AMENDMENT AGREEMENT

DATED 31 OCTOBER 2019

FOR

BBD PARENTCO LIMITED
THE PARENT

ARRANGED BY

BANCO SANTANDER S.A., LONDON BRANCH
BANK OF AMERICA MERRILL LYNCH INTERNATIONAL DESIGNATED ACTIVITY COMPANY
HSBC BANK PLC
KKR CAPITAL MARKETS LIMITED
ROYAL BANK OF CANADA
SANTANDER UK PLC
SUMITOMO MITSUI BANKING CORPORATION EUROPE LIMITED

WITH

HSBC BANK PLC
ACTING AS AGENT

AND

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
ACTING AS SECURITY AGENT

RELATING TO A £1,122,000,000 SENIOR TERM AND REVOLVING FACILITIES AGREEMENT ORIGINALLY DATED 25 JUNE 2019
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THIS AGREEMENT is dated 31 October 2019 and made between:

(1) BBD PARENTCO LIMITED, a limited liability company incorporated under the laws of England and Wales with registered number 12042162 (the "Parent");

(2) BBD BIDCO LIMITED, a limited liability company incorporated under the laws of England and Wales with registered number 12042258 (the "Company" and "Original Borrower");

(3) THE PERSONS listed in Schedule 1 (The Original Guarantors) as original guarantors (the "Original Guarantors");

(4) BANK OF AMERICA MERRILL LYNCH INTERNATIONAL DESIGNATED ACTIVITY COMPANY, HSBC BANK PLC and ROYAL BANK OF CANADA as global coordinators, mandated lead arrangers and physical bookrunners (the "Mandated Lead Arrangers");

(5) BANCO SANTANDER S.A., LONDON BRANCH, KKR CAPITAL MARKETS LIMITED, SANTANDER UK PLC and SUMITOMO MITSUI BANKING CORPORATION EUROPE LIMITED as mandated lead arrangers and bookrunners (together with the Mandated Lead Arrangers, the "Arrangers");

(6) BANCO SANTANDER S.A., LONDON BRANCH, BANK OF AMERICA MERRILL LYNCH INTERNATIONAL DESIGNATED ACTIVITY COMPANY, HSBC BANK PLC, ROYAL BANK OF CANADA, SANTANDER UK PLC, KKR CORPORATE LENDING (UK) LLC and SUMITOMO MITSUI BANKING CORPORATION EUROPE LIMITED as original lenders (the "Original Lenders");

(7) HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED as security agent for the Secured Parties (the "Security Agent"); and

(8) HSBC BANK PLC as agent of the other Finance Parties (the "Agent").

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"Amended Facilities Agreement" means the Original Facilities Agreement, as amended and restated by this Agreement.

"Guarantee Obligations" means the guarantee and indemnity obligations of an Original Guarantor contained in the Original Facilities Agreement.

"Intercreditor Agreement" means the intercreditor agreement dated 25 June 2019, as amended and restated on or around the date of this Agreement, between, amongst others, the Parent, the Company, the Agent and the Security Agent.
"Original Facilities Agreement" means the senior term and revolving facilities agreement originally dated 25 June 2019, as amended and restated by an amendment and restatement agreement dated 4 September 2019 and as further amended by an amendment agreement dated 24 September 2019 between, amongst others, the Parent, the Company, the Agent and the Security Agent.

1.2 Incorporation of defined terms

(a) Unless a contrary indication appears, a term defined in the Original Facilities Agreement has the same meaning in this Agreement.

(b) The principles of construction set out in the Original Facilities Agreement shall have effect as if set out in this Agreement.

1.3 Clauses

In this Agreement any reference to a "Clause" or a "Schedule" is, unless the context otherwise requires, a reference to a Clause in or a Schedule to this Agreement.

1.4 Third party rights

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

1.5 Designation

In accordance with the Original Facilities Agreement, each of the Parent (as Obligors' Agent) and the Agent designates this Agreement as a Finance Document.

2. REPRESENTATIONS

The Repeating Representations are deemed to be made by each Obligor (by reference to the facts and circumstances then existing) on the date of this Agreement and references to "this Agreement" in the Repeating Representations should be construed as references to this Agreement and to the Amended Facilities Agreement.

3. RESTATEMENT

With effect from the date of this Agreement the Original Facilities Agreement shall be amended and restated so that it shall be read and construed for all purposes as set out in Schedule 2 (Restated Agreement).

4. CONTINUITY AND FURTHER ASSURANCE

4.1 Continuing obligations

The provisions of the Original Facilities Agreement and the other Finance Documents shall, save as amended by this Agreement, continue in full force and effect.
4.2 Confirmation of Guarantee Obligations

For the avoidance of doubt, each Original Guarantor confirms for the benefit of the Finance Parties that all Guarantee Obligations owed by it under the Amended Facilities Agreement shall (a) remain in full force and effect notwithstanding the amendments referred to in Clause 3 (Restatement) and (b) extend to any new obligations assumed by any Obligor under the Finance Documents as a result of this Agreement (including, but not limited to, under the Amended Facilities Agreement).

4.3 Confirmation of Security

For the avoidance of doubt, each Obligor confirms for the benefit of the Finance Parties that the Security created by it pursuant to each Transaction Security Document to which it is a party shall (a) remain in full force and effect notwithstanding the amendments referred to in Clause 3 (Restatement) and (b) continue to secure its Secured Obligations (as defined in the Intercreditor Agreement) under the Finance Documents as amended (including, but not limited to, under the Amended Facilities Agreement).

4.4 Further assurance

Each Obligor shall, at the request of the Agent (acting reasonably) and at such Obligor's own expense, do all such acts and things necessary to give effect to the amendments effected or to be effected pursuant to this Agreement.

5. COSTS AND EXPENSES

The Parent shall (or shall procure that an Obligor will) within 30 days of demand pay the Agent, the Arrangers and the Security Agent the amount of all reasonable fees, costs and expenses (including legal fees subject to any agreed caps) 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 and execution of this Agreement and any other documents referred to in this Agreement.

6. MISCELLANEOUS

6.1 Incorporation of terms

The provisions of clause 37 (Notices), clause 39 (Partial Invalidity), clause 40 (Remedies and Waivers) and clause 48 (Enforcement) of the Original Facilities Agreement shall be incorporated into this Agreement as if set out in full in this Agreement and as if references in those clauses to "this Agreement" or "the Finance Documents" are references to this Agreement.

6.2 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.
7. GOVERNING LAW

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

This Agreement has been entered into on the date stated at the beginning of this Agreement.
## SCHEDULE 1
### THE ORIGINAL GUARANTORS

<table>
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<th>Jurisdiction of incorporation</th>
<th>Registration number (or equivalent, if any)</th>
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<tr>
<td>BBD Bidco Limited</td>
<td>England and Wales</td>
<td>12042258</td>
</tr>
<tr>
<td>BBD Parentco Limited</td>
<td>England and Wales</td>
<td>12042162</td>
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RESTATED AGREEMENT
Dated 25 June 2019
(as amended and restated by an amendment and restatement agreement dated 4 September 2019, as amended by an amendment agreement dated 24 September 2019 and as amended and restated by an amendment and restatement agreement dated 31 October 2019)

PROJECT BLUEBIRD

BBD PARENTCO LIMITED

arranged by

BANK OF AMERICA MERRILL LYNCH INTERNATIONAL DESIGNATED ACTIVITY COMPANY
HSBC BANK PLC
ROYAL BANK OF CANADA

as Global Co-ordinators, Mandated Lead Arrangers and Physical Bookrunners

BANCO SANTANDER S.A., LONDON BRANCH
KKR CAPITAL MARKETS LIMITED
SUMITOMO MITSUI BANKING CORPORATION EUROPE LIMITED
SANTANDER UK PLC

as Mandated Lead Arrangers and Bookrunners

with

HSBC BANK PLC
as Agent

and

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
as Security Agent

____________________________________________________________

SENIOR TERM AND REVOLVING FACILITIES AGREEMENT

____________________________________________________________

SIMPSON THACHER & BARTLETT LLP
LONDON
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THIS AGREEMENT is dated 25 June 2019 (as amended and restated by an amendment and restatement agreement dated 4 September 2019, as amended by an amendment agreement dated 24 September 2019 and as amended and restated by an amendment and restatement agreement dated 31 October 2019) and made between:

(1) BBD PARENTCO LIMITED, a limited company incorporated under the laws of England and Wales with registered number 12042162 (the “Parent”);

(2) BBD BIDCO LIMITED, a limited company incorporated under the laws of England and Wales with registered number 12042258 (the “Company”);

(3) THE PERSONS listed in Part 1 of Schedule 1 (The Original Parties) as original borrowers and original guarantors;

(4) BANK OF AMERICA MERRILL LYNCH INTERNATIONAL DESIGNATED ACTIVITY COMPANY, HSBC BANK PLC and ROYAL BANK OF CANADA as global co-ordinators, mandated lead arrangers and physical bookrunners (the “Mandated Lead Arrangers”);

(5) BANCO SANTANDER S.A., LONDON BRANCH, KKR CAPITAL MARKETS LIMITED, SUMITOMO MITSUI BANKING CORPORATION EUROPE LIMITED and SANTANDER UK PLC as mandated lead arrangers and bookrunners (together with the Mandated Lead Arrangers, the “Arrangers”);

(6) THE FINANCIAL INSTITUTIONS listed in Part 2 of Schedule 1 (The Original Parties) as lenders (the “Original Lenders”);

(7) HSBC BANK PLC as agent of the other Finance Parties (the “Agent”); and

(8) HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED as security agent for the Secured Parties (the “Security Agent”).

IT IS AGREED as follows:

Section 1.

Interpretation

1 Definitions and Interpretation

1.1 Definitions

In this Agreement:

“2019 Amendment Agreement” means the amendment agreement dated 24 September 2019 and made between, among others, the Parent, the Original Borrower, the Arrangers, the Agent and the Security Agent.

“2019 October Amendment and Restatement Agreement” means an amendment and restatement agreement dated 31 October 2019 relating to this Agreement and made between, amongst others, BBD Parentco Limited as Parent and HSBC Bank plc as Agent.
“2019 October ICA Amendment and Restatement Agreement” means an amendment and restatement agreement dated 31 October 2019 relating to the Intercreditor Agreement and made between, amongst others, BBD Parentco Limited as Parent and HSBC Bank plc as Agent and Security Agent.

“2019 September Amendment and Restatement Agreement” means an amendment and restatement agreement dated 4 September 2019 relating to this Agreement and made between, amongst others, BBD Parentco Limited as Parent and HSBC Bank plc as Agent.

“Acceleration Event” means following the occurrence of an Event of Default which is continuing:

(a) the Agent giving notice of acceleration under paragraph (a)(ii) or (b)(ii) of Clause 28.14 (Acceleration); or
(b) having placed the Facilities on demand pursuant to paragraph (a)(iii) or (b)(iii) of Clause 28.14 (Acceleration), the Agent makes a demand for the payment as referred to in that paragraph.

“Acceptable Bank” means:

(a) a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of at least A3 by Moody’s or A- by S&P; or
(b) any Finance Party (or Affiliate of a Finance Party).

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

“Accordian Amounts” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Acquisition” means the acquisition by the Company of the Target Shares and control of the Target by means of a Scheme or, if the Company makes an Election, an Offer in accordance with and on the terms of the relevant Acquisition Documents.

“Acquisition Completion Date” means:

(a) if the Acquisition is completed by means of a Scheme, the Scheme Effective Date; or
(b) if the Acquisition is completed by means of an Offer, the Unconditional Date,

in each case in accordance with the terms of the relevant Acquisition Documents (excluding, for the avoidance of doubt, any Squeeze-Out Procedure which may occur after such date).

“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 in either case, any other document designated in writing as an Acquisition Document by the Agent and the Parent (including, if and when applicable, any documents required to effect the Squeeze-Out Procedure).

“Act” means the United Kingdom Companies Act 2006, as may be amended from time to time.

“Additional Borrower” means a company which becomes an Additional Borrower in accordance with Clause 31 (Changes to the Obligors).

“Additional Guarantor” means a company which becomes an Additional Guarantor in accordance with Clause 31 (Changes to the Obligors).

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

“Affiliate” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

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


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

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

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

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

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

“Ancillary Facility Designated Net Amount” has the meaning given to that term in 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).
“Ancillary Outstandings” means, at any time in relation to an Ancillary Lender and an Ancillary Facility then in force the aggregate of the equivalents (as calculated by that Ancillary Lender) in the Base Currency of the following amounts outstanding under that Ancillary Facility:

(a) the principal amount under each overdraft facility and on-demand short term loan facility (net of any credit balances on any account of any Borrower of an Ancillary Facility with the Ancillary Lender making available that Ancillary Facility to the extent that the credit balances are freely available to be set off by that Ancillary Lender against liabilities owed to it by that Borrower under that Ancillary Facility);

(b) the face amount of each guarantee, bond and letter of credit under that Ancillary Facility (excluding any amount in respect of interest and similar charges and net of any cash cover); and

(c) the amount fairly representing the aggregate net principal exposure (excluding interest and similar charges) of that Ancillary Lender under each other type of accommodation provided under that Ancillary Facility; and

in each case as determined by the relevant Ancillary Lender, acting reasonably in accordance with its normal banking practice and in accordance with the relevant Ancillary Document and excluding any intra-day exposure under any BACS or equivalent facility.

“Announcement” means the announcement of the Acquisition to be made pursuant to Rule 2.7 of the Takeover Code or any revised announcement in respect thereof made by the Company in accordance with the Takeover Code (and, if an Election is made, any Election Announcement).

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

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Parent or its Restricted Subsidiaries from time to time concerning or relating to bribery, corruption or money laundering.

“Approved List” means the list of Lenders and potential Lenders held by the Agent (as the same may be amended from time to time pursuant to Clause 29.2 (Conditions of assignment or transfer)).

“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.

