, no later than contemporaneously with the incurrence of those Liabilities or the giving of that assurance, provided that such requirement shall be subject to applicable law and regulation and the Agreed Guarantee/Security Principles, and provided further that if the only Liabilities incurred by such member of the Group are Intra-Group Liabilities or pursuant to an Ancillary Facility, there shall be no requirement on the Company to procure that such member of the Group accedes to this Agreement.

- 20.14.2** If any Affiliate of a Debtor becomes a borrower of an Ancillary Facility in accordance with the terms of the Initial Bank Facilities Agreement, the relevant Debtor shall procure that such Affiliate accedes to this Agreement as a Debtor no later than contemporaneously with the date on which it becomes a borrower.
- 20.14.3** With effect from the date of acceptance by the Security Agent of a Debtor/Guarantor Accession Deed duly executed and delivered to the Security Agent by the new Debtor and/or Guarantor (as applicable) or, if later, the date specified in the Debtor/Guarantor Accession Deed, the new Debtor and/or Guarantor (as the case may be) shall assume the same obligations and become entitled to the same rights as if it had been an original Party as a Debtor and/or a Guarantor (as the case may be).
- 20.14.4** The Security Agent shall accept a Debtor/Guarantor Accession Deed in respect of a proposed new Debtor if it receives a completed Debtor/Guarantor Accession Deed in respect of that proposed new Debtor, duly executed by that proposed new Debtor and the Company.
- 20.14.5** The Security Agent shall accept a Debtor/Guarantor Accession Deed in respect of a proposed Guarantor if it receives:
- (i) a completed Debtor/Guarantor Accession Deed in respect of that proposed Guarantor, duly executed by that proposed Guarantor (as the case may be) and the Company; and
 - (ii) all of the documents and other evidence listed in part II (*Conditions Precedent required to be delivered by an Additional Guarantor*) of schedule 2 (*Conditions Precedent*) of the Initial Bank Facilities Agreement in relation to that proposed Guarantor, each in form and substance satisfactory to the Initial Bank Facilities Agent (or any Additional Finance Document Equivalent).
- 20.14.6** The Initial Bank Facilities Agent or Additional Agent (as applicable) shall notify the Security Agent promptly upon being satisfied that it has received the documents and other evidence referred to in Clause 20.14.5(ii).

20.15 Additional parties

- 20.15.1** Each of the Parties appoints the Security Agent to receive on its behalf each Debtor/Guarantor Accession Deed and each Creditor Accession Undertaking delivered to the Security Agent, and the Security Agent shall, as soon as reasonably practicable after receipt by it, sign and accept the same if it appears on its face to have been completed, executed and, where applicable, delivered

in the form contemplated by this Agreement or, where applicable, by the relevant Facilities Agreement.

20.15.2 In the case of a Creditor Accession Undertaking delivered to the Security Agent by any new Ancillary Lender (which is an Affiliate of an Initial Bank Facilities Creditor or an Additional Creditor) or any party acceding to this Agreement as a Hedge Counterparty or an Additional Creditor:

- (i) the Security Agent shall, as soon as practicable after signing and accepting that Creditor Accession Undertaking in accordance with Clause 20.15.1, deliver that Creditor Accession Undertaking to the relevant Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance Document); and
- (ii) the relevant Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance Document) shall, as soon as practicable after receipt by it, sign and accept that Creditor Accession Undertaking if it appears on its face to have been completed, executed and delivered in the form contemplated by this Agreement.

20.15.3 The Security Agent shall only be obliged to sign and accept a Creditor Accession Undertaking delivered to it 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 the accession by the prospective party to this Agreement.

20.15.4 Each Party shall, promptly upon the request of the Security Agent, supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Security Agent (for itself) in order for the Security Agent to carry out and be satisfied that 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 Debt Documents.

20.16 Resignation of a Debtor and/or Guarantor

20.16.1 The Debtors' Agent may request that a Debtor (other than the Company) and/or a Guarantor ceases to be a Debtor and/or a Guarantor (as applicable) by delivering to the Security Agent a Debtor/Guarantor Resignation Request.

20.16.2 The Security Agent shall accept a Debtor/Guarantor Resignation Request and notify the Debtors' Agent and each other Party of its acceptance if:

- (i) the Debtors' Agent has confirmed that no Event of Default is continuing or would result from the acceptance of the Debtor/Guarantor Resignation Request;
- (ii) the Company has confirmed that such Debtor and/or Guarantor has ceased to be a borrower and/or guarantor under each Finance Document and Additional Finance Document (as applicable) in accordance with its terms;

- (iii) each Hedge Counterparty notifies the Security Agent that that Debtor and/or Guarantor is under no actual or contingent obligations to that Hedge Counterparty in respect of the Hedging Liabilities owed to it; and
- (iv) the Debtors' Agent confirms that that Debtor and/or Guarantor is under no actual or contingent obligations in respect of the Intra-Group Liabilities.

20.16.3 Upon notification by the Security Agent to the Debtors' Agent of its acceptance of the resignation of a Debtor and/or a Guarantor:

- (i) that person shall cease to be a Debtor and/or Guarantor (as applicable) and shall have no further rights or obligations under this Agreement as a Debtor and/or Guarantor (as applicable); and
- (ii) the Security Agent is irrevocably authorised (at the cost of the Debtors' Agent and without any consent, sanction, authority or further confirmation from any other Party) (but subject to Clause 20.16.4) to execute and deliver or enter into any release of the Transaction Security granted by the resigning Debtor and/or Guarantor or any other claim in relation to the resigning Debtor's and/or Guarantor's property and to issue any certificates of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable.

20.16.4 Each release of Transaction Security or any claim described in Clause 20.16.3 shall become effective only on the acceptance by the Security Agent of the relevant Debtor/Guarantor Resignation Request.

21 Permitted Additional Debt

21.1.1 Without prejudice to the conditions of establishment of Permitted Additional Debt as set out in the relevant Debt Documents, the Parties shall be required to:

- (i) enter into any amendments and/or waivers necessary in order to permit the incurrence of Permitted Additional Debt, including (without limitation) if the incurrence of the Permitted Additional Debt is to be effected through the incurrence of indebtedness under Additional Finance Documents, for the Additional Creditors under those Additional Finance Documents and the Creditor Representative appointed under that Additional Finance Document all becoming Secured Parties and sharing in the Transaction Security on a *pari passu* basis in accordance with Clause 20 (*Changes to the Parties*) upon accession of all of those persons to this agreement as Additional Creditors; and/or
- (ii) take such other action as is required by the Company in order to facilitate the entry into such Permitted Additional Debt, including in relation to any changes to, the taking of, or the release coupled with the retaking of, any guarantee or Security, provided that the Security Agent shall not be required to execute a release of assets from any existing Transaction Security pursuant to this Clause 21.1.1 unless the Company has confirmed in writing to the Security Agent that it has determined in good faith (taking into account any applicable legal limitations and other relevant considerations in relation to the Permitted Additional Debt) that it is either not possible or not desirable to implement the Permitted Additional Debt on terms satisfactory to the

Parent by instead granting additional Transaction Security and/or amending the terms of the existing Transaction Security.

21.1.2 Each Creditor Representative and the Security Agent is irrevocably authorised and instructed by each Party (other than the Debtors and each Third Party Security Provider) to execute any such amended or replacement Secured Debt Documents and/or take such action on behalf of the Parties, the Secured Parties and the External Creditors (and shall promptly do so on the request of and at the cost of the Company).

21.1.3 Without prejudice to the other provisions of this Clause 21, each Creditor Representative, the Security Agent, each Secured Party and each External Creditor agrees that it shall co-operate with the Parent, the Company and each other member of the Group in order to facilitate any Permitted Additional Debt (including by way of, at the request and cost of the Company, executing any document or agreement and/or giving instructions to any person).

22 Costs and Expenses

22.1 Transaction expenses

The Debtors' Agent shall, within ten Business Days of demand (each such demand to be accompanied by reasonable supporting evidence (including, without limitation, receipts and invoices)), pay the Security Agent the amount of all costs and expenses (including legal fees up to any agreed cap), in each case as pre-approved by the Company, reasonably incurred by the Security Agent and by any Receiver or Delegate in connection with the negotiation, preparation, printing, execution and perfection of:

22.1.1 this Agreement and any other documents referred to in this Agreement and the Transaction Security; and

22.1.2 any other Secured Debt Documents executed after the date of this Agreement.

22.2 Amendment costs

If a Debtor or Third Party Security Provider requests an amendment, waiver or consent, the Debtors' Agent shall, within ten Business Days of demand (each such demand to be accompanied by reasonable supporting evidence (including, without limitation, receipts and invoices)), reimburse the Security Agent for the amount of all pre-agreed third party costs and expenses (including legal fees up to any agreed cap) reasonably incurred by the Security Agent and by any Receiver or Delegate in responding to, evaluating, negotiating or complying with that request or requirement.

22.3 Enforcement and preservation costs

The Debtors' Agent shall, within five Business Days of demand (each such demand to be accompanied by reasonable supporting evidence (including, without limitation, receipts and invoices)), pay to the Security Agent 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 Secured Debt Document and the Transaction Security and any proceedings instituted by or against the Security Agent as a consequence of its taking or holding the Transaction Security or enforcing these rights.

22.4 Stamp taxes

The Debtors' Agent shall pay and, within ten Business Days of demand (each such demand to be accompanied by reasonable supporting evidence (including, without limitation, receipts and invoices)), indemnify the Security Agent against any cost, loss or liability that the Security Agent incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Secured Debt Document, other than:

- 22.4.1 any such Tax which arises as a result of or in relation to an assignment, transfer, sub-participation, sub-contract or substitution of a Secured Party's rights under a Debt Document (including without limitation any such taxes payable in connection with the extension or confirmation of Transaction Security);
- 22.4.2 a Debt Document being voluntarily registered or appended to a document that requires mandatory registration, where such registration or filing is or was not required to maintain or preserve the rights of any Secured Party under the Debt Documents; or
- 22.4.3 any breach of any Finance Document or Additional Finance Document by any Secured Party.