“Asset Disposition” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

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

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

(a) in relation to Facility B1 and Facility B2, the period from and including the date of this Agreement to and including expiry of the Certain Funds Period;

(b) in relation to the Revolving Facility, the period from and including the Closing Date to and including one Month prior to the applicable Maturity Date; and

(c) in relation to any Incremental Facility, the date specified in the Incremental Facility Notice relating to that Incremental Facility (or such other date as the Incremental Facility Lenders in respect of that Incremental Facility and the Obligors' Agent may agree).

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

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

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

(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 a Lender’s Commitment under that Facility; and

(ii) that Lender’s (or its Affiliate’s) Ancillary Commitments to the extent that they are due to be reduced or cancelled on or before the proposed Utilisation Date shall not be deducted from such Lender’s Commitment under the Revolving Facility.

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

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

“Bail-In Legislation” means:
(a) in relation to an EEA Member Country which has implemented, or which at any
time implements, Article 55 BRRD, the relevant implementing law or regulation as
described in the EU Bail-In Legislation Schedule from time to time; and

(b) in relation to any state other than such an EEA Member Country or (to the extent
that the United Kingdom is not such an EEA Member Country) 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 Levy” means any amount payable by any Finance Party or any of its Affiliates on the basis
of or in relation to its balance sheet or capital base or any part of it or its liabilities or minimum
regulatory capital or any combination thereof, in each case, to the extent established or arising
under the United Kingdom bank levy as set out in the Finance Act 2011, the French taxe bancaire
de risque systémique levied pursuant to Article 235 ter ZE of the French tax code (Général des
Impôts), the German bank levy as set out in the German Restructuring Fund Act 2010 (as amended)
(Restrukturierungsfondsgesetz), the Dutch bankenbelasting as set out in the bank levy act (Wet
bankenbelasting), the Spanish bank levy (Impuesto sobre los Depósitos en las Entidades de
Crédito) as set out in the Law 16/2012 of 27 December 2012 or in respect of any tax in any
jurisdiction levied on a similar basis or for a similar purpose.

“Base Currency” means Sterling or, in respect of Facility B2, Euros.

“Base Currency Amount” means:

(a) in relation to a Utilisation, 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 three Business Days before the Utilisation Date
or, if later, on the date the Agent receives the Utilisation Request in accordance
with this Agreement) and, in the case of a Letter of Credit, as adjusted under Clause
6.8 (Revaluation of Letters of Credit); and

(b) in relation to an Ancillary Commitment, the amount specified as such in the notice
delivered to the Agent by the Obligors’ Agent pursuant to Clause 9.2 (Availability)
(or, if the amount specified is not denominated in the Base Currency, that amount
converted into the Base Currency at the Agent's Spot Rate of Exchange on the date
which is three Business Days before the Ancillary Commencement Date for that
Ancillary Facility or, if later, the date the Agent receives the notice of the Ancillary
Commitment in accordance with this Agreement),
as adjusted to reflect any repayment, prepayment, consolidation or division of a Utilisation, or (as
the case may be) cancellation or reduction of an Ancillary Facility.

“Borrower” means an Original Borrower or an Additional Borrower unless it has ceased to be a
Borrower in accordance with Clause 31 (Changes to the Obligors) and, in respect of an Ancillary
Facility, any Affiliate of a Borrower that becomes a borrower of that Ancillary Facility in
accordance with Clause 9.9 (Affiliates of Borrowers).
“Break Costs” means the amount (if any) by which:

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

exceeds:

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

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

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

(b) (in relation to any date for payment or purchase of euro) which is a TARGET Day.

“Buyer Finance Subsidiary” means BCA Vehicle Finance Limited, any one or more newly incorporated or off the shelf Subsidiaries of a member of the Group the activities of which are limited to the purchase, sale, conveyance, transfer, lease or disposition of vehicles or which are related thereto (including, for the avoidance of doubt, Ordinary Course Vehicle Operations) designated in writing by the Obligors’ Agent to the Agent as being buyer finance subsidiaries for the purposes of this definition and, in each case, any Subsidiaries of any such company.

“Capital Expenditure” means, for any period, the aggregate of, without duplication, (a) all expenditures (whether paid in cash or accrued as liabilities) by the Group during such period that, in conformity with IFRS, are, or are required to be, included as additions during such period to property, plant or equipment reflected in the consolidated balance sheet of the Group, and (b) all fixed asset additions financed through Capitalized Lease Obligations Incurred by the Group and recorded on the balance sheet in accordance with IFRS during such period.

“Cash Equivalents” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Certain Funds Default” means, with respect to the Parent and the Company only (and ignoring any other member of the Group or the Target Group and any procuring obligation in respect of or reference to any other member of the Group or the Target Group), any Event of Default under any of Clause 28.1 (Non-payment) (but only insofar as it relates to payment of principal and/or interest and/or the fees specified in the Fee Letter referred to in Clause 17.2 (Arrangement fee)) , Clause 28.3 (Other obligations) (but only insofar as it relates to a breach of any Major Undertaking), Clause 28.4 (Misrepresentation) (but only insofar as it relates to any Major Representation), Clause 28.6 (Insolvency), Clause 28.7 (Insolvency proceedings) or Clause 28.10 (Unlawfulness, invalidity, repudiation) (but read as if the words "or evidences in writing an intention to rescind or repudiate
a Finance Document to which it is a party" were deleted where they appear in paragraph (b) thereof).

“Certain Funds Period” means the period commencing on the date of this Agreement and ending on the earlier of:

(a) where the Acquisition is to be implemented by means of a Scheme:

(i) the date on which either the Scheme lapses or it is withdrawn with the consent of the Takeover Panel or by order of the Court unless prior to that date the Company has made an Election to implement the Acquisition by way of an Offer and issued an Election Announcement;

(ii) if an application for the issuance of the Scheme Court Order is made to the Court but the Court (in its final judgment) refuses to grant the Scheme Court Order, unless prior to that date the Company has made an Election to implement the Acquisition by way of an Offer and issued an Election Announcement;

(iii) 11.59 p.m. (London time) on the day falling 14 days after the Scheme Effective Date; or

(iv) 11.59 p.m. (London time) on 31 December 2019; or

(b) where the Acquisition is to be implemented by means of an Offer:

(i) the date on which any Offer Cancellation Event occurs;

(ii) the date which is 30 days after the later of (A) the Unconditional Date and (B) the date on which the Offer has closed for further acceptances or, in each case, if the Company has issued the requisite notices to Target Shareholders prior to such date, such longer period as is necessary to complete the Squeeze-Out Procedure; or

(iii) 11.59 p.m. (London time) on 31 December 2019,

provided that, in each case and without limiting the time period detailed in paragraph (b)(ii) above, so long as the Closing Date has occurred on or before such date, the Certain Funds Period shall automatically be extended to the Existing Target Debt Refinancing Date.

“Change of Control” means:

(a) at any time prior to an Initial Public Offering:

(i) the Permitted Holders cease directly or indirectly:

(A) to control more than 50 per cent. of the issued voting share capital of the Parent; or
(B) to have the power to appoint directors or equivalent officers of the Parent which control the majority of the votes that may be cast as a meeting of the board of directors (or other equivalent body) of the Parent; or

(ii) the Parent ceases directly or indirectly to control 100 per cent. of the issued voting share capital of the Company; or

(iii) after the Certain Funds Period, the Company ceases directly or indirectly to control:

(A) where the Acquisition is implemented by means of a Scheme, 100 per cent. of the issued voting share capital of the Target; or

(B) where the Acquisition is implemented by means of an Offer, the Relevant Percentage of the issued voting share capital of the Target; or

(b) upon and at any time after an Initial Public Offering, any person or group of persons acting in concert (excluding all Permitted Holders and any person directly or indirectly controlled by any of them) acquire directly or indirectly control of more than 33.4 per cent. of the issued voting share capital of the Parent,

where (1) “acting in concert” means a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition and/or ownership of voting shares in the Parent, to obtain or consolidate control directly or indirectly of the Parent provided that persons voting in the same or a consistent manner at any general meeting of the Parent will not be considered to be acting in concert by virtue only of exercising their votes in such manner and (2) “Relevant Percentage” means (x) in circumstances where the Company has acquired not less than 90 per cent. of the issued voting share capital of the Target to which the Offer relates, 100 per cent. following completion of the Squeeze-Out Procedure, or (y) in circumstances where the Company has acquired less than 90 per cent. of the voting share capital of the Target to which the Offer relates, such percentage of the issued voting share capital of the Target acquired by the Company.

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

“Closing Date” means the first Utilisation Date of Facility B.


“Commitment” means a Facility B1 Commitment, Facility B2 Commitment, a Revolving Facility Commitment and/or an Incremental Facility Commitment.

“Compliance Certificate” means a certificate substantially in the form set out in Schedule 8 (Form of Compliance Certificate) or otherwise in form and substance satisfactory to the Agent (acting reasonably).
“Confidential Information” means all information relating to any member of the Group, the Target Group, the Equity Investors, the Finance Documents, a Facility, the Acquisition Documents or the Acquisition, in each case of which a Finance Party is or 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) any member of the Group, the Equity Investors or any of their advisers; or

(b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group, the Equity Investors 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)

(A) 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

(B) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or

(C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; or

(ii) any Funding Rate.

“Confidentiality Undertaking” means a confidentiality undertaking substantially in the form set out in Schedule 9 (Form of Confidentiality Undertaking) or in any other form agreed between the Obligors’ Agent and the relevant Lender.

“Consolidated EBITDA” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Consolidated Net Income” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Consolidated Senior Secured Leverage Ratio” has the meaning given to that term in Schedule 16 (Restrictive Covenants) provided that:
(a) the date of determination shall be the last day of the applicable Test Period and the relevant Quarter Periods shall be the four fiscal quarters of that Test Period;

(b) in respect of any applicable Test Period, the exchange rates used in relation to Consolidated Net Indebtedness shall be the weighted average exchange rates for that Test Period as determined by the Parent (provided that, where applicable, any amount of Indebtedness will be stated so as to take into account the hedging effect of any currency hedging entered into in respect of or by reference to that Indebtedness); and

(c) when calculating Indebtedness the Parent shall be permitted to exclude any Hedging Obligations (as defined in Part 2 of Schedule 16 (Restrictive Covenants)).

“Consolidated Working Capital” means, at any date, the excess of (a) the sum of (i) all amounts (other than cash and Cash Equivalents) that would, in conformity with IFRS, be set forth opposite the caption “total current assets” (or any like caption) on a consolidated balance sheet of the Group at such date and (ii) long term accounts receivable over (b) the sum of (i) all amounts that would, in conformity with the IFRS, be set forth opposite the caption “total current liabilities” (or any like caption) on a consolidated balance sheet of the Group on such date and (ii) long-term deferred revenue, but excluding (for the purposes of both clauses (a) and (b) above), without duplication, (A) the current portion of any Funded Debt, (B) all Indebtedness consisting of Utilisations under the Revolving Facility, any Ancillary Facility or any other revolving credit facility, to the extent otherwise included therein, (C) the current portion of interest, (D) the current portion of current and deferred income taxes, (E) the current portion of any Capitalized Lease Obligations, (F) deferred revenue arising from cash receipts that are earmarked for specific projects, (G) the current portion of deferred acquisition costs, (H) current accrued costs associated with any restructuring or business optimisation (including accrued severance and accrued facility closure costs), (I) any other liabilities that are not Indebtedness and will not be settled in cash or Cash Equivalents during the next succeeding twelve Month period after such date and (J) the effects from applying purchase accounting, provided that, for purposes of calculating Excess Cashflow, increases or decreases in working capital (1) arising from acquisitions or disposals by the Group shall be measured from the date on which such acquisition or disposal occurred until the first anniversary of such acquisition or disposal with respect to the Person subject to such acquisition or disposal and (2) shall exclude (I) the impact of non-cash adjustments contemplated in the Excess Cashflow calculation, (II) the impact of adjusting items in the definition of “Consolidated Net Income” and (III) any changes in current assets or current liabilities as a result of (x) the effect of fluctuations in the amount of accrued or contingent obligations, assets or liabilities under any hedging or derivative arrangement, (y) any reclassification in accordance with IFRS of assets or liabilities, as applicable, between current and noncurrent or (z) the effects of acquisition method accounting.

“Court” means High Court of Justice in England and Wales.

“Court Meeting” means, in the event the Acquisition is to be effected by means of a Scheme, the meeting of the holders of Target Shares to be convened pursuant to section
896 of the Act for the purpose of considering and, if thought fit, approving (with or without modification and any adjournment, postponement or reconvention thereof), the Scheme.

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

(a) purchases by way of assignment or transfer;

(b) enters into any sub-participation in respect of; or

(c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of,

any Commitment or amount outstanding under this Agreement.

“Default” means an Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default, provided that any such event or circumstance which requires the satisfaction of a condition as to materiality before it becomes an Event of Default shall not be a Default unless that condition is satisfied.

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

(a) which has failed to make its participation in a Loan available or has notified the Agent that it will not make its participation in a Loan available by the Utilisation Date of that Loan in accordance with Clause 5.4 (Lenders’ participation) (in each case other than as a result of it having become unlawful after the date of this Agreement for the Lender to participate in such Loan) or has failed to provide cash collateral (or has notified the relevant Issuing Bank that it will not provide cash collateral) in accordance with Clause 7.4 (Cash collateral by Non-Acceptable L/C Lender);

(b) which has otherwise rescinded or repudiated a Finance Document;

(c) which is an Issuing Bank which has failed to issue a Letter of Credit (or 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 that it will not pay a claim) in accordance with (and as defined in) Clause 7.2 (Claims under a Letter of Credit); or

(d) with respect to which an Insolvency Event has occurred and is continuing,

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

(i) its failure to pay or to issue a Letter of Credit is caused by:

(A) administrative or technical error; or

(B) a Disruption Event,
and payment is made within three Business Days of its due date; or

(ii) the Lender is disputing in good faith whether it is contractually obliged to make the payment in question.

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

“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 Finance Documents,

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

“Dutch Obligor” means an Obligor incorporated in the Netherlands.

“EEA Member Country” means any member state of the European Union, Iceland, Liechtenstein and Norway.

“Election” means an election by the Company (subject to the consent of the Takeover Panel) to acquire the Target by way of an Offer.

“Election Announcement” means an announcement issued by the Company pursuant to Rule 2.7 of the Takeover Code announcing the terms of the Acquisition following an Election.

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

(a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);

(b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and

(c) land (including, without limitation, land under water).
“Environmental Claim” means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

“Environmental Law” means any applicable law or regulation which relates to:

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

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

“Equity Investors” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

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

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

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

“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 Clause 28 (Events of Default).

“Excess Cashflow” means, for any Test Period ending on or about the last day of the fiscal year of the Parent, an amount equal to the excess of:

(a) the sum, without duplication, of:

(i) Consolidated Net Income for such period;
(ii) an amount equal to the amount of all non-cash charges to the extent deducted in arriving at such Consolidated Net Income (provided that, in each case, if any non-cash charge represents an accrual or reserve for cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Excess Cashflow in such future period);
(iii) decreases in Consolidated Working Capital (except as a result of the reclassification of items from short-term to long-term or vice versa),
decreases in long-term accounts receivable and increases in the long-term portion of deferred revenue for such period;

(iv) an amount equal to the aggregate net non-cash loss on disposals by the Group during such period (other than disposals in the ordinary course of trading) to the extent deducted in arriving at such Consolidated Net Income;

(v) cash payments received in respect of hedging or derivative arrangements during such period to the extent not included in arriving at such Consolidated Net Income; and

(vi) income tax expense to the extent deducted in arriving at such Consolidated Net Income;

minus

(b) the sum, without duplication, of:

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income (but excluding any non-cash credit to the extent representing the reversal of an accrual or reserve described in paragraph (a)(ii) above) and cash charges included in paragraphs (a) through (o) of the definition of Consolidated Net Income;

(ii) without duplication of amounts deducted pursuant to paragraph (xi) below in prior fiscal years, the amount of Capital Expenditures or acquisitions made in cash or accrued during such period, to the extent that such Capital Expenditures or acquisitions were not financed with any of the proceeds received from (A) the Incurrence of long-term Indebtedness, (B) Shareholder Contributions or Subordinated Indebtedness or (C) disposals outside the ordinary course of trading;

(iii) the aggregate amount of all principal payments of Indebtedness of the Group (including, without limitation (A) the principal component of payments in respect of Capitalized Lease Obligations, (B) all principal payments of Incremental Facilities and (C) the amount of any mandatory prepayment of Utilisations actually made pursuant to this Agreement and any mandatory redemption, repurchase, defeasance or prepayment of Incremental Facilities, any Permitted Refinancing and any Refinancing Indebtedness pursuant to the corresponding provisions of the governing documentation thereof, in the case of this sub-paragraph (C) from the proceeds of any disposal and that resulted in an increase to Consolidated Net Income (and have not otherwise been excluded under the definition thereof) and not in excess of the amount of such increase but excluding (1) all other prepayments, repurchases, defeasances, and/or redemptions of Utilisations or Incremental Facilities and (2) all prepayments of revolving credit loans permitted hereunder made during such period (other than in respect of any revolving credit facility to the extent there is an equivalent
permanent reduction in commitments thereunder (excluding in respect of (x) the Revolving Facility and (y) any other revolving loans, except to the extent financed by (A) the Incurrence of long-term Indebtedness, (B) Shareholder Contributions or Subordinated Indebtedness or (C) disposals outside the ordinary course of trading;

(iv) an amount equal to the aggregate net non-cash gain on disposals by the Group during such period (other than disposals in the ordinary course of trading) to the extent included in arriving at such Consolidated Net Income;

(v) increases in Consolidated Working Capital (except as a result of the reclassification of items from short term to long term or vice versa), increases in long term accounts receivable and decreases in the long-term portion of deferred revenue for such period;

(vi) cash payments by the Group during such period in respect of long-term liabilities of the Group other than Indebtedness (including such Indebtedness specified in paragraph (b)(iii) above);

(vii) without duplication of amounts deducted pursuant to paragraph (xi) below in prior fiscal years, the amount of Investments made with cash or Cash Equivalents (other than Investments made in cash and Cash Equivalents) and acquisitions made during such period to the extent that such Investments and acquisitions were not financed with any of the proceeds received from (A) the Incurrence of long-term Indebtedness, (B) Shareholder Contributions or Subordinated Indebtedness or (C) disposals by the Group outside the ordinary course of trading;

(viii) the amount of Restricted Payments paid in cash during such period to the extent such Restricted Payments were not financed with any of the proceeds received from (A) the Incurrence of long-term Indebtedness, (B) Shareholder Contributions or Subordinated Indebtedness or (C) disposals outside the ordinary course of trading;

(ix) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Group during such period that are required to be made in connection with any prepayment, redemption, purchase, defeasance or other satisfaction of Indebtedness;

(x) the aggregate amount of expenditures actually made by the Group in cash during such period (including expenditures for the payment of financing fees);

(xi) without duplication of amounts deducted from Excess Cashflow in other periods, (A) the aggregate consideration required to be paid in cash by any member of the Group pursuant to binding contracts (the “Contract Consideration”) entered into prior to or during such period and (B) any planned cash expenditures by any member of the Group (the “Planned
Expenditures”), in the case of each of clauses (A) and (B), relating to Permitted Investments, Capital Expenditures or other acquisitions not prohibited by the provisions of this Agreement to be consummated or made during the period of four consecutive Quarter Periods following the end of such period (except to the extent financed with any of the proceeds received from (A) the Incurrence of long-term Indebtedness, (B) Shareholder Contributions or Subordinated Indebtedness or (C) disposals by the Group outside the ordinary course of trading provided that to the extent that the aggregate amount of cash actually utilised to finance such Permitted Investments, Capital Expenditures or other acquisitions during such following period of four consecutive Quarter Periods is less than the Contract Consideration and Planned Expenditures, the amount of such shortfall shall be added to the calculation of Excess Cashflow, at the end of such period of four consecutive fiscal quarters;

(xii) the amount of income taxes (including penalties and interest) paid in cash in such period;

(xiii) cash expenditures made in respect of hedging or derivative arrangements during such period to the extent not deducted in arriving at such Consolidated Net Income; and

(xiv) without duplication of paragraph (xi) above, payments in cash by the Group during such period in respect of any purchase price holdbacks, earn-out obligations, and long-term liabilities of the Group other than Indebtedness, to the extent not already deducted from Consolidated Net Income or from the determination of Excess Cashflow for such period or any prior period; and

(xv) (to the extent not already deducted from the determination of Excess Cashflow for such period) amounts payable or paid during such period by the Group to persons that are not members of the Group in connection with the purchase, sale, conveyance, transfer, lease or disposition of vehicles in the ordinary course of business.

“Existing Ancillary Facility” means any facility or other financial accommodation made available to one or more members of the Target Group by a Lender which is notified to the Agent by the Obligors’ Agent in accordance with Clause 9.13 (Existing Ancillary Facilities) as a facility or financial accommodation to be treated as an Ancillary Facility for the purposes of this Agreement.

“Existing Target Debt” means the facilities made available under the facilities agreement dated 26 March 2015 as amended and/or restated and made between, among others, Target, certain subsidiaries of Target as borrowers and guarantors, HSBC Bank PLC as facility agent and HSBC Corporate Trustee Company (UK) Limited as security agent.

“Existing Target Debt Refinancing Date” means the date on which the Existing Target Debt is redeemed and/or repaid and cancelled in full in accordance with paragraph (a)(i) of Clause 27.18 (Existing Target Debt, security and guarantees).
“Expiry Date” means, for a Letter of Credit, the last day of its Term.

“Export Control Laws” means (a) any law or regulation of a Relevant Jurisdiction which (i) restricts the export of goods (whether directly or indirectly) to or the rendering of services in a country which is not a member of the European Union or (ii) imposes other economic or financial sanctions on a country which is not a member of the European Union, (b) Council Regulation (EC) No 428/2009 (as amended by subsequent regulations), Council Regulation (EC) No 423/2007 (as amended by subsequent regulations), Council Regulation (EC) No 961/2010 (as amended by subsequent regulations) and any other regulation or measure of the European Union or one of its institutions which (i) restricts the export of goods (whether directly or indirectly) to or the rendering of services in a country which is not a member of the European Union or (ii) imposes other economic or financial sanctions on a country which is not a member of the European Union and (c) any United States law or regulation that restricts the export of goods for national security or foreign policy purposes or imposes economic and trade sanctions, including, but not limited to, the US Export Administration Regulations.

“Facility” means Facility B1, Facility B2, the Revolving Facility and/or an Incremental Facility.

“Facility B” means Facility B1 and/or Facility B2, as the context requires.

“Facility B Loan” means a Facility B1 Loan and/or a Facility B2 Loan, as the context requires.

“Facility B1” means the term loan facility made available under this Agreement as described in paragraph (a)(i) of Clause 2.1 (The Facilities).

“Facility B1 Commitment” means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading “Facility B1 Commitment” in Part 2 of Schedule 1 (The Original Parties) and the amount of any other Facility B1 Commitment transferred to it or assumed by it in accordance with this Agreement (including pursuant to Clause 2.2 (Increase – general), Clause 2.5 (Incremental Facilities) and/or a Facility Change)); and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility B1 Commitment transferred to it or assumed by it in accordance with this Agreement, to the extent not cancelled, reduced or transferred by it under this Agreement.

“Facility B1 Lender” means any Lender that makes available a Facility B1 Commitment.

“Facility B1 Loan” means a loan made or to be made under Facility B1 or the principal amount outstanding for the time being of that loan.

“Facility B2” means the term loan facility made available under this Agreement as described in paragraph (a)(ii) of Clause 2.1 (The Facilities).

“Facility B2 Commitment” means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading “Facility B2 Commitment” in Part 2 of Schedule 1 (The
Original Parties) and the amount of any other Facility B2 Commitment transferred to it or assumed by it in accordance with this Agreement (including pursuant to Clause 2.2 (Increase – general), Clause 2.5 (Incremental Facilities) and/or a Facility Change); and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility B2 Commitment transferred to it or assumed by it in accordance with this Agreement, to the extent not cancelled, reduced or transferred by it under this Agreement.

“Facility B2 Lender” means any Lender that makes available a Facility B2 Commitment.

“Facility B2 Loan” means a loan made or to be made under Facility B2 or the principal amount outstanding for the time being of that loan.

“Facility Change” has the meaning given to that term in Clause 41.2 (Exceptions).

“Facility Office” means:

(a) in respect of a Lender or an Issuing Bank, the office or offices notified by that Lender or an Issuing Bank to the Agent in writing on or before the date it becomes a Lender or an Issuing Bank (or, following that date, by not less than five Business Days’ written notice) as the office or offices through which it will perform its obligations under this Agreement; or

(b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.

“Fallback Interest Period” means 1 Month.

“FATCA” means:

(a) Sections 1471 to 1474 of the Code or any associated regulations;

(b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or

(c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

“FATCA Application Date” means:

(a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
(b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or

(c) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

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

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

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

“Fee Letter” means any letter or letters between a Finance Party and a member of the Group setting out any of the fees payable in relation to any Facility and/or any Incremental Facility, including those referred to in paragraph (e) of Clause 2.2 (Increase - general) and Clause 17 (Fees), including without limitation the Senior Syndication and Fee Letter.


“Finance Party” means the Agent, the Arrangers, the Security Agent, a Lender, an Issuing Bank and any Ancillary Lender.

“Financial Model” means the financial model relating to the Group delivered or to be delivered by the Parent to the Agent pursuant to Clause 4.1 (Initial conditions precedent).

“Funded Debt” means all Indebtedness of the Group for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including Indebtedness in respect of the Loans.

“Funding Rate” means any individual rate notified by a Lender to the Agent pursuant to paragraph (a)(ii) of Clause 16.2 (Market disruption).

“Funds Flow Statement” has the meaning given to that term in Part 2 of Schedule 2 (Conditions Precedent).

“Gross Outstandings” means, in relation to a Multi-account Overdraft, the aggregate gross debit balance of overdrafts comprised in that Multi-account Overdraft.
“**Group**” means the Parent and its Restricted Subsidiaries for the time being but excluding, until the Acquisition Completion Date, members of the Target Group that are Restricted Subsidiaries.

“**Group Structure Chart**” has the meaning given to that term in Part 1 of Schedule 2 (Conditions Precedent).

“**Guarantor**” means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 31 (Changes to the Obligors).

“**Guarantor Coverage Threshold**” means:

(a) the aggregate of the earnings from ordinary activities before interest, Taxation, depreciation, amortisation and exceptional items (calculated on the same basis as Consolidated EBITDA) of the members of the Group that are Guarantors (calculated on an unconsolidated basis and excluding all intra-Group items) equals or exceeds 80 per cent. of Consolidated EBITDA for the relevant fiscal year (for this purpose disregarding from Consolidated EBITDA (i) the earnings from ordinary activities before interest, Taxation, depreciation, amortisation and exceptional items of any Buyer Finance Subsidiary and any other member of the Group that is not required to become a Guarantor in accordance with the Agreed Security Principles, and (ii) any negative earnings from ordinary activities before interest, Taxation, depreciation, amortisation and exceptional items of any member of the Group); and

(b) the aggregate value of the total assets of the members of the Group that are Guarantors (calculated on an unconsolidated basis and excluding all intra-Group items) equals or exceeds 80 per cent. of the value of the total assets of the Group as at the end of the relevant fiscal year (for this purpose disregarding from the value of total assets of the Group those of any Buyer Finance Subsidiary and of any other member of the Group that is not required to become a Guarantor in accordance with the Agreed Security Principles).