22.5 Interest on demand

If any Creditor, any Third Party Security Provider or a Debtor fails to pay any amount payable by it under this Agreement on its due date, interest shall accrue on the overdue amount (and be compounded with it) from the due date up to the date of actual payment (both before and after judgment and to the extent that interest at a default rate is not otherwise being paid on that sum) at the rate which is 1 per cent. per annum over the rate at which the Security Agent would be able to obtain by placing on deposit with a leading bank an amount comparable to the unpaid amounts in the currencies of those amounts for any period(s) that the Security Agent may from time to time select, provided that (i) if any such rate is below zero, that rate will be deemed to be zero; and (ii) no interest shall accrue under this Clause 22.5 to the extent that default interest is accruing on the relevant unpaid amount under the relevant Secured Debt Document.

23 Other Indemnities

23.1 Indemnity to the Security Agent

23.1.1 Subject to any limitations applicable to any indemnity obligations of a Debtor under any Finance Document or Additional Finance Document including any Guarantee Limitations, each Debtor jointly and severally shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability (together with any applicable VAT) incurred by any of them (other than as a result of the gross negligence or wilful misconduct of such Security Agent, Receiver or Delegate) as a result of:

- (i) any failure by the Debtors' Agent to comply with its obligations under Clause 22 (*Costs and Expenses*);
- (ii) acting or relying on any notice, request or instruction from a Debtor or a Third Party Security Provider which it reasonably believes to be genuine, correct and appropriately authorised;
- (iii) the taking, holding, protection or enforcement of the Transaction Security;

- (iv) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent, each Receiver and each Delegate by the Debt Documents or by law;
- (v) any default by a Debtor or Third Party Security Provider in the performance of any of the obligations expressed to be assumed by it in the Debt Documents;
- (vi) instructing lawyers, accountants, tax advisers, surveyors, a Financial Adviser or other professional advisers or experts as permitted under this Agreement; or
- (vii) acting as Security Agent, Receiver or Delegate under the Debt Documents or which otherwise relates to any of the Security Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).

23.1.2 The Debtors expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 23.1 will not be prejudiced by any release or disposal under Clause 12 (*Distressed Disposals and Appropriation*), taking into account the operation of that Clause.

23.1.3 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 23.1 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.

23.2 Debtors' Agent indemnity to External Creditors

The Debtors' Agent shall within five Business Days of demand (giving reasonable details of the subject of such demand), and as principal obligor, indemnify each External Creditor against any cost, loss or liability (together with any applicable VAT), whether or not reasonably foreseeable, incurred by any of them in relation to or arising out of the operation of Clause 12 (*Distressed Disposals and Appropriation*) other than as a result of the gross negligence or wilful default of the relevant External Creditor.

24 Information

24.1 Dealings with Security Agent and Creditor Representatives

24.1.1 Subject to clause 37.5 (*Communication when Agent is Impaired Agent*) of the Initial Bank Facilities Agreement and any Additional Finance Document Equivalent, each Initial Bank Facilities Creditor and each Additional Creditor shall deal with the Security Agent exclusively through its Creditor Representative (if appointed) and the Hedge Counterparties shall deal directly with the Security Agent and shall not deal through any Creditor Representatives. Where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance Document shall deal directly with the Security Agent.

24.1.2 The Creditor Representatives shall not be under any obligation to act as agent or otherwise on behalf of any Hedge Counterparty except as expressly provided for in, and for the purposes of, this Agreement.

24.2 Disclosure between External Creditors and Security Agent

Notwithstanding any agreement to the contrary, each Debtor and Subordinated Creditor consents, until the Final Discharge Date, to the disclosure by any of the External Creditors and the Security Agent to each other (whether or not through the Creditor Representatives or the Security Agent) of such information concerning a Debtor and Subordinated Creditor as any External Creditor or the Security Agent shall see fit.

24.3 Notification of prescribed events

24.3.1 If an Event of Default either occurs or ceases to be continuing, the relevant Creditor Representative (or, where no Creditor Representative has been appointed under an Additional Finance Document, any Additional Creditor under that Additional Finance Document) shall, upon becoming aware of that occurrence or cessation, notify the Security Agent, and the Security Agent shall, upon receiving that notification, notify each External Creditor.

24.3.2 If an Acceleration Event occurs, the relevant Creditor Representative (or, where no Creditor Representative has been appointed under an Additional Finance Document, any Additional Creditor under that Additional Finance Document) shall notify the Security Agent, and the Security Agent shall, upon receiving that notification, notify each other Party.

24.3.3 If the Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security, it shall notify each Party of that action.

24.3.4 If any External Creditor intends to exercise any right it may have to enforce, or to take formal steps to enforce, any of the Transaction Security, it shall give reasonable prior notice to the Security Agent, and the Security Agent shall, upon receiving that notification, notify each Party of that action.

24.3.5 If a Debtor defaults on any Payment due under a Hedging Agreement, the Hedge Counterparty which is a party to that Hedging Agreement shall, upon becoming aware of that default and after allowing for any applicable grace periods, notify the Security Agent, and the Security Agent shall, upon receiving that notification, notify each Creditor Representative (or, where no Creditor Representative has been appointed under an Additional Finance Document, each Additional Creditor under that Additional Finance Document) and each other Hedge Counterparty.

24.3.6 If, prior to a Distress Event, the Company has certified to a Hedge Counterparty under Clause 4.9.1(i) (*Permitted enforcement: Hedge Counterparties*) that a proposed termination or close-out, in whole or in part, of any hedging transaction under any Hedging Agreement would not result in a breach of the Finance Documents or any Additional Finance Documents, the Company shall deliver a copy of that certificate to the Security Agent, and the Security Agent shall, upon receiving that certificate, notify each Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance Document) and each other Hedge Counterparty.

- 24.3.7** If a Hedge Counterparty terminates or closes out, in whole or in part, any hedging transaction under any Hedging Agreement under Clause 4.9 (*Permitted enforcement: Hedge Counterparties*), it shall notify the Security Agent, and the Security Agent shall, upon receiving that notification, notify each Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance Document) and each other Hedge Counterparty.
- 24.3.8** If a Mandatory Prepayment is waived by the relevant Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, the relevant Additional Creditor under that Additional Finance Document), it shall notify the Security Agent of the amount of the Mandatory Prepayment waived, and the Security Agent shall, upon receiving that notification, notify each other Creditor Representative (or, if a particular External Creditor is not represented by a Creditor Representative, that External Creditor) and each Hedge Counterparty.
- 24.3.9** If the amount of any underlying Financial Indebtedness which is hedged pursuant to a Hedging Agreement is to be reduced (whether by way of repayment, prepayment, cancellation or otherwise), the Company shall notify each Hedge Counterparty of the date and amount of that proposed reduction and any Interest Rate Hedge Excess that would result from that proposed reduction, in each case no later than two Business Days before the proposed reduction.

25 Notices

25.1 Communications in writing

Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by letter or electronic mail.

25.2 Addresses

The address and electronic mail address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Agreement is:

25.2.1 in the case of the Company, that identified with its name below;

25.2.2 in the case of the Security Agent, that identified with its name below; and

25.2.3 in the case of each other Party, that notified in writing to the Security Agent on or prior to the date on which it becomes a Party or that identified with its name below,

or any substitute address, electronic mail address or department or officer which that Party may notify to the Security Agent (or the Security Agent may notify to the other Parties, if a change is made by the Security Agent) by not less than five Business Days' notice.

25.3 Delivery

25.3.1 Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:

- (i) if by way of electronic mail, in accordance with Clause 25.5 (*Electronic communication*); or
- (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 25.2 (*Addresses*), if addressed to that department or officer.

25.3.2 Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Security Agent's signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).

25.3.3 Any notices from or to a Debtor shall be through the Security Agent.

25.3.4 Any communication or document made or delivered to the Debtors' Agent in accordance with this Clause 25.3 will be deemed to have been made or delivered to each Debtor.

25.3.5 Any communication or document which becomes effective, in accordance with Clauses 25.3.1 to 25.3.3, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

25.4 Notification of address and electronic mail address

Promptly upon receipt of notification of an address and electronic mail address or change of address or electronic mail address pursuant to Clause 25.2 (*Addresses*) or changing its own address or electronic mail address, the Security Agent shall notify the other Parties.

25.5 Electronic communication

25.5.1 All Parties agree that any communication to be made between any two Parties under or in connection with the Creditor Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website).

25.5.2 Any such electronic communication as specified in Clause 25.5.1 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 a Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under that Additional Finance Document) or the Security Agent, only if it is addressed in such a manner as the relevant Creditor Representative (or, where no Creditor Representative has been appointed under the relevant Additional Finance Document, each Additional Creditor under

that Additional Finance Document) or Security Agent shall specify for this purpose.

25.5.3 Any reference in a Creditor Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 25.5.

25.5.4 Any electronic communication which becomes effective, in accordance with Clause 25.5.2, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

25.6 English language

25.6.1 Any notice given under or in connection with this Agreement must be in English.

25.6.2 All other documents provided under or in connection with this Agreement must be:

- (i) in English; or
- (ii) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

26 Preservation

26.1 Partial invalidity

If, at any time, any provision of a Debt 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 that provision under the law of any other jurisdiction will in any way be affected or impaired.

26.2 No impairment

If, at any time after its date, any provision of a Debt Document (including this Agreement) is not binding on or enforceable in accordance with its terms against a person expressed to be a party to that Debt Document, neither the binding nature nor the enforceability of that provision or any other provision of that Debt Document will be impaired as against the other party(ies) to that Debt Document.

26.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under a Debt Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Debt Document. No election to affirm any Debt Document on the part of any 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 Debt Document are cumulative and not exclusive of any rights or remedies provided by law.

26.4 Waiver of defences

The provisions of this Agreement or any Transaction Security will not be affected by an act, omission, matter or thing which, but for this Clause 26.4, would reduce, release or prejudice the subordination and priorities expressed to be created by this Agreement, including (without limitation and whether or not known to any Party):

- 26.4.1** any time, waiver or consent granted to, or composition with, a Debtor or Third Party Security Provider or other person;
- 26.4.2** the release of a Debtor or Third Party Security Provider or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- 26.4.3** 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, a Debtor or Third Party Security Provider 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;
- 26.4.4** any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Debtor or Third Party Security Provider or other person;
- 26.4.5** any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Debt Document or any other document or security;
- 26.4.6** any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security;
- 26.4.7** any intermediate Payment of any of the Liabilities owing to the External Creditors in whole or in part; or
- 26.4.8** any insolvency or similar proceedings.