“**Historic Screen Rate**” means, in relation to any Loan, the most recent applicable Screen Rate for the currency of that Loan and for a period equal in length to the Interest Period of that Loan and which is as of a day which is no more than 5 Business Days before the Quotation Day.

“**Holding Company**” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“**IFRS**” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

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

(a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;

(b) the Agent otherwise rescinds or repudiates a Finance Document;

(c) (if the Agent is also a Lender) it is a Defaulting Lender under paragraph (a) or (b) of the definition of “Defaulting Lender”; or
(d) an Insolvency Event has occurred and is continuing with respect to the Agent, unless, in the case of paragraph (a) above:

(i) its failure to pay is caused by:

(A) administrative or technical error; or

(B) a Disruption Event,

and payment is made within three Business Days of its due date; or

(ii) the Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

“Increase Confirmation” means a confirmation substantially in the form set out in Schedule 13 (Form of Increase Confirmation) or in any other form agreed between the Agent and the Obligors’ Agent.

“Increase Lender” has the meaning given to that term in paragraph (a)(ii)(A) of Clause 2.2 (Increase – general).

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

“Increased Costs Lender” has the meaning given to that term in paragraph (a)(ii) of Clause 41.3 (Replacement of Lender).

“Incremental Facility” has the meaning given to that term in paragraph (a) of Clause 2.5 (Incremental Facilities).

“Incremental Facility Accession Notice” means a notice substantially in the form set out in Schedule 14 (Form of Incremental Facility Accession Notice) or in any other form agreed by the Agent and the Obligors’ Agent.

“Incremental Facility Commencement Date” means, in respect of an Incremental Facility, the date specified as the “Commencement Date” in the Incremental Facility Notice relating to that Incremental Facility.

“Incremental Facility Commitment” means, in respect of any Incremental Facility Lender and an Incremental Facility, the Base Currency Amount specified as the Incremental Facility Commitment in any Incremental Facility Notice and/or Incremental Facility Document to the extent not cancelled, reduced or transferred by it under this Agreement or an Incremental Facility Document.

“Incremental Facility Document” means any document setting out the terms of an Incremental Facility and designated as such by the Incremental Facility Lender and the Obligors’ Agent, a copy of which is delivered to the Agent pursuant to Clause 2.5 (Incremental Facilities).

“Incremental Facility Lender” has the meaning given to that term in paragraph (d)(i) of Clause 2.5 (Incremental Facilities).
“Incremental Facility Loan” means a loan made or to be made under an Incremental Facility or the principal amount outstanding of that loan.

“Incremental Facility Notice” means a notice substantially in the form set out in Schedule 15 (Form of Incremental Facility Notice) or in any other form agreed by the Agent and the Obligors’ Agent.

“Indebtedness” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Information Memorandum” means the document in the form approved by the Company concerning the Target Group, the Facilities and the Acquisition which, at the request of the Arrangers, is prepared in relation to this transaction and distributed by the Arrangers to selected institutions in connection with the syndication of the Facilities (as may be amended or updated from time to time with the approval of the Arrangers and the Company).

“Initial Public Offering” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Insolvency Event” in relation to a Finance Party or other bank or financial institution means that the Finance Party:

(a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);

(b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;

(c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;

(d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;

(e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up, examination or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:

(i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or

(ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
(f) has a resolution passed for its winding-up, examination, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

(g) seeks or becomes subject to the appointment of an administrator, examiner, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets (other than, for so long as it is required by law to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (d) above);

(h) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case, within 30 days thereafter;

(i) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (h) above; or

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

“Insurance Proceeds” means the Net Proceeds received in cash by any member of the Group from any insurance claim for loss or damage to property (and for the avoidance of doubt excluding any third party or public liability claim or claim under any business interruption or similar Insurance) but excluding the Net Proceeds of:

(a) an individual insurance claim equal to or less than £1,000,000 (or its equivalent in other currencies);

(b) an insurance claim received in a fiscal year which, when aggregated with the Net Proceeds of all other insurance claims (other than those referred to in (a) above) received in the same fiscal year, is equal to or less than the greater of (i) £5,000,000 (or its equivalent in other currencies), and (ii) 5 per cent. of Consolidated EBITDA; or

(c) insurance claims that are:

(i) applied to finance or to refinance amounts applied in the replacement, reinstatement and/or repair of assets or otherwise in amelioration of losses or in meeting liabilities in respect of which the relevant claim was made within 12 months (or, if contracted to be so applied within such 12 month period, are so applied within 18 months) of receipt; or

(ii) reinvested in the business of the Group within 12 months (or, if contracted to be so used within such 12 month period, are so used within 18 months) of receipt.
“Intellectual Property” means:

(a) any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered; and

(b) the benefit of all applications and rights to use such assets of each Obligor.

“Intercreditor Agreement” means the intercreditor agreement dated on or about the date of this Agreement and made between, among others, the Parent, the Agent, the Security Agent, the Original Lenders and the Arrangers.

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

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

(a) the most recent applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and

(b) the most recent applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time on the Quotation Day for the currency of that Loan.

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

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

(b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time on the Quotation Day for the currency of that Loan.

“IPO Event” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“IPO Proceeds” means the Net Cash Proceeds (as defined in Schedule 16 (Restrictive Covenants)) of an Initial Public Offering.

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

“L/C 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 relevant Available Facility immediately prior to the issue of that Letter of Credit, adjusted to reflect any assignment or transfer under this Agreement to or by that Lender.

“Legal Reservations” means:

(a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

(b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void and defences of set-off or counterclaim;

(c) the principle that additional or default interest payable under any Finance Document may be held to be unenforceable on the grounds that it is a penalty;

(d) the principle that in certain circumstances Security granted by way of a fixed charge may be recharacterised as a floating charge or that Security purporting to be an assignment may be recharacterised as a charge;

(e) the principle that a court may not give effect to an indemnity for legal costs incurred by a litigant;

(f) the principle that the creation or purported creation of Security over any contract or agreement which is subject to a prohibition against transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach entitling the contracting party to terminate or take any other action in relation to such contract or agreement;

(g) similar principles, limitations, rights and defences to those in paragraphs (a) to (f) above under the laws of any applicable jurisdiction; and

(h) any other matters which are set out as qualifications or reservations as to matters of law of general application in any legal opinions delivered to the Agent under or in connection with the Finance Documents.

“Lender” means:

(a) each Original Lender; and

(b) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 2.2 (Increase – general), Clause 2.5 (Incremental Facilities), Clause 29 (Changes to the Lenders) or any other provision of this Agreement,
which, in each case, has not ceased to be a Lender in accordance with this Agreement.

“Lender Accession Deed” has the meaning given to the term “Creditor/Agent Accession Undertaking” in the Intercreditor Agreement.

“Letter of Credit” means a letter of credit, bank guarantee or other similar instrument issued by an Issuing Bank under this Agreement, substantially in the form set out in Schedule 11 (Form of Letter of Credit) or in any other form requested by the Obligors’ Agent and agreed by the Agent with the prior consent of the Lenders under the Revolving Facility and the Issuing Bank (each acting reasonably).

“LIBOR” means, in relation to any Loan:

(a) the applicable Screen Rate as of the Specified Time on the Quotation Day for the currency of that Loan and a period equal in length to the Interest Period of that Loan; or

(b) as otherwise determined pursuant to Clause 16.1 (Unavailability of Screen Rate),

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


“Loan” means a Facility B Loan, a Revolving Loan and/or an Incremental Facility Loan.

“Major Representation” means, with respect to the Parent and the Company only (and ignoring any other member of the Group or the Target Group and any procuring obligation in respect of or any other reference to any other member of the Group or the Target Group), a representation or warranty under any of Clause 24.2 (Status) to Clause 24.5 (Power and authority) (inclusive) (but excluding paragraph (c) of Clause 24.4 (Non-conflict with other obligations)) or paragraph (a) of Clause 24.6 (Authorisations), Clause 24.25 (Holding Company) or Clause 24.28 (Acquisition Documents).

“Major Undertaking” means, in respect of the Parent and the Company only (and ignoring any other member of the Group or the Target Group and any procuring obligation in respect of or reference to any other member of the Group or the Target Group), an undertaking under any of Section 1 (Limitation on Indebtedness), Section 2 (Limitation on Restricted Payments), Section 3 (Limitation on Liens), Section 5 (Limitation on Sales of Assets and Subsidiary Stock), Section 7 (Merger and Consolidation) or Section 10 (Limitation on Parent activities) of Schedule 16 (Restrictive Covenants) or paragraphs (a)(i), (a)(ii) or (b)(i) of Clause 27.17 (Acquisition Undertakings).

“Majority Lenders” means, subject to the provisions of this Agreement, a Lender or Lenders whose Commitments aggregate 50.01 per cent. or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated 50.01 per cent. or more of the Total Commitments immediately prior to that reduction) provided that in the case of any Commitment not denominated in the Base Currency, if applicable, the Base Currency Amount of that Commitment shall be used for the purposes of calculating the relevant percentages in this definition.
“Majority Revolving Facility Lenders” means, subject to the provisions of this Agreement, a Revolving Facility Lender or Revolving Facility Lenders whose Commitments aggregate 50.01 per cent. or more of the Total Revolving Facility Commitments (or, if the Total Revolving Facility Commitments have been reduced to zero, aggregated 50.01 per cent. or more of the Total Revolving Facility Commitments immediately prior to that reduction) provided that in the case of any Revolving Facility Commitment not denominated in the Base Currency, if applicable, the Base Currency Amount of that Revolving Facility Commitment shall be used for the purposes of calculating the relevant percentages in this definition.

“Margin” means:

(a) in relation to any Facility B1 Loan, 4.75 per cent. per annum;
(b) in relation to any Facility B2 Loan, 3.25 per cent. per annum;
(c) in relation to any Revolving Loan, 3.25 per cent. per annum;
(d) in relation to any Incremental Facility, as set out in the Incremental Facility Notice relating to that Incremental Facility,

but if:

(i) three full Quarter Periods have elapsed since the Closing Date; and
(ii) the Consolidated Senior Secured Leverage Ratio at the end of the then most recently completed Test Period is within the range set out below,

then the Margin for Facility B1 and the Revolving Facility will be the percentage per annum set out in Table A below in the column for that Facility opposite that range and the Margin for Facility B2 will be the percentage per annum set out in Table B below, in each case, in the column opposite that range:

<table>
<thead>
<tr>
<th>Consolidated Senior Secured Leverage Ratio</th>
<th>Facility B1 Margin (% per annum)</th>
<th>Revolving Facility Margin (% per annum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than 4.5:1</td>
<td>4.75</td>
<td>3.25</td>
</tr>
<tr>
<td>Equal to or less than 4.5:1 but greater than 4.0:1</td>
<td>4.50</td>
<td>3.00</td>
</tr>
<tr>
<td>Equal to or less than 4.0:1 but greater than 3.5:1</td>
<td>4.25</td>
<td>2.75</td>
</tr>
<tr>
<td>Equal to or less than 3.5:1</td>
<td>4.25</td>
<td>2.50</td>
</tr>
</tbody>
</table>
TABLE B

<table>
<thead>
<tr>
<th>Consolidated Senior Secured Leverage Ratio</th>
<th>Facility B2 Margin (% per annum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than 4:5:1</td>
<td>3.25</td>
</tr>
<tr>
<td>Equal to or less than 4:5:1 but greater than 3:75:1</td>
<td>3.00</td>
</tr>
<tr>
<td>Equal to or less than 3:75:1</td>
<td>2.75</td>
</tr>
</tbody>
</table>

provided that:

(A) any change in any such Margin shall take effect during the period from (and including) the date on which the Agent has received the Compliance Certificate for the relevant Test Period pursuant to Clause 25 (Information Undertakings) until (but excluding) the date (a “Readjustment Date”) which is the earlier of the date on which the Agent receives the Compliance Certificate and the last date for delivery of the Compliance Certificate, in each case for the next Test Period pursuant to Clause 25 (Information Undertakings);

(B) on each Readjustment Date, the Margin shall revert to the percentage per annum set out in relation to the relevant Loan at paragraph (a), (b) or (c) above, unless a lower Margin than the original level of Margin shall be applicable in accordance with the tables above;

(C) notwithstanding the foregoing, there shall be no decrease in the Margin if an Event of Default is continuing and as from the date of the occurrence of such Event of Default the Margin shall revert to the percentage per annum set out in relation to the relevant Loan at paragraph (a), (b) or (c) above until such time as no such Event of Default is continuing, whereupon the Margin shall be determined in accordance with the provisions set out in this definition on the basis of the most recently delivered Compliance Certificate;
(D) if any Annual Financial Statements delivered under Clause 25.1 (Financial statements) demonstrate that:

(1) any Margin should not have been reduced in accordance with this definition when it has been, that reduction will be reversed with retrospective effect and any additional payments of interest due from the relevant Borrowers in respect of Interest Periods which have expired shall be made following receipt of the relevant Annual Financial Statements by the Agent in such amount as the Agent shall determine is necessary (after consultation with the Obligors' Agent) to give effect to the correct variation in that Margin as demonstrated by the Annual Financial Statements; and

(2) any Margin should have been reduced in accordance with this definition when it has not been, that Margin will be reduced with retrospective effect and any future payments of interest shall be reduced following receipt of the relevant Annual Financial Statements by the Agent in such amount as the Agent shall determine is necessary (after consultation with the Obligors' Agent) to put the relevant Borrowers in the position they would have been in had the appropriate Margin as demonstrated by the Annual Financial Statements applied during such Interest Periods,

provided that in each case, only Lenders who participated in a Loan during an applicable period and continue to participate at the time of payment shall be paid such higher or lower Margin (as applicable) to the extent of their participation in that Loan during such applicable period; and

(E) the Agent's determination of the additional amounts payable (or, as the case may be, the reduction in amounts to be paid) under paragraph (D) above shall be prima facie evidence of such additional amounts (or, as the case may be, reduced amounts) and the Agent shall provide the Obligors' Agent with reasonable details of the calculation thereof.