26.5 Priorities not affected

Except as otherwise provided in this Agreement, the priorities referred to in Clause 2 (*Ranking and Priority*) will:

- 26.5.1** not be affected by any reduction or increase in the principal amount secured by the Transaction Security in respect of the Liabilities owing to the External Creditors or by any intermediate reduction or increase in, amendment or variation to any of the Debt Documents, or by any variation or satisfaction of, any of the Liabilities or any other circumstances;
- 26.5.2** apply regardless of the order in which or dates upon which this Agreement and the other Debt Documents are executed or registered or notice of them is given to any person; and
- 26.5.3** secure the Liabilities owing to the External Creditors in the order specified, regardless of the date upon which any of the Liabilities arise or of any fluctuations in the amount of any of the Liabilities outstanding.

27 Consents, amendments and override

27.1 Required consents

27.1.1 Subject to this Clause 27.1, Clause 27.4 (*Exceptions*), Clause 27.5 (*Excluded External Credit Participations*) and Clause 27.6 (*Disenfranchisement of Sponsor Affiliates*), this Agreement may be amended or waived only with the consent of the Majority External Creditors and the Company.

27.1.2 Notwithstanding any other provision of this Clause 27, this Agreement and any Transaction Security Document may be amended by the Security Agent and the Company without the consent of any other Party to cure defects, resolve ambiguities or inconsistencies or reflect changes, in each case of a minor technical or administrative nature.

27.1.3 An amendment or waiver that has the effect of changing or which relates to:

- (i) Clause 3.4 (*Standstill Period: Initial Bank Facilities Creditors/Additional Creditors*), Clause 8 (*Turnover of Receipts*), Clause 9 (*Redistribution*), Clause 10 (*Enforcement of Transaction Security*), Clause 11 (*Non-Distressed Disposals*), Clause 12 (*Distressed Disposals and Appropriation*), Clause 17 (*Application of proceeds*), Clause 18 (*Equalisation*) or this Clause 27;
- (ii) the definitions of "Additional Finance Documents", "Debt Document", "External Creditors", "Debtor", "Majority External Creditors", "Requisite Majority", "External Credit Participation", "Initial Bank Facilities Agreement" and "Standstill Period";
- (iii) Clause 19.4.4(iii), Clause 19.4.5 and Clause 19.4.6 (*Instructions*); or
- (iv) the order of priority or subordination under this Agreement,

shall not be made without the consent of:

- (a) each Creditor Representative;
- (b) all the Senior Lenders;
- (c) all the Additional Creditors;
- (d) each Hedge Counterparty to the extent that the amendment or waiver would adversely affect the Hedge Counterparty;
- (e) the Security Agent; and
- (f) the Company.

27.1.4 Any amendment, waiver or consent which relates only to the rights or obligations applicable to External Creditors under a particular Authorised Financing Agreement (and which does not materially and adversely affect the rights or interests of External Creditors under other Authorised Financing Agreements) may be approved with only the consent of the relevant Creditor Representative(s) in respect of that Authorised Financing Agreements (if applicable, acting on the instructions of the Requisite Majority under that Authorised Financing Agreements) and the Company. For the avoidance of doubt, this Clause 27.1.4 is without prejudice to the ability of the Company to

effect, make or grant any amendment, waiver or consent pursuant to or in accordance with the remainder of this Clause 27.1 (*Required Consents*).

27.1.5 Notwithstanding anything to the contrary, if any amendment, waiver or consent requested by the Parent in relation to this Agreement and/or the Security Documents:

- (i) is not prohibited by the terms of any Authorised Financing Agreement (provided that, for the avoidance of doubt, this sub-paragraph (i) shall not override (A) any express requirement or restriction in an Authorised Financing Agreement in relation to the matter, step or action the subject of the proposed amendment, waiver or consent or (B) any express requirement for consent under this Agreement; or
- (ii) has been approved by the Requisite Majority under each Authorised Financing Agreement that otherwise prohibits that amendment, waiver or consent,

that amendment, waiver or consent shall be automatically and immediately deemed to have been approved and given for all purposes under this Agreement (and, if applicable, the relevant Security Documents). If the terms of any Authorised Financing Agreement:

- (a) require the relevant Creditor Representative(s) or Creditors to provide approval (or deem approval to have been provided) for any particular amendment, waiver or consent (for the avoidance of doubt, excluding any such terms which expressly entitle the relevant Creditor Representative(s) or Creditors to withhold their approval for that amendment, waiver or consent); or
- (b) do not seek to regulate the relevant matter, step or action the subject of the amendment, waiver or consent (which shall be the case if the amendment or waiver of any relevant document or agreement is not expressly regulated by that Authorised Financing Agreement and such amendment or waiver does not relate to a matter, step or action which is the subject of an express requirement or restriction in that Authorised Financing Agreement),

for the purpose of this Clause 27 that amendment, waiver or consent shall not be prohibited by the terms of that Authorised Financing Agreement.

27.2 Amendments and waivers: Transaction Security Documents

27.2.1 The Security Agent may, if the Company consents, amend the terms of, release or waive any of the requirements of, or grant any releases or consents under or in connection with, any of the Transaction Security Documents which shall be binding on each Party and the Security Agent is irrevocably authorised and instructed to do so promptly upon the request of the Company where such amendment, release, waiver, or consent is contemplated by (or approved in accordance with) any other provision of this Agreement or authorised by the Majority External Creditors.

27.2.2 Subject to Clause 27.2.1, Clause 27.4.1 (*Exceptions*), Clause 11.1 (*Facilitation of Non-Distressed Disposals*) and Clause 21 (*Permitted Additional Debt*), any amendment or waiver of, or consent under, any Transaction Security Document which has the effect of changing:

- (i) the manner in which the proceeds of enforcement of the Transaction Security are distributed; or
- (ii) the release of any Transaction Security (save as permitted or approved in accordance with the terms of this Agreement or the Initial Bank Facilities Agreement),

shall not be made without the prior consent of the External Creditors whose consent to that amendment, waiver or consent is required under the relevant Debt Document).

27.3 Effectiveness

27.3.1 Any amendment, waiver or consent given in accordance with this Clause 27 will be binding on all Parties and the Security Agent may effect, on behalf of any External Creditor, any amendment, waiver or consent permitted by this Clause 27.

27.3.2 Without prejudice to the generality of Clause 19.9 (*Rights and discretions*), the Security Agent may (acting reasonably) 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.

27.4 Exceptions

27.4.1 Subject to Clauses 27.4.2 and 27.4.3, an amendment, waiver or consent which relates to the rights or obligations of a Creditor Representative, an Arranger, the Security Agent (including, without limitation, any ability of the Security Agent to act in its discretion under this Agreement) or a Hedge Counterparty (to the extent that the amendment, waiver or consent would adversely affect that Hedge Counterparty) may not be effected without the consent of the Creditor Representative or, as the case may be, that Arranger, the Security Agent or that Hedge Counterparty.

27.4.2 None of Clause 27.4.1 or Clause 27.2.2 (*Amendments and waivers: Transaction Security Documents*) shall apply:

- (i) to any release of Transaction Security, claim or Liabilities; or
- (ii) to any consent,

which, in each case, the Security Agent gives in accordance with Clause 11 (*Non-Distressed Disposals*), Clause 12 (*Distressed Disposals and Appropriation*) or Clause 21 (*Permitted Additional Debt*) or any other provision of this Agreement or the Initial Bank Facilities Agreement.

27.4.3 Clause 27.4.1 shall apply to an Arranger only to the extent that Liabilities are then owed to that Arranger.

27.5 Excluded External Credit Participations

If in relation to:

- 27.5.1** a request for a Consent in relation to any of the terms of this Agreement and/or any Transaction Security Document;
- 27.5.2** a request to participate in any other vote of External Creditors under the terms of this Agreement;
- 27.5.3** a request to approve any other action under this Agreement;
- 27.5.4** a request to provide any confirmation or notification under this Agreement; or
- 27.5.5** a request to provide details of an Exposure,

any External Creditor (through its Creditor Representative or directly in the case of any External Creditor that does not have a Creditor Representative):

- (i) fails to respond to that request within ten Business Days of that request being made; or
- (ii) (in the case of Clauses 27.5.1 to 27.5.3) fails to provide details of its External Credit Participation to the Security Agent within the timescale specified by the Security Agent:

in the case of:

- (a) Clauses 27.5.1 to 27.5.3, that External Creditor's External Credit Participation shall be deemed to be zero for the purpose of calculating the External Credit Participations when ascertaining whether any relevant percentage (including unanimity) of External Credit Participations has been obtained to give that Consent, carry that vote or approve that action;
- (b) Clauses 27.5.1 to 27.5.3, that External Creditor's status as an External Creditor shall be disregarded for the purposes of ascertaining whether the agreement of any specified group of External Creditors has been obtained to give that Consent, carry that vote or approve that action;
- (c) Clause 27.5.4, that confirmation or notification shall be deemed to have been given; and
- (d) Clause 27.5.5, that External Creditor's Exposure shall be deemed to be zero.

This Clause shall not apply to an amendment or waiver referred to in Clause 27.1.3 or requiring the approval of the Majority External Creditors.

27.6 Disenfranchisement of Sponsor Affiliates

27.6.1 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:

- (i) the Majority External Creditors; or
- (ii) whether:

(a) any given percentage (including unanimity) of External Credit Participations; or

(b) the agreement of any specified group of External Creditors,

has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement,

that Commitment shall be deemed to be zero and, subject to Clause 27.6.2, that Sponsor Affiliate (or the person with whom it has entered into that sub-participation, other agreement or arrangement (a "**Counterparty**")) shall be deemed not to be a Senior Lender or an Additional Lender (as applicable).

27.6.2 Clauses 27.6.1(i) and 27.6.1(ii) shall not apply to the extent that a Counterparty is a Senior Lender or an Additional Lender (as applicable) by virtue otherwise than by beneficially owning the relevant Commitment.

27.6.3 Each Sponsor Affiliate that is a Senior Lender or Additional Lender agrees that:

(i) in relation to any meeting or conference call to which all the External Creditors are invited to attend or participate, it shall not attend or participate in the same if so requested by the Security Agent or, unless the Security Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and

(ii) it shall not, unless the Security Agent otherwise agrees, be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Security Agent or one or more of the External Creditors.

27.7 Disenfranchisement of Defaulting Lenders

27.7.1 For so long as a Defaulting Lender has any Available Commitment, in ascertaining:

(i) the Majority External Creditors; or

(ii) whether:

(a) any relevant percentage (including unanimity) of External Credit Participations; or

(b) the agreement of any specified group of External Creditors,

has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement, that Defaulting Lender's Commitments will be reduced by the amount of its Available Commitments and, to the extent that that reduction results in that Defaulting Lender's Commitments being zero, that Defaulting Lender shall be deemed not to be an Additional Lender or Senior Lender (as applicable).

27.7.2 For the purposes of this Clause 27.7, the Security Agent may assume that the following Creditors are Defaulting Lenders:

(i) any Creditor which has notified the Security Agent that it has become a Defaulting Lender;

- (ii) any Creditor if its Creditor Representative has notified the Security Agent that that Creditor is a Defaulting Lender; and
- (iii) any Creditor in relation to which it is aware that any of the events or circumstances referred to in paragraph (a), (b) or (e) of the definition of “Defaulting Lender” in the Initial Bank Facilities Agreement or any Additional Finance Document Equivalent has occurred,

unless it has received notice to the contrary from the Creditor concerned (together with any supporting evidence reasonably requested by the Security Agent) or the Security Agent is otherwise aware that the Creditor has ceased to be a Defaulting Lender.

27.8 Deemed consent

If, at any time prior to the Final Discharge Date, the Initial Bank Facilities Creditors or Additional Creditors give a Consent in respect of the Finance Documents and/or Additional Finance Documents, then, if that action was permitted by the terms of this Agreement, the Intra-Group Lenders and the Subordinated Creditors will (or will be deemed to):

- 27.8.1** give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and
- 27.8.2** do anything (including executing any document) that the Initial Bank Facilities Creditors or Additional Creditors may reasonably require to give effect to this Clause 27.8.2.

27.9 Excluded consents

Clause 27.8 (*Deemed consent*) does not apply to any Consent which has the effect of:

- 27.9.1** increasing or decreasing the Liabilities;
- 27.9.2** changing the basis upon which any Permitted Payments are calculated (including the timing, currency or amount of such Payments); or
- 27.9.3** changing the terms of this Agreement or of any Security Document.

27.10 No liability

None of the Initial Bank Facilities Creditors, Additional Creditors or the Hedge Counterparties will be liable to any other Creditor or any Debtor or any Third Party Security Provider for any Consent given or deemed to be given under this Clause 27.

27.11 Voting

In determining whether the Majority External Creditors have passed or approved any request, proposal, vote or instruction to be voted on under this Agreement, votes from the External Creditors shall be counted by the Security Agent in accordance with the following Clauses:

- 27.11.1** in respect of the Initial Bank Facilities Agreement or any Additional Finance Document:
 - (i) in the event that the Requisite Majority in respect of such Debt Document has voted in favour of the relevant request, proposal, vote or instruction, External Creditors whose External Credit Participations aggregate 100

per cent. of the External Credit Participations in relation to the relevant Debt Document shall be deemed to have voted in favour of the relevant proposal, vote or instruction; or

- (ii) if the Requisite Majority under a Debt Document does not vote in favour of the relevant request, proposal, vote or instruction, votes cast by the relevant External Creditors will be divided between votes cast in favour and votes cast against the relevant request, proposal, vote or instruction; and

27.11.2 each Hedge Counterparty will vote in respect of its External Credit Participations in relation to each Hedging Agreement.

27.12 Calculation of External Credit Participations

For the purpose of ascertaining whether any relevant percentage of External Credit Participations has been obtained under this Agreement, the Security Agent may notionally convert the External Credit Participations into their Common Currency Amounts.

28 Counterparts

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

29 Governing Law

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

30 Enforcement

30.1 Jurisdiction

30.1.1 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**").

30.1.2 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.

30.2 Service of process

30.2.1 Without prejudice to any other mode of service allowed under any relevant law the Debtors, the Subordinated Creditors, the Third Party Security Providers and each Intra-Group Lender (unless incorporated in England and Wales):

- (i) irrevocably appoints Macquarie Infrastructure and Real Assets (Europe) Limited as its agent for service of process in relation to any proceedings before the English courts in connection with this Agreement and any Transaction Security Document governed by English law; and

(ii) agrees that failure by a process agent to notify the relevant Debtor, Subordinated Creditor, Third Party Security Provider or Intra-Group Lender (as the case may be) of the process will not invalidate the proceedings concerned.

30.2.2 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 Debtors' Agent (on behalf of all of the Debtors, Intra-Group Lenders and Third Party Security Providers and Subordinated Creditors) must immediately (and in any event within 10 days of such event taking place) appoint another agent on terms acceptable to the Security Agent. Failing this, the Security Agent may appoint another agent for this purpose.

30.2.3 The Debtors, Third Party Security Providers, Intra-Group Lenders and Subordinated Creditors expressly agree and consent to the provisions of this Clause 30 and Clause 29 (*Governing Law*).

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

Schedule 1 Agreed Guarantee/Security Principles

1 Considerations

- (a) In determining what guarantees and Security will be provided in support of the obligations under the Debt Documents by any Debtors or Subordinated Creditors, the following matters in these Agreed Guarantee/Security Principles will be taken into account.
- (b) The Agreed Guarantee/Security Principles embody recognition by all parties that there may be certain legal and practical difficulties in obtaining guarantees and Security from all Guarantors and/or Third Party Security Providers (each a "**Guarantee/Security Provider**"). In particular:
 - (i) all guarantees and Transaction Security granted will be limited to the extent necessary or desirable to comply with requirements of applicable law and regulation, recommended tax structuring and Clause 16 (*Guarantee and Indemnity*), any Debtor/Guarantor Accession Deed, any Accession Letter (as defined in the Initial Bank Facilities Agreement) and any Additional Finance Documents;
 - (ii) general statutory and/or regulatory limitations, financial assistance, corporate benefit, capital maintenance rules, tax issues, AIFMD considerations, liquidity protection, corporate benefit, fraudulent preference, equitable subordination, illegal dividends and use of capital, prohibited loans and Security, fraudulent preference, "transfer pricing", "thin capitalisation" rules, "earnings stripping", "controlled foreign corporation" and other tax restrictions (including tax thin capitalisation issues), "exchange control restrictions", "liquidity impairment" rules, retention of title claims, director's liability concerns, any pension or regulatory requirements or constraints, employee, works council or trade union requirements, minority shareholder interests, distributable reserve restrictions on up-streaming of cash intra-Group, solvency, existing and permitted security and similar principles may limit the ability of a Guarantee/Security Provider to provide a guarantee or Transaction Security or may require that the guarantee be limited by an amount or otherwise. If any such limit applies, any guarantees and/or Security provided will be limited to the maximum amount which the relevant Guarantee/Security Provider may provide having regard to applicable law and regulation and the considerations contemplated in these Agreed Guarantee/Security Principles, provided that in each case the Guarantor/Security Provider shall use reasonable endeavours to overcome any such obstacles for a period of no more than 20 Business Days if reasonably practicable and provided that it does not cause any member of the Group to incur additional material cost, liability or expense or take any action which (in the opinion of the Company or any member of the Group, acting reasonably) would be commercially prejudicial to the interests of the Company or any member of the Group;
 - (iii) certain general meeting, supervisory board, employee, pensions, trade union or employee or works council or another external body's or person's consent may be required (whether in the form of a positive consent, the

absence of any objection or negative advice or any other relevant equivalent) to enable a Guarantee/Security Provider to provide a guarantee or Security. Such guarantee and/or Security shall not be required unless such consent has been received, provided that if such asset is material the relevant Guarantee/Security Provider shall (if so requested by the Security Agent, acting reasonably) use its commercially reasonable endeavours to procure such necessary consent if reasonably practicable and provided that such does not adversely impact on relationships with any such persons or third parties or cause any member of the Group to incur additional material cost, liability or expense or take any action which (in the opinion of the Company or any member of the Group, acting reasonably) would be commercially prejudicial to the interests of the Company or any member of the Group;

- (iv) any guarantee or Transaction Security and (in relation to Transaction Security) the extent of its perfection will be agreed on the basis that the cost to the Group of providing that guarantee or Transaction Security shall be proportionate to the benefit accruing to the Secured Parties (provided always that any stamp duties, registration taxes or notarial costs triggered shall always be deemed disproportionate to the benefit to the Secured Parties of obtaining the relevant guarantee or Transaction Security unless such costs are limited to a nominal amount by limiting the amount secured by the relevant guarantee or Transaction Security);
- (v) in the case of any requirement for consent or any other restrictions for granting or establishing or perfecting any guarantee or security under any contractual arrangement (or similar), the granting, establishment or perfection of such guarantee or such security will be subject to the relevant consent having been granted and the relevant restriction having been waived or otherwise overcome (provided that if such asset is material the relevant Guarantee/Security Provider shall (if so requested by the Security Agent, acting reasonably) use its commercially reasonable endeavours to procure such necessary consent if reasonably practicable and provided that such does not adversely impact on relationships with any such persons or third parties or cause any member of the Group to incur additional material cost, liability or expense or take any action which (in the opinion of the Company or any member of the Group, acting reasonably) would be commercially prejudicial to the interests of the Company or any member of the Group;
- (vi) the Transaction Security and extent of its perfection will be agreed taking into account the cost to the Group of providing security and the proportionate benefit accruing to the Secured Parties;
- (vii) any assets subject to security (or similar arrangements), third party arrangements (including contracts, leases or charters, licences, instruments, leasehold, intellectual property rights, joint venture and minority shareholdings), financing arrangements (including invoice or receivables financing arrangements) or consents (including consent from any central bank or other similar governmental institution or regulatory authority) which are permitted by the obligations under the Debt Documents and which

prevent or restrict those assets from being subject to Transaction Security (or assets which, if charged, would give a third party to the right to terminate or otherwise amend any rights, benefits and/or obligations of the Group in respect of those assets or require any member of the Group to take any action adverse to the interests of the Group or any member thereof) will be excluded from any requirement to grant or maintain any guarantee or security interest (provided that if such asset is material the relevant Guarantee/Security Provider shall (if so requested by the Security Agent, acting reasonably) use its commercially reasonable endeavours to procure such necessary consent (excluding any requirement to obtain consent from any central bank or other similar governmental institution or legal or regulatory authority) if reasonably practicable and provided that such does not adversely impact on relationships with any such persons or third parties or cause any member of the Group to incur additional material cost, liability or expense or take any action which (in the opinion of the Company or any member of the Group, acting reasonably) would be commercially prejudicial to the interests of the Company or any member of the Group;

(viii) the giving of a guarantee, the granting of Security, the registration or the perfection of the Security, or the becoming of an Obligor or Debtor under a Debt Document or a party to any Debt Document will not be required where to do so could:

(a) breach the terms of any indebtedness of the Target Group existing immediately prior to the Closing Date or leasing, surety, letter of credit arrangements or other commercial contractual arrangements binding on, or adversely affect the business or commercial relationships of, any member of the Target Group; or

(b) have a material adverse effect on the ability of the Group (or the relevant member of the Group) to conduct its operations and business in the ordinary course (including dealing with its assets and all contractual counterparties) or if it would be contrary to or impose any restriction or practical limitation on the ability of the Group to enter into leasing, invoice discounting, factoring, bank products, letter of credit arrangements, surety, vendor financing or similar or any other arrangements otherwise permitted by the terms of any Debt Document,

and any requirement under the Agreed Guarantee/Security Principles to seek consent of any person or take or not take any other action shall be subject to this paragraph (viii));

(ix) no guarantees or security shall be required from or over (and no consent or waiver request submitted with respect to) any person or assets which are required to support letter of credit/bank guarantee arrangements (or similar), receivables financing, leasing arrangements or indebtedness assumed in connection with an acquisition or investment to the extent permitted by the terms of any Debt Document to remain outstanding following an acquisition or investment and no member of the target group or other person or entity acquired pursuant to any acquisition where indebtedness (or other liabilities or obligations) remains outstanding following completion of such acquisition

shall be required to be or become a Guarantor or grant security if prevented or restricted by the terms of such indebtedness (or other liabilities or obligations) (or the documentation governing such indebtedness) (or any permitted refinancing or replacement of such indebtedness, liabilities or obligations) or if becoming a Guarantor or the granting of any security would give rise to an obligation (including any material expense or payment obligation) under or in relation thereto, and no security will be required to be granted over any asset secured provided that such security constitutes Permitted Security;

- (x) Guarantee/Security Providers will not be required to give guarantees or enter into Transaction Security Documents if (or to the extent) it is not within its legal capacity or if that would conflict with the fiduciary duties of any directors, officers or other legal representatives or contravene any prohibition under law or regulation, contractual restriction or result in a risk of personal or criminal liability on the part of any officer, director or management of any member of the Group or other legal representative of any member of the Group or its shareholders or impair the giving of a clean audit opinion;
- (xi) perfection of Transaction Security, when required, and other legal formalities will be completed as soon as reasonably practicable and, in any event, within the relevant time periods specified in the obligations under the Debt Documents or, to the extent no such time periods are specified in the obligations under the Debt Documents, within the time periods specified by applicable law in order to ensure due perfection, **provided that**, before the occurrence of an Acceleration Event the perfection of Transaction Security (including the delivery of any notices to debtors or third parties, in each case not being members of the Group) will not be required if it would materially impact the ability of the relevant Guarantee/Security Provider to conduct its operations and business in the ordinary course or prevent that Guarantee/Security Provider from using the relevant asset ;
- (xii) the maximum guaranteed or secured amount will be limited, or the relevant guarantee of Security excluded, to minimise stamp duty, notarisation, registration or other applicable fees, taxes and duties where the benefit of increasing the guaranteed or secured amount is disproportionate to the level of those fees, taxes and duties and in any case will not be substantially higher than the market value of the assets subject to the relevant Transaction Security and/or value of all assets of the entity issuing the relevant guarantee;
- (xiii) where a class of assets to be secured includes material and immaterial assets, if the cost of granting Transaction Security over the immaterial assets is disproportionate to the benefit of such Transaction Security, Security will be granted over the material assets only;
- (xiv) it is acknowledged and agreed that if any person provides, or is required to provide, a guarantee or indemnity of or in respect of any Debt Document (or any obligation or liability thereunder) such person may also be required to (and, for the purposes of the Debt Documents, such person shall be

- permitted to) provide a guarantee or indemnity of or in respect of any other arrangement, obligation or liability;
- (xv) it is acknowledged that in certain jurisdictions it may be either impossible or impractical to create Security over certain categories of assets, in which event Security will not be taken over such assets;
 - (xvi) guarantee and Security limitations may mean that access to the assets of a Guarantor/Security Provider is limited, in which case, any guarantee and/or Security granted by that Guarantor/Security Provider shall be proportionate to the value of its guarantee;
 - (xvii) local law restrictions may mean that lenders in different classes of debt may not be able to benefit from the same Security or guarantees;
 - (xviii) any Transaction Security Document will only be required to be notarised or notarially certified if required by law in order for the relevant Security to become effective or admissible in evidence;
 - (xix) there will be no requirement for any guarantee from and/or any Security from or over the shares or investments in, loans to, or assets of:
 - (A) any person who is not a member of the Group;
 - (B) any person that is not a wholly-owned by another member of the Group;
 - (C) any Joint Venture, Project Company or Project Holding Company or any joint venture or similar arrangement or any minority interest;
 - (D) any limited recourse vehicle or regulated entity, pensions or employee vehicle or receivables subsidiary;
 - (E) any person that is not able or required to grant a guarantee in accordance with (or by reason of matters contemplated by) the Agreed Guarantee/Security Principles or any other Debt Document;
 - (F) any member of the Target Group prior to the First Guarantor Accession Date;
 - (xx) no member of the Target Group shall be required to grant any Security in favour of the Security Agent and/or the Secured Parties;
 - (xxi) guarantees shall only be required to be a given by a member of the Target Group if it is an Existing Debt Guarantor (as defined in the Initial Bank Facilities Agreement) and it has granted a corresponding guarantee in respect of its liabilities under the Existing Revolving Credit Facility (as defined in the Initial Bank Facilities Agreement) (to the extent permitted thereunder) or where required in order to satisfy the Guarantor Coverage Test under and as defined in the Initial Bank Facilities Agreement (in accordance with the terms thereof);
 - (xxii) no title investigations or other diligence on assets will be required and no title insurance or collateral access agreements will be required other than where required or customary (as agreed between legal counsel to the Company and legal counsel to the Security Agent) under local law;

- (xxiii) information, such as list of assets, will be provided if and only to the extent required by local law to be provided to create, perfect, maintain or register the relevant security and, unless required to be provided by local law more frequently, will be provided annually or upon the occurrence of certain material events (in each case upon written request by the Security Agent);
- (xxiv) where a Debtor grants Transaction Security over any shares, the Transaction Security Document will be governed by the laws of the jurisdiction of incorporation of the company the shares of which are being secured;
- (xxv) to the extent legally possible, without adversely affecting the priority, enforceability, validity or nature of the Security granted, all Security will be given in favour of the Security Agent and not the Secured Parties individually. "Parallel debt" provisions will be used where necessary. To the extent legally possible, without adversely affecting the priority, enforceability, validity or nature of the Security or guarantees granted but without prejudice to any "further assurance" obligations contained in the relevant Debt Document(s), there will be no action required to be taken by any Guarantee/Security Provider in relation to the Security or guarantees on any assignment or transfer by a Secured Party; and
- (xxvi) no Guarantee/Security Provider will be required to pay the cost of any re-execution, notarisation, registration, amendment or other perfection requirement in respect of any Security on any transfer or assignment by a Secured Party (and such costs will be for the account of the transferee Secured Party).

For the avoidance of doubt, in these Agreed Guarantee/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, out-of-pocket expenses, and other fees and expenses incurred by the Group.

2 Obligations to be Secured

- (a) Subject to paragraph 1 (*Considerations*) and to paragraph (b) below, the obligations to be secured are the Secured Obligations (as defined below).

For ease of reference, the following definitions should, to the extent legally possible and subject to these Agreed Guarantee/Security Principles, be incorporated into each Transaction Security Document (with the capitalised terms used in them having the meaning given to them in this Agreement):

"Secured Obligations" means, subject to the Agreed Guarantee/Security Principles, 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 any Subordinated Creditor 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, subject to the limitations stipulated in paragraph (b) below.

"Secured Parties" means the Security Agent, any Receiver or Delegate and each of the other External Creditors from time to time but, in the case of each External Creditor, only if it is a party or has acceded to the Intercreditor Agreement, in the

appropriate capacity, pursuant to clause 20.13 (*Creditor Accession Undertaking*) of the Intercreditor Agreement.

- (b) The Secured Obligations (and any guarantee and security and the scope thereof) will be limited as required by the relevant member of the Group:
 - (i) 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 the limitations set out in paragraph 1 of this Schedule 1 will be incorporated into each relevant Transaction Security Document), provided that in each case the relevant member of the Group shall use reasonable endeavours to overcome any such obstacles for a period of no more than 20 Business Days if reasonably practicable and provided that it does not cause any member of the Group to incur additional material cost, liability or expense or take any action which (in the opinion of the Company or any member of the Group, acting reasonably) would be commercially prejudicial to the interests of the Company or any member of the Group;
 - (ii) to avoid any risk to officers of the relevant member of the Group that is granting Transaction Security of contravention of their fiduciary duties and/or civil or criminal or personal liability; and
 - (iii) to reflect and give effect to the provisions of these Agreed Guarantee/Security Principles and the principles and considerations set out herein.

3 Terms of Transaction Security Documents

- (a) Where appropriate, defined terms in the Transaction Security Documents should mirror those in this Agreement and/or the Initial Bank Facilities Agreement.
- (b) The Transaction Security will be first ranking, to the extent possible.
- (c) The Transaction Security will not be enforceable or crystallise until the occurrence of an Acceleration Event which is continuing and has not been withdrawn.
- (d) Transaction Security will, where possible and practical, automatically create Security over future assets of the same type (other than real estate) as those already secured.
- (e) Prior to the Transaction Security becoming enforceable, rights of set off will not be exercisable other than in accordance with Clause 7.3 (*Set-Off*).
- (f) The provisions of each Transaction Security Document will not be unduly burdensome on the relevant Guarantee/Security Provider or interfere unreasonably with the operation of its business and will be limited to those required to create, perfect and maintain effective Security and not impose commercial obligations.
- (g) Prior to an Acceleration Event and the Transaction Security becoming enforceable, no Secured Party will be permitted to exercise any power of attorney unless the relevant Guarantee/Security Provider has failed to comply with a further assurance or perfection obligation within ten Business Days of being notified of that failure and being requested to comply.
- (h) Prior to an Acceleration Event and the Transaction Security in respect of any shares becoming enforceable, no Secured Party will be permitted to exercise any

shareholder rights attaching to the shares or claim, collect or restrict exercise by the relevant Guarantee/Security Provider any dividend and any other property rights arising from the shares. Prior to an Acceleration Event and the Transaction Security becoming enforceable, the relevant Guarantee/Security Provider will be permitted to retain and to exercise voting rights appertaining to any shares by it under the Transaction Security Document and the entity whose shares have been charged will be permitted to pay dividends on its shares, with the proceeds to be available to the relevant member of the Group/shareholder.