“Market Disruption Event” has the meaning given to that term in Clause 16.2 (Market disruption).

“Material Adverse Effect” means an event or circumstance which has a material adverse effect on:

(a) the consolidated business, assets and financial condition of the Group taken as a whole; or
(b) the ability of the Obligors taken as a whole (and taking into account resources available to the Group as a whole) to perform their payment obligations under the Finance Documents; or

(c) subject to Legal Reservations and Perfection Requirements (that are not overdue), the validity or enforceability of the Transaction Security Documents taken as a whole which is (i) materially prejudicial to the interests of the Lenders taken as a whole under the Finance Documents and (ii) if capable of remedy, is not remedied within 20 Business Days of the earlier of the Obligors’ Agent becoming aware of the relevant event or circumstance or being given notice of the same by the Agent.

“Material Company” means any Restricted Subsidiary of the Parent (but excluding any Buyer Finance Subsidiary) which has:

(a) earnings from ordinary activities before interest, Taxation, depreciation, amortisation and exceptional items (calculated on the same basis as Consolidated EBITDA, mutatis mutandis); or

(b) total assets,

(in each case calculated on an unconsolidated basis and excluding goodwill, intra-Group items and investments in members of the Group) which exceed five per cent. of Consolidated EBITDA or total assets, respectively, of the Group and for these purposes:

(i) any calculation shall be effected on an annual basis and made by reference to the latest available Annual Financial Statements; and

(ii) a certificate from the Parent as to the identity of the Material Companies shall be prima facie evidence thereof.

“Maturity Date” means:

(a) in relation to Facility B, the date falling 84 Months after the Closing Date;

(b) in relation to the Revolving Facility, the date falling 72 Months after the Closing Date; and

(c) in relation to any Incremental Facility, the date set out in the Incremental Facility Notice relating to that Incremental Facility (or such other date as the Incremental Facility Lenders in respect of that Incremental Facility and the Obligors’ Agent may agree).

“Maximum Facility B Margin” means, as at the date of establishment of the relevant Incremental Facility:

(a) in respect of an Incremental Facility which will be utilised in Sterling, the maximum Margin in respect of Facility B1 on that date (which, for the avoidance of doubt, shall be 4.75 per cent. per annum unless as at such date the maximum
Margin in respect of Facility B1 has been increased or decreased pursuant to an amendment to this Agreement); and

(b) in respect of an Incremental Facility which will be utilised in Euro, the maximum Margin in respect of Facility B2 on that date (which, for the avoidance of doubt, shall be 3.25 per cent. per annum unless as at such date the maximum Margin in respect of Facility B2 has been increased or decreased pursuant to an amendment to this Agreement).

“Midco” means BBD Group S.À R.L., a societé a responsibilitee limitee incorporated under the laws of Luxembourg, whose registered office is at 20, rue Eugène Ruppert, L-2453 Luxembourg, Grand Duchy of Luxembourg and registered with the Registre de Commerce et des Sociétés in Luxembourg under number B235685.

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

(a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one or, if there is not, on the immediately preceding Business Day;

(b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and

(c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

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

“Moody’s” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

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

“Net Available Cash” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Net Outstandings” means, in relation to a Multi-account Overdraft, the aggregate outstanding gross debit balance of overdrafts comprised in that Multi-account Overdraft, net of any credit balances on any account comprised in that Multi-account Overdraft, to the extent that the credit balances are freely available to be set-off by the relevant Ancillary Lender against liabilities owed to it by the relevant Borrower under that Multi-account Overdraft.

“Net Proceeds” means the total amount received in cash in respect of any claim, disposal, recovery or transaction but after deducting:
(a) fees, costs and expenses reasonably incurred by any member of the Group in effecting or making;

(b) the amount of any Tax incurred or (on the basis of specialist Tax advice) reserved in respect of, and any amount received under any Tax indemnity relating to;

(c) closure, removal, redundancy, relocation, reorganisation and restructuring costs incurred preparatory to or in consequence of;

(d) any amount required to discharge:
   (i) any indebtedness which falls due on or as a consequence of;
   (ii) any security over any asset which is the subject of; and/or
   (iii) any guarantee or security granted by a member of the Group in respect of indebtedness of any person which is the subject of; and

(e) all provisions made in relation to potential indemnity, warranty, post-closing adjustment and similar claims or other anticipated liabilities in connection with,

in each case, the relevant claim, disposal, recovery or transaction.

“New Lender” has the meaning given to that term in Clause 29.1 (Assignments and transfers by the Lenders).

“Non-Acceptable L/C Lender” means a Lender under the Revolving Facility, other than the Original Lenders, which:

(a) is not an Acceptable Bank within the meaning of paragraph (a) or (b) of the definition of “Acceptable Bank” (other than a Lender which each relevant Issuing Bank has agreed is acceptable to it notwithstanding that fact); or

(b) is a Defaulting Lender; or

(c) has failed to make (or has notified the Agent that it will not make) a payment to be made by it under Clause 7.3 (Indemnities) or Clause 32.11 (Lenders’ indemnity to the Agent) or any other payment to be made by it under the Finance Documents to or for the account of any other Finance Party in its capacity as Lender by the due date for payment unless the failure to pay falls within the description of any of those items set out in (i) or (ii) of the definition of Defaulting Lender.

“Obligor” means a Borrower or a Guarantor.

“Obligors’ Agent” means the Parent, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.4 (Obligors’ Agent).

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.
“Offer” means a takeover offer (within the meaning of section 974 of the Act) to the holders of the Target Shares subject to the Offer, made or to be made by the Company in accordance with the Offer Documents.

“Offer Cancellation Event” means, if the Acquisition is implemented by means of an Offer, the Offer lapses or is withdrawn.

“Offer Documents” means, if the Acquisition is implemented by means of an Offer, the offer document sent or to be sent by the Company to the Target’s shareholders (and any other persons with information rights), and otherwise made available to such persons and in the manner required by Rule 24.1 of the Takeover Code.

“Offer Press Release” means, if the Acquisition is implemented by means of an Offer, the public announcement issued or to be issued by the Company confirming that the Offer has become or has been declared wholly unconditional.

“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 each person listed in Part 1 of Schedule 1 (The Original Parties) as an original borrower.

“Original Guarantor” means each person listed in Part 1 of Schedule 1 (The Original Parties) as an original guarantor.

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

“Pari Passu Indebtedness” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Participating Member State” means any member state of the European Union that has adopted and retained 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 procuring of the registrations, translations, filings, endorsements, notarisations, stampings and/or notifications of or in connection with the Transaction Security Documents or the Security created thereunder necessary for the perfection, validity or enforceability thereof.

“Permitted Holders” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Permitted Refinancing” means, to the extent notified by the Obligors' Agent to the Agent in writing as indebtedness to be treated as “Permitted Refinancing” for the purposes of this Agreement, any indebtedness incurred by a member of the Group for the purpose of directly or indirectly (including by way of a debt exchange, non-cash rollover or other similar or equivalent transaction), or otherwise in connection with or pursuant to, refinancing or replacing of all or any portion of any of the Facilities, the Second Lien Facilities, any Incremental Facility and/or any other Permitted Refinancing (including, without limitation, any revolving or similar facilities, whether drawn or undrawn provided that all or such portion of such revolving or similar facility
being refinanced or replaced is repaid and irrevocably cancelled) from time to time, in each case, including any indebtedness incurred for the purpose of the payment of principal, interest, fees, discounts, expenses, commissions, premium or other similar amounts payable under or in connection with the Facilities, any Incremental Facility and/or the Permitted Refinancing, as the case may be, being refinanced or replaced and any fees, costs and expenses incurred in connection therewith, provided that the providers of the refinancing or replacement indebtedness (or where customary for financing of the relevant type, the agent, trustee or other relevant representative in respect of that indebtedness) shall be required to become party to:

(a) the Intercreditor Agreement; or

(b) other intercreditor arrangements satisfactory to the Agent (acting reasonably),

in each case subject to the Finance Parties complying with all relevant obligations under Clause 2.6 (Permitted Refinancing) provided that such Permitted Refinancing complies with the provisions of Schedule 16 (Restrictive Covenants) and Clause 27.19 (Second Lien Payments).

“Permitted Refinancing Agreement” means any facility agreement, indenture or other equivalent document by which any Permitted Refinancing is made available or, as the case may be, issued.

“Permitted Refinancing Document” means each Permitted Refinancing Agreement, any guarantee entered into under or in connection with a Permitted Refinancing Agreement, any Permitted Refinancing Security Document and any other document designated as such by the Obligors’ Agent and the trustee, agent or equivalent representative under the relevant Permitted Refinancing Agreement.

“Permitted Refinancing Security Document” means any document entered into by a member of the Group creating or expressed to create any Security over all or any part of its assets in respect of any obligations of any member of the Group under any of the Permitted Refinancing Documents.

“Permitted Reorganisation” means:

(a) a reorganisation (including, without limitation, pursuant to a solvent winding-up where the assets of the relevant company, after paying its liabilities, are distributed to its shareholders, as well as any amalgamation, demerger, merger, dissolution, consolidation or other corporate reconstruction) involving the business or assets of, or shares of (or other interests in), any member of the Group (other than any merger or consolidation of the Parent or the Company if it will not be the surviving entity of that transaction) (each a “Reorganisation”) where:

(i) if relevant, all of the business, assets and shares of (or other interests in) the relevant member of the Group remain within the Group (and if the relevant member of the Group was an Obligor immediately prior to such reorganisation being implemented, all of the business and assets of that member are retained by one or more other Obligors);

(ii) if it or its assets or the shares in it were subject to the Transaction Security immediately prior to such Reorganisation, the Security Agent will enjoy substantially the same or equivalent security (ignoring for these purposes hardening periods) over the same assets or, as the case may be, over it or
the shares in it (or in each case over the shares of its successor and, if a new holding company is inserted as part of such Reorganisation, security over the shares of such holding company) or, where a member of the Group which is not a Material Company or an Obligor is being dissolved or liquidated, its assets (after payment of creditors) are passed up to its holding company; and

(iii) in the case of an amalgamation, dissolution or merger or similar arrangement, if such member of the Group is an Obligor, the surviving entity is an Obligor to at least the same extent as such first mentioned Obligor immediately prior to the said amalgamation, merger or corporate reconstruction; or

(b) any incorporation of a Subsidiary, intra-Group transfer or other step taken in connection with a proposed securitisation of the business of the Group (or any part thereof) and/or other refinancing where it is intended that the proceeds thereof be used to prepay the Facilities;

(c) any Reorganisation or other step (including any preparatory action) taken in connection with any actual or proposed Initial Public Offering (without prejudice to any prepayment obligation arising in relation to an Initial Public Offering) provided that such action would not reasonably be expected to materially and adversely affect the interests of the Finance Parties under the Finance Documents;

(d) any step or other matter set out in the Structure Memorandum (other than any exit consideration and in respect of repartiation of cash, subject to the restrictions in this Agreement); or

(e) any other re-organisation or similar arrangement to which the Agent (acting on the instructions of the Majority Lenders) has given prior written consent.

“Permitted Transaction” means:

(a) any payment or disposal required, Indebtedness incurred, guarantee or Security given, or other transaction arising, under the Finance Documents, the Second Lien Debt Documents, and/or any Permitted Refinancing Documents;

(b) any payments, step or other matter or transaction (including any preparatory action) taken in connection with any actual or proposed Initial Public Offering, Permitted Reorganisation and/or disposal permitted or not prohibited by this Agreement;

(c) any payments, step or other matter or transaction (other than the granting of Security, the incurrence of Indebtedness, the granting of guarantees, the making of acquisitions or the making of disposals) conducted in the ordinary course of day to day business on arm’s length or better terms (from the perspective of the member of the Group);
any payments, step or other matter or transaction required to comply with an undertaking contained in the Finance Documents or the Acquisition Documents;

the solvent liquidation or reorganisation of any member of the Group which is not an Obligor so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other members of the Group;

any step or other matter set out in the Structure Memorandum (other than any exit consideration and in respect of repartition of cash, subject to the restrictions in this Agreement); or

any transaction to which the Agent (acting on the instructions of the Majority Lenders) has given prior written consent.

“Qualifying Lender” has the meaning given to that term in Clause 18.1 (Definitions).

“Quarter Date” means, in respect of the fiscal year ending on or about 29 March 2020, 30 June 2019, 29 September 2019, 29 December 2019 and 29 March 2020 and, in respect of any other fiscal year of the Parent, the last day of each quarterly accounting period during that fiscal year as notified by the Parent and/or a Borrower to the Agent in accordance with Clause 25.10 (Quarter Dates).

“Quarter Period” means each period of approximately three Months ending on a Quarter Date.

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

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

(a) (if the currency is euro), 2 TARGET Days before the first day of that period; and

(b) (if the currency is any currency other than euro), 2 Business Days before the first day of that period,

(unless market practice differs in the Relevant Market for that currency, in which case the Quotation Day for that currency will be determined by the 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)).

“RCF Accordion Amount” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

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

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

“Release Condition” has the meaning given to that term in Clause 27.16 (Release Condition).
“Relevant Jurisdiction” means, in relation to an Obligor, its jurisdiction of incorporation and the jurisdiction whose laws are expressed to govern any of the Transaction Security Documents entered into by it and any perfection thereof.

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

“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.

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

“Replacement Benchmark” means a benchmark rate which is:

(a) formally designated, nominated or recommended as the replacement for a Screen Rate by:

(i) the administrator of that Screen Rate; or

(ii) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the “Replacement Benchmark” will be the replacement under paragraph (ii) above;

(b) if no benchmark rate is formally designated, nominated or recommended as contemplated in paragraph (a) above, a benchmark rate which is in the opinion of the Majority Lenders and the Parent, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to a Screen Rate.