- (i) Where local law requires pledge applications or orders to be given or other documents to be executed by the Security Agent or Secured Parties, such pledge applications or orders and other documents shall be executed and delivered by the Security Agent or Secured Parties in accordance with local law and at the expense of the relevant Guarantee/Security Provider and the delay on the part of the Security Agent or Secured Parties shall not trigger any default or event of default.
- (j) The circumstances in which the Security shall be released should not be dealt with in individual Transaction Security Documents but shall be the same as those set out in this Agreement or any other Debt Document.
- (k) The Transaction Security Document shall operate to create Security rather than to impose new commercial obligations. Accordingly, the Transaction Security Documents shall not contain representations, warranties, undertakings or indemnities (including, without limitation, in respect of insurance, information, maintenance or protection of assets or the payment of costs) unless they are, in addition to those contained in the Initial Bank Facilities Agreement or any Additional Finance Document, absolutely necessary for the creation or perfection of the security and, in the case of representations and warranties, they should not repeat after the date of the relevant Transaction Security Document;
- (l) In the Transaction Security Documents, there will be no repetition or extension of representations, undertakings or other clauses set out in the Finance Documents such as those relating to notices, cost and expenses, indemnities, tax gross up, insurance and distribution of proceeds (save for when certain Transaction Security Documents must be concluded in specific (e.g. notarised) format and applicable law requires agreements on accessory obligations also be entered into in the same format or to the extent necessary as a matter of law to create or perfect the Security).
- (m) The Transaction Security Documents should not operate so as to prevent transactions which are permitted under the Debt Documents or require additional consents or authorisations.
- (n) No security shall be required to be granted over commercial contracts or third party arrangements of any member of the Group.
- (o) No security will be required to be provided over or in respect of any liabilities or amounts that arise as part of or in connection with cash pooling, net to zero balance or other similar cash management arrangements, receivables financing, factoring, tax arrangement, treasury transactions or bank products.
- (p) In no event shall control agreements or perfection by control or similar arrangements be required with respect to any assets (including deposit or securities accounts).

- (q) Transaction Security and its perfection should not prevent the relevant pledgor or any member of the Group from dealing with and having full access, rights and enjoyment of the pledged assets and related rights, until the occurrence of an Acceleration Event which is continuing.
- (r) Each Transaction Security shall contain a clause which records that if there is a conflict between the Transaction Security and this Agreement then (to the fullest extent permitted by law) the provisions of the Initial Bank Facilities Agreement or (as applicable) this Agreement will take priority over the provisions of the Transaction Security, and nothing permitted (or not prohibited) by the terms of the Initial Bank Facilities Agreement shall be restricted by the Transaction Security Document. In addition each Transaction Security Document shall include a provision whereby such Transaction Security Document may be amended or released if required by the Company in accordance with the terms of the other Debt Documents or so as to reflect the principles contained in these Agreed Guarantee/Security Principles.

4 Scope of Transaction Security

- (a) The Parent shall grant Transaction Security over any shares held by it in the Company and over any amounts owing to it by the Company as Subordinated Liabilities under loans; which such security shall be provided on or prior to the Closing Date.
- (b) The Company shall grant Transaction Security over the Target Shares owned by it as required pursuant to the terms of the Initial Bank Facilities Agreement.
- (c) If Renewi Europe B.V. becomes a direct Subsidiary of the Company as a result of the steps set out in "Option 1A – Post-Completion steps" of the Structure Memorandum being undertaken (the "**Renewi Europe Post-Completion Transfer**"), the Company shall grant Transaction Security over the shares of Renewi Europe B.V. directly owned by it within 120 days from the date of completion of the Renewi Europe Post-Completion Transfer.
- (d) No Subordinated Creditor nor any member of the Group shall be required to grant any other Transaction Security.

5 Specific Terms

5.1 Subordinated Liabilities

The Parent shall, until the occurrence of an Acceleration Event which is continuing, be free to deal with the relevant Subordinated Liabilities and the Company will be permitted to make payments and distributions on such Subordinated Liabilities and carry out reorganisations to the extent not prohibited by the Debt Documents.

5.2 Shares

- (a) The Parent and the Company shall retain and may exercise all shareholder and voting rights in respect of any shares over which they grant security and the relevant entity whose shares are subject to security will be permitted to issue additional shares, reorganise its share capital and pay all dividends and distributions, until such time as an Acceleration Event has occurred and is continuing.
- (b) Unless required under applicable law for the purposes of perfecting any Transaction Security over the shares in a member of the Group, as soon as reasonably

practicable after request by the Security Agent following the occurrence of an Acceleration Event which is continuing:

- (i) any relevant share certificates (if applicable, endorsed and/or executed in blank), together with instruments of transfer executed in blank (if applicable) will be provided to the Security Agent; and
 - (ii) any Transaction Security shall be noted on the share certificate, in the share register and/or in the shareholders' register as soon as reasonably practicable (which, for these purposes, shall include any time necessary for the payment of any tax, provided always that any such tax is paid within any relevant time period prescribed by applicable law) following execution of the relevant Transaction Security Document.
- (c) The Security Agent shall return any such documentation to the applicable Group member if required by that Group member to undertake any reorganisation, transfer or other transaction permitted pursuant to this Agreement.
- (d) Notwithstanding any other provision of any Debt Document to the contrary, security shall not be required to be provided over Target Shares until after:
- (i) the entry into force of both:
 - (A) the Moveable Transactions (Scotland) Act 2023 (the “**MTA**”); and
 - (B) all related secondary legislation which enables the creation of a Scots law statutory pledge in respect of shares in a company incorporated in Scotland and any rights related thereto (together with the MTA, the “**MTA Legislation**”); and
 - (ii) the delisting and re-registration of Target as a private limited company and the completion of any legal or regulatory requirements.
- (e) Any Transaction Security over Target Shares owned shall:
- (i) be in the form of a statutory pledge pursuant to the MTA Legislation;
 - (ii) only purport to create Security over the Target Shares legally and beneficially owned by the Company;
 - (iii) provide that the Company shall remain in control of, and be entitled to exercise all rights in respect of, the Target shares (and, for the avoidance of doubt, shall permit any reorganisation or other transaction permitted by this Agreement or the Initial Bank Facilities Agreement, any change in the legal or corporate form, jurisdiction, residency or tax status of the Target and shall not regulate or restrict an issuance of, reorganisation of, payment or other distribution on or in respect of, Target Shares);
 - (iv) comply with the Agreed Guarantee/Security Principles; and
 - (v) be based on terms that are in any event no more onerous or restrictive for the Group, the pledgor or the pledgee than the security provided by the Parent over its shares in the Company (updated to reflect the foregoing principles and that both the pledgor and pledgee are members of the Group and to the extent necessary to provide that the Transaction Security

Document creates the relevant security made available under the MTA Legislation in respect of the Target Shares).

- (f) Any Transaction Security over the shares in Renewi Europe B.V. directly owned by the Company shall:
 - (i) only purport to create Security over the shares in Renewi Europe B.V. legally and beneficially owned by the Company;
 - (ii) provide that the Company shall remain in control of, and be entitled to exercise all rights in respect of, its shares in Renewi Europe B.V. (and, for the avoidance of doubt, shall permit any reorganisation or other transaction permitted by this Agreement or the Initial Bank Facilities Agreement, any change in the legal or corporate form, jurisdiction, residency or tax status of Renewi Europe B.V. and shall not regulate or restrict an issuance of, reorganisation of, payment or other distribution on or in respect of, its shares in Renewi Europe B.V.);
 - (iii) comply with the Agreed Guarantee/Security Principles; and
 - (iv) be based on terms that are in any event no more onerous or restrictive for the Group, the pledgor or the pledgee than the security provided by the Parent over its shares in the Company (updated to reflect the foregoing principles and that both the pledgor and pledgee are members of the Group).
- (g) Any share transfer restrictions included in the articles of association of the Company shall be either removed or disappplied upon the occurrence of an Acceleration Event which is continuing.

5.3 Bank Accounts

- (a) If a Guarantee/Security Provider grants Transaction Security over its bank accounts it shall be free to deal with those accounts in the course of its business (including the opening and closing of any account) until the occurrence of an Acceleration Event which is continuing.
- (b) Only to the extent required by local law to perfect the security (but subject to the provisions of this Schedule 1), notice of the security will be served on the account bank within 10 Business Days of the security being granted and the Guarantee/Security Provider shall use its reasonable endeavours to obtain an acknowledgement of that notice within 20 Business Days of service. If the Guarantee/Security Provider has used its reasonable endeavours but has not been able to obtain acknowledgement its obligation to obtain acknowledgement shall cease on the expiry of that 20 Business Day period. Irrespective of whether notice of the security is required for perfection, if the service of notice would prevent the Guarantee/Security Provider from using a bank account in the course of its business no notice of security shall be served until the occurrence of an Acceleration Event which is continuing.
- (c) Any security over bank accounts shall be subject to any prior or required security interests in favour of the account bank which are created either by law or in the standard terms and conditions of the account bank. The notice of security may request these be waived or subordinated by the account bank but the Guarantee/Security Provider shall not be required to change its banking

arrangements if these security interests are not subordinated or waived or only partially waived. No control agreements or blocked account agreements (or equivalent) will be required with respect to bank accounts and no security will be granted over any bank accounts subject to cash pooling, net to zero balance or other similar cash management arrangements or constituting collateral, escrow, pooling, receivables financing, third party, blocked or ring-fenced accounts (or similar), customer/client monies, treasury transactions, regulated accounts, escrow accounts, regulated monies or Bank Products.

5.4 Release of Security

The Transaction Security Documents shall provide that Security will be released, waived and/or amended and any consents required shall be given, in accordance with this Agreement and the other Debt Documents.

The Initial Bank Facilities Agent, any Additional Agent and the Security Agent (as applicable) shall, and are each irrevocably authorised and instructed by each Secured Party to (including on behalf of each Secured Party), do all such things (including any amendment, replacement, waiver, variation, consent, discharge, grant, re-grant, confirmation or extension of any guarantee and/or any Transaction Security and/or Finance Document) as may be required by the Company in connection with, and/or in order to give effect to, any of the matters set out in this Agreement including these Agreed Guarantee/Security Principles.