“Repeating Representations” means each of the representations set out in Clause 24.2 (Status) to Clause 24.7 (Governing law and enforcement), paragraph (a) of Clause 24.9 (No default), Clause 24.24 (Centre of main interests) and 24.26 (Anti-Corruption Laws and Sanctions).

“Reports” has the meaning given to that term in Part 1 of Schedule 2 (Conditions Precedent).

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

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

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

“Restricted Payment” has the meaning given to that term in Section 2.1 of Part 1 of Schedule 16 (Restrictive Covenants).
“Restricted Subsidiary” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Retained Excess Cashflow” means, to the extent not expended or otherwise applied, Excess Cashflow in respect of any previous fiscal year not required to be applied in prepayment under Clause 12.5 (Excess Cash) (including any amount permitted to be deducted in the calculation of Excess Cashflow).

“Retained Proceeds” means, at any time, the aggregate of Insurance Proceeds, IPO Proceeds and Net Available Cash not required to be applied in prepayment under the applicable provisions of Clause 12 (Mandatory Prepayment) (including amounts available for reinvestment) and Retained Excess Cashflow.

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

“Revolving Facility Commitment” means:

(a) in relation to each Original Lender, the amount in the Base Currency set opposite its name under the heading “Revolving Facility Commitment” in Part 2 of Schedule 1 (The Original Parties) and the amount of any other Revolving Facility Commitment transferred to it or assumed by it in accordance with this Agreement (including pursuant to Clause 2.2 (Increase – general), Clause 2.5 (Incremental Facilities) and/or a Facility Change); and

(b) in relation to any other Lender, the amount in the Base Currency of any Revolving Facility Commitment transferred to it or assumed by it in accordance with this Agreement,


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

“Revolving Facility Lender” means any Lender that makes available a Revolving Facility Commitment.

“Revolving 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 Loan or a Letter of Credit issued under the Revolving Facility.

“Rollover Loan” means one or more Revolving Loans:

(a) made or to be made on the same day that:

(i) a maturing Revolving Loan is due to be repaid;

(ii) a demand by an Issuing Bank or the Agent pursuant to a drawing in respect of a Letter of Credit is due to be met; or
(iii) an Ancillary Facility is to be cancelled or terminated in whole or in part and any related Ancillary Outstandings are due to be repaid (other than as a result of an Acceleration Event);

(b) the aggregate amount of which is equal to or less than the amount of the maturing Revolving Loan or the relevant claim in respect of that Letter of Credit or the relevant Ancillary Outstandings;

(c) in the same currency as the maturing Revolving Loan (unless it arose as a result of operation of Clause 8.2 (Unavailability of a currency)) or the relevant claim in respect of that Letter of Credit; and

(d) made or to be made to the same Borrower for the purpose of:

(i) refinancing that maturing Revolving Loan; or

(ii) satisfying the relevant claim in respect of that Letter of Credit; or

(iii) repaying the relevant Ancillary Outstandings due and payable under the relevant Ancillary Facility.

“Sale” means the sale of all or substantially all of the business and assets of the Group (taken as a whole) to persons that are not members of the Group.

“Sanctions” means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State (each as a whole, and not their individual members) or (b) the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom (each as a whole and not its individual members or, in the case of the EU, its individual member states).

“Sanctioned Country” means, at any time, a country, region or territory which is itself the subject or target of any Sanctions which, (at the date of this Agreement, include Burma/Myanmar, Crimea (as defined and construed in the applicable Sanctions laws and regulations), Cuba, Iran, North Korea, Sudan and Syria).

“Sanctioned Person” means, at any time, (a) any person listed in any Sanctions-related list of designated persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or by the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom or any European Union member state, (b) any person operating, organized or resident in a Sanctioned Country or (c) any person owned or controlled by any such person or persons.

“Scheme” means an English law governed scheme of arrangement effected under part 26 of the Act between the Target and the Target Shareholders to implement the Acquisition with or subject to any modification, additions or condition approved by or imposed by the Court.

“Scheme Circular” means, if the Acquisition is implemented by means of a Scheme, a circular (including any supplementary circular) issued by the Target addressed to the Target Shareholders
containing, inter alia, the details of the Acquisition, the Scheme and the notices convening the Court Meeting and the Target General Meeting.

“Scheme Court Order” means, if the Acquisition is implemented by means of a Scheme, the order of the Court sanctioning the Scheme pursuant to section 899 of the Act.

“Scheme Documents” means each of the Scheme Circular and the Scheme Court Order.

“Scheme Effective Date” means, if the Acquisition is implemented by means of a Scheme, the date on which the Scheme becomes effective.

“Scheme Resolution” means any resolutions proposed to the Target Shareholders in the Scheme Circular.

“Screen Rate” means:

(a) in relation to EURIBOR, the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate); and

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

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

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

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

(b)

(i) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or

(ii) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent, provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;
(iii) the administrator of that Screen Rate publicly announces that it has ceased or will cease, to provide that Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate;

(iv) the supervisor or the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued; or

(v) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used;

(c) the administrator of that Screen Rate determines that that Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:

(i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Obligors’ Agent) temporary; or

(ii) that Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than one month; or

(d) in the opinion of the Majority Lenders and the Obligors’ Agent, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

“Second Lien Debt Document” has the meaning given to that term in the Intercreditor Agreement.

“Second Lien Facility Agreement” means the second lien facility agreement dated on or about the date of this Agreement between, amongst others, the Company and the lenders named therein.

“Second Lien Financing” means any Second Lien Debt or Permitted Second Lien Financing Debt (each as defined in the Intercreditor Agreement).

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

“Security” means a mortgage, standard security, charge, pledge, assignation in security, lien or other security interest securing any obligation of any person, a mandate to create a mortgage or a pledge over business assets or any other agreement or arrangement having a similar effect.

“Selection Notice” means a notice substantially in the form set out in Part 2 of Schedule 3 (Request and Notices) given in accordance with Clause 15 (Interest Periods) in relation to Facility B or any term Incremental Facility.

“Senior Syndication and Fee Letter” means the letter dated 4 September 2019 between, amongst others, the Arrangers and the Company in relation to, amongst other things, certain fees and syndication arrangements in respect of the Facilities.
“Separate Loans” has the meaning given to that term in paragraph (c) of Clause 10.2 (Repayment of Revolving Loans).

“Shareholder Contribution” means:

(a) any subscription by Midco for shares issued by, and any capital contributions by Midco to, the Parent provided that any such shares or capital contributions are not redeemable at the option of their holder whilst any amount remains outstanding under the Facilities, in each case unless permitted by this Agreement; and/or

(b) any loans, notes, bonds or like instruments issued to Midco by, or made by Midco to, the Parent which are subordinated to the Facilities pursuant to the Intercreditor Agreement (with no right to prepayment or acceleration or cash return payable whilst any amount remains outstanding under the Facilities, in each case unless permitted by the Intercreditor Agreement) or are otherwise subordinated to the Facilities on terms satisfactory to the Agent, acting reasonably.

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

“Sponsor Affiliate” means:

(a) each Equity Investor and any other fund (including, without limitation, any unit trust, investment trust, limited partnership or general partnership) which is advised by, or the assets of which are managed (whether solely or jointly with others) from time to time by, an Equity Investor (or a group undertaking for the time being of an Equity Investor other than any member of the Group, any Unrestricted Subsidiary, any investee or any portfolio company); and

(b) any other fund (including, without limitation, any unit trust, investment trust, limited partnership or general partnership) of which any Equity Investor (or a group undertaking for the time being of any Equity Investor), or any Equity Investor’s general partner, trustee or nominee, is a general partner, manager, adviser, trustee or nominee (but, for the avoidance of doubt, excluding any member of the Group, any Unrestricted Subsidiary, any investee or any portfolio company investee or portfolio company).

“Squeeze-Out Date” means, if the Acquisition is implemented by means of an Offer, the latest date on which a Squeeze-Out Procedure may be completed in connection with the Offer in accordance with Chapter 3 of Part 28 of the Act.

“Squeeze-Out Procedure” means, if the Acquisition is implemented by means of an Offer and if applicable, the procedure to be implemented following the Unconditional Date under Chapter 3 of Part 28 of the Act to acquire all of the outstanding Target Shares which the Company has not acquired, contracted to acquire or in respect of which it has not received valid acceptances.

“Structure Memorandum” means the structure paper prepared by Linklaters LLP and entitled “Project Bluebird – DRAFT Structure Paper”.

“S&P” has the meaning given to that term in Schedule 16 (Restrictive Covenants).
“Subsidiary” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Super Majority Lenders” means a Lender or Lenders whose Commitments aggregate more than 80 per cent. 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).

“Syndication Date” has the meaning given to that term in the Senior Syndication and Fee Letter.

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

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

“Target” means BCA Marketplace plc, a public limited company incorporated under the laws of England and Wales having company number 09019615.

“Target 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 one or more shareholder resolutions in connection with the implementation of the Acquisition.

“Target Group” means the Target and its Subsidiaries from time to time.

“Target Shareholders” means the holders of Target Shares from time to time.

“Target Shares” means the ordinary shares in the capital of the Target from time to time.

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

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

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

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

“Term Loan Accordion Amount” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“Test Period” means each period of approximately twelve Months ending on any Quarter Date.

“Total Commitments” means the aggregate of the Total Facility B1 Commitments, the Total Facility B2 Commitments, the Total Revolving Facility Commitments and the Total Incremental Facility Commitments (if any).

“Total Facility B1 Commitments” means the aggregate of Facility B1 Commitments, being £525,000,000 at the date of the 2019 Amendment Agreement.
“Total Facility B2 Commitments” means the aggregate of Facility B2 Commitments, being €534,492,800 at the date of the 2019 Amendment Agreement.

“Total Incremental Facility Commitments” means the aggregate of the Incremental Facility Commitments at any time.

“Total Revolving Facility Commitments” means the aggregate of the Revolving Facility Commitments, being £155,000,000 at the date of the 2019 Amendment Agreement.

“Transaction Costs” means all fees, commissions, costs and expenses, stamp, registration and other Taxes and advisory or financing fees incurred by any member of the Group (or any Holding Company of the Parent) to any person in connection with the Finance Documents and/or the Acquisition Documents and/or the negotiation, preparation, execution, notarisation and registration of the Finance Documents and/or the Acquisition Documents and/or the Acquisition and/or any Permitted Investment, Second Lien Financing, Permitted Refinancing or Permitted Transaction (each, a “relevant event”) or the financing of any relevant event (including, for the avoidance of doubt, payments in respect of any hedging arrangements or the payment of costs, fees and other expenses incurred in connection with the refinancing of indebtedness in relation to a relevant event (including, without limitation, related broken funding costs and prepayment premiums if any).

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

“Transaction Security Documents” means each of the documents, when entered into, listed as being a Transaction Security Document in Schedule 2 (Conditions Precedent) together with any other document entered into by any Obligor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents.

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

“Transfer Date” means, in relation to an assignment or a transfer:

(a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; or

(b) in the event that no Transfer Date is specified in the relevant Assignment Agreement or Transfer Certificate, the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

“UK Bail-In Legislation” means (to the extent that the United Kingdom is not an EEA Member Country which has implemented, or implements, Article 55 BRRD) 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).

“US” means the United States of America.

“Unconditional Date” means the date on which the Offer is declared or becomes unconditional in all respects.
“**Unpaid Sum**” means any sum due and payable but unpaid by an Obligor under the Finance Documents.

“**Unrestricted Subsidiary**” has the meaning given to that term in Schedule 16 (Restrictive Covenants).

“**Utilisation**” means a Loan or a Letter of Credit (but not a utilisation of an Ancillary Facility).

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

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

“**VAT**” means:

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

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

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

(a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;

(b) in relation to any other applicable Bail-In Legislation:

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

(ii) any similar or analogous powers under that Bail-In Legislation; and

(c) in relation to any UK Bail-In Legislation:

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

(ii) any similar or analogous powers under that UK Bail-In Legislation.

1.2 Construction

(a) Unless a contrary indication appears, a reference in this Agreement to:

(i) the “Agent”, the “Arrangers”, any “Finance Party”, any “Issuing Bank”, any “Lender”, any “Incremental Facility Lender”, any “Obligor”, any “Party”, any “Secured Party”, the “Security Agent” or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees 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 “amendment” includes any amendment, supplement, variation, novation, modification, replacement or restatement (however fundamental) and “amend” and “amended” shall be construed accordingly;

(iii) “assets” includes present and future properties, revenues and rights of every description;

(iv) a “company” includes a company, a corporation or a limited partnership;

(v) a “Finance Document” or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated or replaced from time to time (however fundamentally) and includes any increase in, addition to, extension of or change to any facility made under such agreement or instrument;

(vi) “guarantee” means (other than in Clause 23 (Guarantee and Indemnity)) any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
“including” means including without limitation and “includes” and “included” shall be construed accordingly;

“indebtedness” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

a Lender’s “participation” in relation to a Letter of Credit shall be construed as a reference to the relevant amount that is or may be payable by a Lender in relation to that Letter of Credit;

a “person” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);

a “regulation” includes any regulation, rule, official directive, order, request or guideline (whether or not having the force of law but, if not having the force of law, being one which is customarily complied with by the relevant person) of any governmental, inter-governmental or supranational body, agency or department or of any regulatory, self-regulatory or other authority or organisation;

“shares” includes shares or limited partnership interests and share capital includes partnership capital;

a provision of law is a reference to that provision as amended or re-enacted;

a time of day is a reference to London time; and

the singular includes the plural (and vice versa).

Section, Clause and Schedule headings are for ease of reference only and are to be ignored in construing this Agreement.