Schedule 2 Form of Creditor Accession Undertaking

To: [Security Agent] for itself and each of the other parties to the Intercreditor Agreement referred to below.

[To: [Initial Bank Facilities Agent] as Initial Bank Facilities Agent.]*

From: [Acceding Creditor/Creditor Representative]

THIS UNDERTAKING is made on [date] by [New Senior Lender/Hedge Counterparty/Creditor Representative/Arranger/Additional Lender/Additional PP Noteholder/Intra-Group Lender/Subordinated Creditor] (the "**Acceding [Senior Lender/Hedge Counterparty/Creditor Representative/Arranger/Additional Lender/Additional PP Noteholder/Intra-Group Lender/Subordinated Creditor]**") in relation to the intercreditor agreement (the "**Intercreditor Agreement**") dated [●] between, among others, [Company] as company, [Security Agent] as security agent, [Initial Bank Facilities Agent] as initial bank facilities agent, the other Creditors and [the] Debtor[s] (each as defined in the Intercreditor Agreement). Terms defined in the Intercreditor Agreement including by reference to any other agreement shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.

In consideration of the Acceding [Senior Lender/Hedge Counterparty/Creditor Representative/Arranger/Additional Lender/Additional PP Noteholder/Intra-Group Lender/Subordinated Creditor] being accepted as a [Senior Lender/Hedge Counterparty/Additional PP Noteholder/Intra-Group Lender/Creditor Representative/Arranger/Additional Lender/Subordinated Creditor] for the purposes of the Intercreditor Agreement, the Acceding [Senior Lender/Hedge Counterparty/Creditor Representative/Arranger/Additional Lender/Additional PP Noteholder/Intra-Group Lender/Subordinated Creditor] confirms that, as from [date], it intends to be party to the Intercreditor Agreement as a [Senior Lender/Hedge Counterparty/Creditor Representative/Arranger/Additional Lender/Additional PP Noteholder/Intra-Group Lender/Subordinated Creditor] and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a [Senior Lender/Hedge Counterparty/Creditor Representative/Arranger/Additional Lender/Additional PP Noteholder/Intra-Group Lender/Subordinated Creditor] and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

[The Acceding Hedge Counterparty has become a provider of hedging arrangements to the [Company]. In consideration of the Acceding Hedge Counterparty being accepted as a Hedge Counterparty for the purposes of the [Initial Bank Facilities Agreement/Additional Finance Documents], the Acceding Hedge Counterparty confirms, for the benefit of the parties to the [Initial Bank Facilities Agreement/Additional Finance Documents], that, as from [date], it intends to be party to the [Initial Bank Facilities Agreement/Additional Finance Documents] as a Hedge Counterparty, and undertakes to perform all the obligations expressed in the [Initial Bank Facilities Agreement/Additional Finance Documents] to be assumed by a Hedge Counterparty and agrees that it shall be bound by all the provisions of the [Initial Bank Facilities Agreement/Additional Finance Documents], as if it had been an original party to the [Initial Bank Facilities Agreement/Additional Finance Documents] as a Hedge Counterparty.]***

* Include only in the case of a Hedge Counterparty.

*** Include only in the case of a Hedge Counterparty which is using this undertaking to accede to the Initial Bank Facilities Agreement in accordance with clause 20.13 (*Creditor Accession Undertaking*).

[The Acceding [Senior]/[Additional] Lender is an Affiliate of an Initial Bank Facilities Creditor or Additional Lender and has become a provider of an Ancillary Facility. In consideration of the Acceding [Senior]/[Additional] Lender being accepted as an Ancillary Lender for the purposes of the Initial Bank Facilities Agreement or relevant Additional Facility Documents, the Acceding [Senior]/[Additional] Lender confirms, for the benefit of the parties to the Initial Bank Facilities Agreement or relevant Additional Facility Documents, that, as from [date], it intends to be party to the Initial Bank Facilities Agreement or Additional Facility Documents as an Ancillary Lender, and undertakes to perform all the obligations expressed in the Initial Bank Facilities Agreement or relevant Additional Facility Documents to be assumed by a Finance Party (as defined in the Initial Bank Facilities Agreement) or an Additional Finance Party (as defined in the relevant Additional Facility Documents) and agrees that it shall be bound by all the provisions of the Initial Bank Facilities Agreement or relevant Additional Facility Documents, as if it had been an original party to the Initial Bank Facilities Agreement or relevant Additional Facility Documents as an Ancillary Lender.]****

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

THIS UNDERTAKING has been entered into on the date stated above [and is executed as a deed by the Acceding Creditor, if it is acceding as an Intra-Group Lender, and is delivered on the date stated above].

Acceding [Creditor]

[EXECUTED as a DEED]

[insert full name of Acceding Creditor]

By:

Address:

Accepted by the Security Agent

for and on behalf of

[Security Agent]

Date:

[Accepted by the Initial Bank Facilities Agent]

for and on behalf of

[Initial Bank Facilities Agent]

Date:]*****

**** Include only in the case of an Ancillary Lender which is an Affiliate of an Initial Bank Facilities Lender or Additional Lender which is using this undertaking to accede to the Initial Bank Facilities Agreement or relevant Additional Facility Documents in accordance with clause 20.13 (*Creditor Accession Undertaking*).

***** Include only in the case of a Hedge Counterparty.

Schedule 3 Form of Debtor/Guarantor Accession Deed

THIS AGREEMENT is made on [●] and made between:

- (1) [New Debtor/Guarantor] (registration number [●]) (the "**Acceding [Debtor]/[Guarantor]**"); and
- (2) [Security Agent] (the "**Security Agent**"), for itself and each of the other Secured Parties to the Intercreditor Agreement.

This Agreement is made on [date] by the Acceding [Debtor]/[Guarantor] in relation to an intercreditor agreement (the "**Intercreditor Agreement**") dated [●] between, among others, [●] as company, [Security Agent] as security agent, [Initial Bank Facilities Agent] as initial bank facilities agent, the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement).

The Acceding [Debtor]/[Guarantor] 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]/[provide Transaction Security under the following documents]:

[Insert details (date, parties and description) of relevant documents],

the "**Relevant Documents**".

IT IS AGREED as follows:

- 1 Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Agreement, bear the same meaning when used in this Agreement.
- 2 The Acceding [Debtor]/[Guarantor] and the Security Agent agree that the Security Agent shall hold:
 - 2.1 [any Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;
 - 2.2 all proceeds of that Security; and]*
 - 2.3 all obligations expressed to be undertaken by the Acceding [Debtor]/[Guarantor] to pay amounts in respect of the Liabilities to the Security Agent as trustee for and as security agent for and on behalf of the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding [Debtor]/[Guarantor] (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee for and as security agent for and on behalf of the Secured Parties,

on trust for or as security agent for the benefit of the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.

- 3 The Acceding [Debtor]/[Guarantor] confirms that it intends to be party to the Intercreditor Agreement as a [Debtor]/[Guarantor], undertakes to perform all the obligations expressed to be assumed by a [Debtor]/[Guarantor] 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

* Include to the extent that the Security created in the Relevant Documents is expressed to be granted to the Security Agent as agent and trustee for the Secured Parties.

party to the Intercreditor Agreement, in each case subject to the limitations set out in Clause 16.11 (*Guarantee Limitations*) and Schedule 1 (*Agreed Guarantee/Security Principles*) of the Intercreditor Agreement.

4 [In consideration of the Acceding [Debtor]/[Guarantor] being accepted as an Intra-Group Lender for the purposes of the Intercreditor Agreement, the Acceding [Debtor]/[Guarantor] 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, in each case subject to the limitations set out in Clause 16.11 (*Guarantee Limitations*) and Schedule 1 (*Agreed Guarantee/Security Principles*) of the Intercreditor Agreement.]**.

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

THIS AGREEMENT has been signed on behalf of the Security Agent and executed as a deed by the Acceding [Debtor]/[Guarantor] and is delivered on the date stated above.

Acceding [Debtor]/[Guarantor]

[EXECUTED as a DEED

)

by [Acceding [Debtor]/[Guarantor]

)

Director

Director/Secretary]

OR

[EXECUTED as a DEED

by [Acceding [Debtor]/[Guarantor]

Signature of Director

Name of Director

in the presence of

Signature of witness

** Include this paragraph in the relevant Debtor/Guarantor Accession Deed if the Acceding [Debtor]/[Guarantor] is also to accede as an Intra-Group Lender to the Intercreditor Agreement.

Name of witness

Address of witness]

Address:

The Security Agent

For and on behalf of

[*Security Agent*]

By:

Date:

Schedule 4
Form of Debtor/Guarantor Resignation Request

To: [●] as Security Agent

From: [Resigning Debtor/Guarantor] and [Company]

Dated:

[Company] – Intercreditor Agreement
dated [●] (the “Intercreditor Agreement”)

- 1** We refer to the Intercreditor Agreement. This is a Debtor/Guarantor Resignation Request. Terms defined in the Intercreditor Agreement have the same meaning in this Debtor/Guarantor Resignation Request unless given a different meaning in this Debtor/Guarantor Resignation Request.
- 2** Pursuant to Clause 20.16 (*Resignation of a Debtor and/or Guarantor*) of the Intercreditor Agreement we request that [Resigning Debtor/Guarantor] be released from its obligations as [a Debtor [and as a Guarantor]] under the Intercreditor Agreement.
- 3** We confirm that:
 - 3.1** no Event of Default is continuing or would result from the acceptance of this request;
 - 3.2** [Resigning Debtor/Guarantor] is not a borrower or guarantor under any Finance Document or Additional Finance Document; and
 - 3.3** [Resigning Debtor and/or Guarantor] is under no actual or contingent obligations in respect of the Intra-Group Liabilities.
- 4** This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

For and on behalf of

[Company]

By:

For and on behalf of

[Resigning Debtor/Guarantor]

By:

Signature Pages

The Parent

for and on behalf of

[•]

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

The Company

for and on behalf of

[•]

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

The Original Debtor

for and on behalf of

[•]

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

The Original Intra-Group Lender

for and on behalf of

[•]

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

The Initial Bank Facilities Arrangers

for and on behalf of

[•] as Initial Bank Facilities Arranger

By:

Name:

Title:

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

The Initial Bank Facilities Lenders

for and on behalf of

[•] as Initial Bank Facilities Lender

By:

Name:

Title:

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

The Agent

for and on behalf of
[•] as **Agent**

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

The Security Agent
for and on behalf of
[•] as **Security Agent**

By:

Name:

Title:

Notice Details:

Address:

Email:

Attention:

For and on behalf of

BNP Paribas Fortis S.A./N.V.

as Arranger

[Redacted]

[Redacted]

BNP Paribas Fortis S.A./N.V.