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; and

in the event that compliance with any monetary limit specified in this Agreement (other than Clause 26 (Financial Covenant)) shall fall to be determined any conversion from any currency to sterling necessary for that purpose shall be by reference to the Agent's Spot Rate of Exchange on the date of determination (or, if such rate is not publicly available at the relevant time, by reference to the prevailing rate of exchange as otherwise determined by the Parent (acting reasonably)) provided that no fluctuation
in exchange rates subsequent to the first such determination of compliance will cause breach of that monetary limit.

(d) A Default or Event of Default is “continuing” if it has not been remedied or waived.

(e) In the event that any amount or transaction meets the criteria of more than one of the baskets or exceptions set out in this Agreement, the Obligors’ Agent in its sole discretion may classify (and from time to time reclassify) that amount or transaction to a particular basket or exception and will only be required to include that amount or transaction in one of those baskets or exceptions (and, for the avoidance of doubt, an amount or transaction may, at the option of the Obligors’ Agent, be split between different baskets or exceptions).

(f) If any 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 IFRS, that receivable shall be considered to have been sold or discounted on a non-recourse basis.

(g) No personal liability shall attach to any director, officer, employee or other individual making any representation or statement or signing or delivering accounts, a certificate, notice or other document on behalf of a member of the Group which proves to be incorrect in any way (and no Finance Party shall take any action against any such director, officer or employee or other individual), unless that person acted fraudulently in making that representation or statement or signing or delivering those accounts or that certificate, notice or other document in which case any liability will be determined in accordance with applicable law. Any such director, officer, employee or individual may rely on and enjoy the benefit of this paragraph (g) notwithstanding the provisions of Clause 1.4 (Third party rights).

(h) A reference to a Loan or a Letter of Credit shall not include a utilisation of an Ancillary Facility.

(i) A Lender funding its participation in a Utilisation includes a Lender participating in a Letter of Credit.

(j) An outstanding amount under 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).

(k) A Letter of Credit or Ancillary Outstandings will cease to be outstanding if that Letter of Credit is, or those Ancillary Outstandings are, repaid or prepaid in full (including by way of cash cover provided in respect of thereof).

(l) A Borrower providing “cash cover” for a Letter of Credit or an Ancillary Facility means a Borrower paying an amount in the currency of the Letter of Credit (or, as the case may be, Ancillary Facility) to an interest-bearing account in the name of the Borrower and the following conditions being met:
(i) the account is with an Issuing Bank or Ancillary Lender for which that cash cover is to be provided (or with a bank nominated by such person);

(ii) subject to paragraph (b) of Clause 7.5 (Cash cover by Borrower), until no amount is or may be outstanding under that Letter of Credit or Ancillary Facility, withdrawals from the account may only be made to pay to a Finance Party amounts due and payable to it under this Agreement in respect of that Letter of Credit or Ancillary Facility (unless the amount standing to the credit of the accounts 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); and

(iii) if required by an Issuing Bank or the Ancillary Lender, that Borrower has executed Transaction Security (or for the purposes of paragraph (g) of Clause 6.3 (Completion of a Utilisation Request for Letters of Credit), or paragraph (b)(v) of Clause 9.3 (Terms of Ancillary Facilities), Security satisfactory to the Issuing Bank or an Ancillary Lender as the case may be) over that account which creates first ranking fixed Security over that account in form and substance satisfactory to the Security Agent (acting reasonably).

Unless an Acceleration Event has occurred and is continuing, any interest accruing on any such account will be paid to the order of the relevant Borrower.

(m) A Borrower “repaying” or “prepaying” a Letter of Credit or Ancillary Outstandings means:

(i) that Borrower providing cash cover for that Letter of Credit or in respect of the Ancillary Outstandings;

(ii) the maximum amount payable under the Letter of Credit or Ancillary Facility being reduced or cancelled in accordance with its terms;

(iii) an Issuing Bank or Ancillary Lender being satisfied that it has no further liability under that Letter of Credit or Ancillary Facility;

(iv) in the case of a Letter of Credit, a Borrower has made a payment under paragraph (b) of Clause 7.2 (Claims under a Letter of Credit) or paragraph (a) of Clause 7.3 (Indemnities) in respect of that Letter of Credit;

(v) in the case of a Letter of Credit, the Letter of Credit expires in accordance with its terms or is otherwise returned by the beneficiary with its written confirmation that it is unconditionally released and cancelled;

(vi) a bank or financial institution acceptable to the relevant Issuing Bank or Ancillary Lender (each acting reasonably) has issued, in favour of the relevant Issuing Bank or Ancillary Lender an unconditional and irrevocable
guarantee, indemnity, counter-indemnity or similar assurance against financial loss in respect of amounts due under that Letter of Credit or Ancillary Facility,

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

(n) Notwithstanding anything to the contrary in any Finance Document:

(i) nothing in the Finance Documents shall prohibit a non-cash contribution of any asset (including any participation, claim, commitment, rights, benefits and/or obligations in respect of the Facilities, any Permitted Refinancing and/or any other indebtedness borrowed or issued by any member of the Group from time to time) to the Parent (and subsequently any other members of the Group);

(ii) when establishing whether any action, transaction and/or incurrence of a liability (in each case including any replacement, renewal or extension thereof) is, was and/or remains permitted under the Finance Documents, the Group shall be entitled to rely on the fact that such action, transaction and/or incurrence was permitted at the time that action was originally taken, that transaction was originally committed to or that liability was originally incurred (as the case may be).

(o) Notwithstanding anything to the contrary in any Finance Document, nothing in the Finance Documents shall prohibit 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).

(p) If in any fiscal year the aggregate amount of any annual basket set out in this Agreement (including any annual basket contained in any definition used in this Agreement but, for the avoidance of doubt, excluding any “at any time” baskets and any de minimis thresholds) (each a “Permitted Basket”) which is utilised by the Group is less than the basket originally available for that fiscal year (the difference being referred to as the “Available Amount”), then the maximum amount of that Permitted Basket for the immediately following year (for the purposes of this paragraph only, the “Carry Forward Year”) shall be increased by an amount equal to the relevant Available Amount. In any Carry Forward Year, the original amount of a Permitted Basket shall be treated as having been applied after any Available Amount carried forward into such Carried Forward Year. An amount of up to 50 per cent. of any Permitted Basket for the next fiscal year may be carried back to the current fiscal year with a corresponding reduction in that Permitted Basket for the next following fiscal year.

(q) Any matter or circumstances being permitted is to be construed as a reference to any matter or circumstance which is not expressly prohibited.
In the event that a transaction is committed, incurred or entered into (or, as the case may be, not committed, incurred or entered into) by any member of the Group by reference to the Consolidated Senior Secured Leverage Ratio, Consolidated EBITDA or assets of the Group as at any particular date, provided such action or lack of action was not in breach of any of the provisions of the Finance Documents as at that particular date, it shall be treated as having been duly and properly incurred, and that transaction shall not constitute, or be deemed to constitute, or result in, a breach of any provision of the Finance Documents or a Default or an Event of Default if there is a subsequent change in the Consolidated Senior Secured Leverage Ratio, Consolidated EBITDA or assets of the Group, as applicable.

In acting hereunder, the Security Agent does so in accordance with its terms of appointment under the Intercreditor Agreement and is entitled to the protections set out therein. In the event of any conflict or inconsistency between the provisions of this Agreement and those of the Intercreditor Agreement with regard to the rights, powers and/or obligations of the Security Agent, the provisions of the Intercreditor Agreement shall prevail.

Notwithstanding anything to the contrary in any Finance Document, none of the steps (save in each case, any exit consideration and in respect of repartition of cash, subject to the restrictions in this Agreement) set out in, or reorganisations expressly contemplated by, the Structure Memorandum (or in each case the actions necessary to implement any of them) shall constitute a breach of any representation, warranty or general undertaking in the Finance Documents or result in the occurrence of a Default or an Event of Default (and provided further that any intermediate steps in any such reorganisation which are not specified in the Structure Memorandum shall not be prohibited).

1.3 Currency symbols and definitions

(a) “€”, “EUR” and “euro” mean the single currency of the Participating Member States.

(b) “£”, “GBP” and “Sterling” mean the lawful currency for the time being of the United Kingdom.

(c) “USD” means the lawful currency of the US.

1.4 Third party rights

(a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “Third Parties Act”) or the corresponding common law of Scotland to enforce or enjoy the benefit of any term of this Agreement.

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

(a) In the event of any conflict between this Agreement and the Intercreditor Agreement, the Intercreditor Agreement will prevail other than in relation to paragraph (b)(ii) of Clause 4.4 (Utilisations during the Certain Funds Period).

(b) In the event of any conflict between this Agreement and any other Finance Document (other than the Intercreditor Agreement), this Agreement will prevail.

1.6 Dutch Terms

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

(a) 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:

(A) is unconditional; or

(B) only contains conditions which can reasonably be expected to be satisfied without resulting in:

(1) non-compliance by any Obligor with any of the term of any Finance Document; or

(2) any representation or statement made or deemed to be made by an Obligor in any Finance Document or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document being or proving to have been incorrect or misleading;

(b) a winding-up, administration or dissolution includes a Dutch entity being:

(i) declared bankrupt (failliet verklaard); or

(ii) dissolved (ontbonden);

(c) a moratorium includes surseance van betaling and granted a moratorium includes surseance verleend;

(d) a liquidator includes a curator;

(e) an administrator includes a bewindvoerder;
(f) a receiver or an administrative receiver does not include a *curator* or *bewindvoerder*; and

(g) an attachment includes a *beslag*. 
Section 2.

The Facilities

2.1 The Facilities

(a) Subject to this Agreement, the Lenders make available to:

(i) the Company a Base Currency term loan facility in an aggregate amount equal to the Total Facility B1 Commitments;

(ii) the Company a Base Currency term loan facility in an aggregate amount equal to the Total Facility B2 Commitments; and

(iii) the Company and any Additional Borrowers a multicurrency revolving credit facility in an aggregate amount the Base Currency Amount of which is equal to the Total Revolving Facility Commitments.

(b) Subject to this Agreement and the Ancillary Documents (as the case may be), an Ancillary Lender may make available an Ancillary Facility to any of the Borrowers or any Affiliate of any Borrower as part of all or part of its Commitment under the Revolving Facility.

2.2 Increase – general

(a) The Obligors’ Agent may, by giving prior notice to the Agent 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) or paragraph (a) of Clause 11.6 (Right of cancellation and repayment in relation to a single Lender or Issuing Bank),

request that the Commitments relating to any Facility be increased (and the Commitments under that Facility shall be so increased) in an aggregate amount in the Base Currency of up to the amount of the Available Commitments or Commitments 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 (including, without limitation, a Sponsor Affiliate) which, in each case, is not a member of the Group (each an “Increase Lender”) selected by the Obligors’ Agent, 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;

(B) each of the Obligors and any Increase Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and the Increase Lender would have assumed and/or acquired had the Increase Lender been an Original Lender;

(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;

(D) the Commitments of the other Lenders shall continue in full force and effect; and

(E) any increase in the Total Commitments shall take effect on the date specified by the Obligors’ Agent in the notice referred to above or any later date on which the conditions set out in paragraph (b) below are satisfied.

(b) An increase in the Commitments relating to a Facility will only be effective on:

(i) the execution by the Agent of an Increase Confirmation from the relevant Increase Lender;

(ii) in relation to an Increase Lender which is not a Lender immediately prior to the relevant increase:

(A) the Increase Lender entering into the documentation required for it to accede as a party to the Intercreditor Agreement; and

(B) the performance by the Agent and the Security Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Lender, the completion of which the Agent and the Security Agent (respectively) shall promptly notify to the Obligors’ Agent, the Increase Lender and the relevant Issuing Bank; and

(iii) in the case of an increase in the Total Revolving Facility Commitments, any Issuing Banks consenting to that increase.

(c) Each Increase Lender, by executing the Increase Confirmation, confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any
amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the increase becomes effective.

(d) The Obligors’ Agent shall within 10 Business Days of demand reimburse each of the Agent and the Security Agent for the amount of all third party costs and expenses (including legal fees) reasonably incurred by either of them and, in the case of the Security Agent, by any Receiver or Delegate in connection with any increase in Commitments under this Clause 2.2 subject to limits that must be agreed by the Obligors’ Agent prior to the commencement of any material work.

(e) The Obligors’ Agent may pay to the Increase Lender a fee in the amount and at the times agreed between the Obligors’ Agent and the Increase Lender in a Fee Letter.

(f) Clause 29.4 (Limitation of responsibility of Existing Lenders) shall apply mutatis mutandis in this Clause 2.2 in relation to an Increase Lender as if references in that Clause to:

(i) an “Existing Lender” were references to all the Lenders immediately prior to the relevant increase;

(ii) the “New Lender” were references to that “Increase Lender”; and

(iii) a “re-transfer” and “re-assignment” were references to respectively a “transfer” and “assignment”.

(g) Clause 30.2 (Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates) shall apply to any Commitments assumed by an Increase Lender which is a Sponsor Affiliate.

2.3 Finance Parties’ rights and obligations

(a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

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

2.4 Obligors’ Agent

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

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

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

and in each case the relevant 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.

For this purpose, each Obligor incorporated in Germany releases the Parent to the fullest extent possible from the restrictions of section 181 of the German Civil Code (Bürgerliches Gesetzbuch) and similar restrictions applicable to it pursuant to any other law.

(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.

2.5 Incremental Facilities

(a) The Obligors’ Agent may at any time or times notify the Agent by delivery of an Incremental Facility Notice that it wishes to add one or more additional facilities under this Agreement and the other Finance Documents, including as new or existing facility commitment(s) and/or as an additional tranche or class of, or an increase of, or an extension of (including by way of a conversion on cashless
rollover basis), the whole or a portion of any existing Facility or a previously incurred Incremental Facility (including, in each case, term or revolving facilities, and including for the avoidance of doubt any additional Revolving Facility) either as a new facility and/or as an additional tranche of any existing facility (each an “Incremental Facility”).