BNP Paribas Fortis S.A./N.V.

Name: [Redacted]

Name: [Redacted]

Title: [Redacted]

Title: [Redacted]

Address: Torre Ocidente, rue Galileu Galilei 2 – piso 13

Lisbon - Portugal

Email: sf.bo.servicing.cb@bnpparibasfortis.com

Attention: LOAN Servicing Lisbon HUB

[Redacted]

For and on behalf of

BNP Paribas Fortis S.A./N.V.

as Underwriter

[Redacted Signature]

[Redacted Signature]

BNP Paribas Fortis S.A./N.V.

BNP Paribas Fortis S.A./N.V.

Name: [Redacted]

Name: [Redacted]

Title: [Redacted]

Title: [Redacted]

Address: Torre Ocidente, rue Galileu Galilei 2 – piso 13
Lisbon - Portugal

Email: sf.bo.servicing.cb@bnpparibasfortis.com

Attention: LOAN Servicing Lisbon HUB

[Redacted]

For and on behalf of

BNP Paribas Fortis S.A./N.V.

as Bookrunner

[Redacted]

[Redacted]

BNP Paribas Fortis S.A./N.V.

BNP Paribas Fortis S.A./N.V.

Name: [Redacted]

Name: [Redacted]

Title: [Redacted]

Title: [Redacted]

Address: Torre Ocidente, rue Galileu Galilei 2 – piso 13

Lisbon - Portugal

Email: sf.bo.servicing.cb@bnpparibasfortis.com

Attention: LOAN Servicing Lisbon HUB

[Redacted]

For and on behalf of

CIBC Capital Markets (Europe) S.A.

as Arranger



CIBC Capital Markets (Europe) S.A.

Name:



Title:



Address: K2 Dolce, Building D1, 2C, Rue Albert Borschette, L-1246 Luxembourg

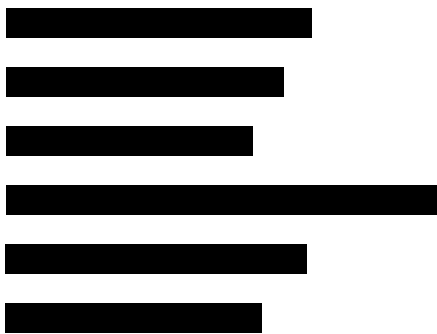
Attention: **Attention for business / credit matters:**



Attention for administrative matters:



mailbox.europcreditadmin@cibc.com



Attention for operations matters:



Mailbox.UKLoanOperations@cibc.com

For and on behalf of

CIBC Capital Markets (Europe) S.A.

as Underwriter

[Redacted Signature]

CIBC Capital Markets (Europe) S.A.

Name: [Redacted]

Title: [Redacted]

Address: K2 Dolce, Building D1, 2C, Rue Albert Borschette, L-1246 Luxembourg

Attention: **Attention for business / credit matters:**

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Attention for administrative matters:

[Redacted]
[Redacted]

mailbox.europcreditadmin@cibc.com

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Attention for operations matters:

[Redacted]

Mailbox.UKLoanOperations@cibc.com

For and on behalf of

CIBC Capital Markets (Europe) S.A.

as Bookrunner

[Redacted]

CIBC Capital Markets (Europe) S.A.

Name: [Redacted]

Title: [Redacted]

Address: K2 Dolce, Building D1, 2C, Rue Albert Borschette, L-1246 Luxembourg

Attention: **Attention for business / credit matters:**

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Attention for administrative matters:

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Attention for operations matters:

[Redacted]
[Redacted]

For and on behalf of

COÖPERATIEVE RABOBANK U.A

as Arranger

[Redacted Signature]

Name: [Redacted]

Title: [Redacted]

[Redacted Signature]

Name: [Redacted]

Title: [Redacted]

Address: Croeselaan 18, 3521 CB, UTRECHT/NL

Email: [Redacted]

Attention: [Redacted]

For and on behalf of

COÖPERATIEVE RABOBANK U.A

as Underwriter

[Redacted Signature]

Name:

[Redacted Name]

Title:

[Redacted Title]

[Redacted Signature]

Name:

[Redacted Name]

Title:

[Redacted Title]

Address: Croeselaan 18, 3521 CB, UTRECHT/NL

Email:

[Redacted Email]

Attention:

[Redacted Attention]

For and on behalf of

COÖPERATIEVE RABOBANK U.A

as Bookrunner



Name: 

Title: 



Name: 

Title: 

Address: Croeselaan 18, 3521 CB, UTRECHT/NL

Email: 

Attention: 

For and on behalf of

Crédit Agricole Corporate and Investment Bank

as Arranger

[Redacted Signature]

Name:

[Redacted Name]

Title:

[Redacted Title]

[Redacted Signature]

Name:

[Redacted Name]

Title:

[Redacted Title]

Address: Broadwalk House,
5 Appold Street
London
EC2A 2DA

Email:

[Redacted Email]

Attention:

[Redacted Attention]

For and on behalf of

Crédit Agricole Corporate and Investment Bank

as Underwriter

[Redacted Signature]

Name:

[Redacted Name]

Title:

[Redacted Title]

[Redacted Signature]

Name:

[Redacted Name]

Title:

[Redacted Title]

Address: Broadwalk House,
5 Appold Street
London
EC2A 2DA

Email:

[Redacted Email]

Attention:

[Redacted Attention]

For and on behalf of

Crédit Agricole Corporate and Investment Bank

as Bookrunner

[Redacted]

[Redacted]

Name: [Redacted]

Name: [Redacted]

Title: [Redacted]

Title: [Redacted]

Address: Broadwalk House,
5 Appold Street
London
EC2A 2DA

Email: [Redacted]

Attention: [Redacted]

For and on behalf of

ING Bank N.V.

as Arranger



.....

.....

Name: [Redacted]

Name: [Redacted]

Title: [Redacted]

Title: [Redacted]

Address: Bijlmerdreef 24,
 1102 BW, Amsterdam
 PO Box 1800
 1000 BV
 The Netherlands

Email: [Redacted]

Attention: [Redacted]

For and on behalf of

ING Bank N.V.

as Underwriter



.....
Name: [Redacted]

.....
Name: [Redacted]

Title: [Redacted]

Title: [Redacted]

Address: Bijlmerdreef 24,
 1102 BW, Amsterdam
 PO Box 1800
 1000 BV
 The Netherlands

Email: [Redacted]

Attention: [Redacted]

For and on behalf of

ING Bank N.V.

as Bookrunner



Name: [Redacted]

Title: [Redacted]



Name: [Redacted]

Title: [Redacted]

Address: Bijlmerdreef 24,
1102 BW, Amsterdam
PO Box 1800
1000 BV
The Netherlands

Email: [Redacted]

Attention: [Redacted]

ARRANGER

Signed for and on behalf of)

MUFG Bank (Europe) N.V.)

Represented by authorised signatories)

Name: [Redacted]

Title: [Redacted]

Name: [Redacted]

Title: [Redacted]

Attention: For Trade Closing / Funding & Settlement Matters:

[Redacted]
Ropemaker Place 25 Ropemaker Street
London

[Redacted]
WTC, Tower I, 5th Floor, Strawinskylaan 1887, 1077 XX Amsterdam

CC: Group Email Addresses
[Redacted]

For Operational / Servicing Matters:

[Redacted]
15 West Ferry Circus London E14 4HD

CC: Group Email Addresses
[Redacted]

For Credit Matters:

[Redacted]
Ropemaker Place 25 Ropemaker Street
London

DSS Covenants / AMS Covenants
[Redacted]
WTC, Tower I, 5th Floor, Strawinskylaan 1887, 1077 XX Amsterdam

For Standard Settlement Instruction Call-Back:

[Redacted]
Ropemaker Place 25 Ropemaker Street
London

UNDERWRITER

Signed for and on behalf of)
MUFG Bank (Europe) N.V.)
Represented by authorised signatories)

Name: [Redacted]

Title: [Redacted]

Name: [Redacted]

Title: [Redacted]

Attention: For Trade Closing / Funding & Settlement Matters:

[Redacted]
[Redacted]
Ropemaker Place 25 Ropemaker Street
London

[Redacted]
WTC, Tower I, 5th Floor, Strawinskylaan 1887, 1077 XX Amsterdam

CC: Group Email Addresses
[Redacted]
[Redacted]

For Operational / Servicing Matters:

[Redacted]
[Redacted]
15 West Ferry Circus London E14 4HD

CC: Group Email Addresses
[Redacted]

For Credit Matters:

[Redacted]
[Redacted]
Ropemaker Place 25 Ropemaker Street
London

DSS Covenants / AMS Covenants

[Redacted]
[Redacted]
[Redacted]
WTC, Tower I, 5th Floor, Strawinskylaan 1887, 1077 XX Amsterdam

For Standard Settlement Instruction Call-Back:

[Redacted]
[Redacted]
[Redacted]
Ropemaker Place 25 Ropemaker Street
London

BOOKRUNNER

Signed for and on behalf of)

MUFG Bank (Europe) N.V.)

Represented by authorised signatories)

[Redacted]
Name: [Redacted]

Title: [Redacted]

[Redacted]
Name: [Redacted]

Title: [Redacted]

Attention: For Trade Closing / Funding & Settlement Matters:

[Redacted]
Ropemaker Place 25 Ropemaker Street
London

[Redacted]
WTC, Tower I, 5th Floor, Strawinskylaan 1887, 1077 XX Amsterdam

CC: Group Email Addresses
[Redacted]

For Operational / Servicing Matters:

[Redacted]
15 West Ferry Circus London E14 4HD

CC: Group Email Addresses
[Redacted]

For Credit Matters:

[Redacted]
Ropemaker Place 25 Ropemaker Street
London

DSS Covenants / AMS Covenants

[Redacted]
WTC, Tower I, 5th Floor, Strawinskylaan 1887, 1077 XX Amsterdam

For Standard Settlement Instruction Call-Back:

[Redacted]
Ropemaker Place 25 Ropemaker Street
London

We acknowledge and agree to the above:

Earth Bidco B.V.



By: 

By: 

Title: 

Title: 

Date: 27 February 2025

Date: 27 February 2025