(b) No consent of any Finance Party is required to establish an Incremental Facility (other than any Lender which is to provide the relevant facility), provided that, unless otherwise agreed by the Majority Lenders:

(i) no Event of Default is continuing at the time of, or would result from, the establishment of that Incremental Facility (but with the agreement of the providers of the relevant Incremental Facility it may be made available on a certain funds basis);

(ii) that Incremental Facility must rank pari passu with or junior to the other Facilities under the Finance Documents, and the borrower of any junior debt shall be the Company;

(iii) if that Incremental Facility is a term loan facility, it may not:

(A) have a maturity date prior to the Maturity Date in respect of Facility B;

(B) be amortising;

(C) have a right to receive mandatory prepayments in priority to any of the Facilities (although it shall be permitted to benefit on a pro rata basis (if it ranks pari passu with the Facilities) or on a junior basis (if it ranks junior to the Facilities)); or

(D) exceed, when aggregated with the amount of any other term loan Incremental Facilities, the Term Loan Accordion Amount at that time;

(iv) if that Incremental Facility is a revolving credit, working capital or similar facility, it may not:

(A) have a maturity date prior to the Maturity Date in respect of the Revolving Facility; or

(B) exceed, when aggregated with the amount of any other revolving credit, working capital or similar facility Incremental Facilities, the RCF Accordion Amount at that time;

(v) the amount of that Incremental Facility, when aggregate with the amount of any other Incremental Facility, may not exceed an amount permitted to be
incurred at that time under paragraph (a) of Section 1.2 (Limitation on Indebtedness) of Schedule 16 (Restrictive Covenants);

(vi) any transaction funded or to be funded with or by that Incremental Facility would not otherwise be prohibited under the Finance Documents; and

(vii) in respect only of any Incremental Facility utilised prior to the date falling 12 Months after the Closing Date, the weighted average Margin in respect of all such Incremental Facilities may not exceed 1.00% over the applicable Maximum Facility B Margin (unless the Obligors' Agent agrees by written notice to the Agent that the applicable Maximum Facility B Margin is increased by an amount equal to the amount by which such weighted average Margin exceeds 1.00% over the applicable Maximum Facility B Margin).

(c) No Incremental Facility Notice will be regarded as having been duly completed unless it specifies the following matters in respect of the relevant Incremental Facility:

(i) the proposed Borrower(s);

(ii) the persons to become Incremental Facility Lenders in respect of that Incremental Facility;

(iii) the amount being made available and the currency or currencies in which that Incremental Facility is available for utilisation;

(iv) the rate of interest applicable to that Incremental Facility (including any applicable Margin and Margin ratchet);

(v) the Maturity Date for that Incremental Facility;

(vi) the Availability Period for that Incremental Facility; and

(vii) the Incremental Facility Commencement Date for that Incremental Facility.

(d) Subject to the conditions set out in paragraph (b) above being satisfied, following receipt by the Agent of a duly completed Incremental Facility Notice and with effect from the relevant Incremental Facility Commencement Date (or any later date on which the conditions set out in paragraph (e) below are satisfied):

(i) the Lenders in respect of the relevant Incremental Facility (each an “Incremental Facility Lender”) shall make available that Incremental Facility in the aggregate amount set out in the Incremental Facility Notice;

(ii) each of the Obligors and each such Incremental Facility Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and such Incremental Facility Lenders would have
assumed and/or acquired had the Incremental Facility Lenders been Original Lenders;

(iii) each such Incremental Facility Lender shall become a Party as a “Lender”;

(iv) each such Incremental Facility Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as those Incremental Facility Lenders and those Finance Parties would have assumed and/or acquired had the Incremental Facility Lenders been Original Lenders; and

(v) the Commitments of the other Lenders shall continue in full force and effect.

(e) The establishment of an Incremental Facility will only be effective on:

(i) receipt by the Agent of an Incremental Facility Accession Notice executed by each person referred to in the relevant Incremental Facility Notice as an Incremental Facility Lender; and

(ii) in relation to an Incremental Facility Lender which is not already a Lender:

(A) that Incremental Facility Lender entering into an accession deed or agreement to the Intercreditor Agreement; and

(B) the performance by the Agent and the Security Agent of all necessary “know your customer” or other similar identification checks under all applicable laws and regulations in relation to that Incremental Facility Lender making available an Incremental Facility, the completion of which the Agent and the Security Agent (respectively) shall promptly notify to the Obligors' Agent.

(f) Each Obligor irrevocably authorises the Obligors' Agent to sign each Incremental Facility Notice on its behalf and each Finance Party irrevocably authorises and instructs the Agent and the Security Agent to acknowledge, execute and confirm acceptance of each Incremental Facility Notice, Incremental Facility Accession Notice and, if applicable, Lender Accession Deed on its behalf. The Agent and the Security Agent shall as soon as reasonably practicable send to the Obligors' Agent a copy of each executed Incremental Facility Notice, Incremental Facility Accession Notice and, if applicable, Lender Accession Deed.

(g) Except to the extent as provided in paragraph (b) above, the terms applicable to any Incremental Facility will be those agreed by the Incremental Facility Lenders as set out in the applicable Incremental Facility Documents. If there is any inconsistency between any term of the applicable Incremental Facility Documents and of this Agreement, the term agreed in the applicable Incremental Facility Documents shall prevail with respect to such Incremental Facility (without prejudice to paragraph (b) above). Notwithstanding any provision of a Finance Document to the contrary, there shall be no obligation or requirement to enter into
any hedging arrangement or other derivative transaction in relation to any Incremental Facility. The Obligors’ Agent shall deliver to the Agent a copy of any Incremental Facility Documents.

(h) Notwithstanding any other provision of this Agreement and the other Finance Documents, the Agent and the Security Agent are irrevocably authorised and instructed by each other Secured Party (without the requirement for any further authorisation or consent from any other Secured Party) to enter into such documentation as is necessary to amend this Agreement and any other Finance Document (including, without limitation, the Transaction Security Documents) to which each is party and/or any additional Transaction Security Documents and/or to enter into any supplemental agreements, confirmations and/or any other similar or equivalent documents to reflect the terms of each Incremental Facility (consistent with the requirements of this Clause 2.5). Any action required to be taken under this Clause 2.5 shall be at the cost of the Group in accordance with the provisions of Clause 22.1 (Transaction expenses).

(i) The Obligors’ Agent together with the Agent and/or the Security Agent, as the case may be, on behalf of the Secured Parties shall enter into any amendment, replacement of or supplement to the Finance Documents and/or take other action (if any) but always subject to the Agreed Security Principles, including:

(i) in respect of guarantees and indemnities of each Obligor set out in Clause 23 (Guarantee and Indemnity), (including entering into confirmations that the guarantee and indemnity of each Obligor recorded in Clause 23 (Guarantee and Indemnity) (or any applicable Accession Deed or other Finance Document)), subject only to any applicable limitations on such guarantee and indemnity referred to in Clause 23 (Guarantee and Indemnity) or any Accession Deed pursuant to which it became an Obligor or other Finance Document, ensure that such guarantees and indemnities extend to include all Incremental Facility loans or other utilisations (as the case may be) of any Incremental Facility and any other obligations arising under or in respect of all Incremental Facility commitments (as the case may be), any additional Transaction Security Document (including those referred to in sub-paragraph (ii) below) and/or any supplemental agreements, confirmations and/or any other similar or equivalent documents; and

(ii) in respect of any Transaction Security, enter into any additional Transaction Security Document and/or any supplemental agreements, confirmations and/or any other similar or equivalent documents and/or take such other action (if any) to ensure that the Transaction Security extends to include all Incremental Facility loans or other utilisations (as the case may be) of any Incremental Facility and any other obligations arising under or in respect of all Incremental Facility commitments and/or any supplemental agreements, confirmations and/or any other similar or equivalent documents,
in each case, as is necessary as determined by the Obligors’ Agent and the Agent, each acting reasonably, in order to facilitate the establishment of any Incremental Facility permitted by this Agreement (including in relation to any changes to, the taking of, or the release coupled with the retaking of, Transaction Security as may be required in order to ensure that that Incremental Facility shares the benefit of that Transaction Security pari passu with the other Facilities (or as otherwise agreed in respect of such Incremental Facility in accordance with sub-paragraph (b)(ii) and paragraph (g) of this Clause 2.5)), provided that a release coupled with the retaking of Transaction Security shall only be effected where it is not otherwise possible for that Incremental Facility to so share the benefit of the Transaction Security and there is no reasonable alternative structure having regard to the Agreed Security Principles and, further, having commercially substantially the same effect (such as, for example, the existing Transaction Security not being released and re-taken but instead subsequent ranking Transaction Security being granted in respect of that Incremental Facility and the Incremental Facility Lenders relying on the contractual ranking agreed in respect of that Incremental Facility and the Transaction Security in the Intercreditor Agreement and related provisions, such as the Incremental Facility Lenders’ rights to share recoveries under the Intercreditor Agreement pro rata and pari passu with the other Lenders, to the extent that such Incremental Facility is intended to be pari passu (or as otherwise agreed in respect of such Incremental Facility in accordance with sub-paragraph (b)(ii) and paragraph (g) of this Clause 2.5)).

(j) Each Incremental Facility Lender, by executing an Incremental Facility Accession Notice, confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the relevant Incremental Facility becomes effective.

(k) For the avoidance of doubt, no Lender will have any obligation to participate in an Incremental Facility (unless it has executed and delivered an Incremental Facility Lender Accession Notice in respect of that Incremental Facility). By signing an Incremental Facility Notice as an Incremental Facility Lender, each such entity agrees to provide the commitments in respect of the relevant Incremental Facility Commitments set out against its name in that Incremental Facility Notice.

(l) Clause 29.4 (Limitation of responsibility of Existing Lenders) shall apply mutatis mutandis in this Clause 2.5 in relation to an Incremental Facility Lender as if references in that Clause 29.4 (Limitation of responsibility of Existing Lenders) to:

(i) an Existing Lender were references to all the Lenders immediately prior to the establishment of the relevant Incremental Facility;

(ii) the New Lender were references to that Incremental Facility Lender; and

(iii) a re-transfer and re-assignment were references to respectively a transfer and assignment.

2.6 Permitted Refinancing

Notwithstanding anything to the contrary in any Finance Document:
(a) The Finance Parties shall be required to enter into any amendment to or replacement of the Finance Documents (including for the purpose of reflecting the terms of any Permitted Refinancing in the Finance Documents) and/or take such other action as is required by the Obligors' Agent in order to facilitate any Permitted Refinancing, including in relation to any changes to, the taking of, or the release coupled with the retaking of, any guarantee or Security provided that, if an Event of Default is continuing, unless otherwise agreed by the Majority Lenders, neither the Agent nor the Security Agent shall be required to execute a release of assets from any existing Transaction Security or a release of any existing guarantee under Clause 23 (Guarantee and Indemnity) pursuant to this paragraph (a) (but without prejudice to any requirement to execute a release pursuant to any other provision of any Finance Document) unless:

(i) replacement security will be provided pursuant to which the relevant Lenders (or the Security Agent on their behalf) will continue to have security in respect of the applicable assets or, as the case may be, a replacement guarantee will be provided; and

(ii) the Agent (acting reasonably) is satisfied that the release coupled with the retaking of the relevant security or, as the case may be, guarantee will not expose the Finance Parties in whose favour the relevant security or guarantee has been granted to new insolvency hardening periods which are materially prejudicial to the interests of the Lenders taken as a whole under the Finance Documents,

provided further that, for the avoidance of doubt, nothing in this proviso will prohibit or restrict the execution of (or the right to require the execution of) any additional guarantee or Security Documents and/or any supplemental agreements, confirmations and/or any other similar or equivalent documents. The Agent and the Security Agent are each irrevocably authorised and instructed by each Finance Party to execute any such amended or replacement Finance Documents and/or take such action on behalf of the Finance Parties (and shall do so on the request of and at the cost of the Obligors' Agent).

(b) For the avoidance of doubt, at the option of the Obligors' Agent:

(i) a Permitted Refinancing may be made available on a basis which is pari passu with or junior to any Facilities made available from time to time (subject to customary exceptions for fees, costs, expenses and other similar amounts payable to any agent, trustee or other relevant representative in respect of any Permitted Refinancing);

(ii) a Permitted Refinancing may be made available on a secured or unsecured basis (provided that, subject to the Finance Parties complying with all relevant obligations under paragraph (a) above, the proceeds of any Security granted by a member of the Group in respect of a Permitted Refinancing shall be applied in accordance with the provisions of the Intercreditor Agreement (or, if applicable, any alternative intercreditor arrangements entered into in accordance with the definition of Permitted Refinancing),
subject to exceptions for any Security which is particular to the structure or nature of any Permitted Refinancing or other transaction specific requirements, including any Security granted by a financing vehicle to creditors of that entity);

(iii) a Permitted Refinancing shall be entitled to benefit from any Transaction Security; and

(iv) a Permitted Refinancing may be effected in whole or in part by way of a debt exchange, non-cash rollover or other similar or equivalent transaction.

(c) Notwithstanding any other provision of this Agreement and the other Finance Documents, the Agent and the Security Agent are irrevocably authorised and instructed by each other Secured Party (without the requirement for any further authorisation or consent from any other Secured Party) to enter into such documentation as is necessary to amend this Agreement and any other Finance Document (including, without limitation, the Transaction Security Documents) to which each is party and/or any additional Transaction Security Documents and/or to enter into any supplemental agreements, confirmations and/or any other similar or equivalent documents to reflect the terms of a Permitted Refinancing (consistent with the requirements of this Clause 2.6). Any action required to be taken under this Clause 2.6 shall be at the cost of the Group in accordance with the provisions of Clause 22.1 (Transaction expenses).

(d) Any Permitted Refinancing otherwise prohibited under this Clause 2.6 or the definition of Permitted Refinancing shall require the consent of the Majority Lenders.

2.7 IPO Pushdown

(a) On, in contemplation of, or following an IPO Event, the Obligors’ Agent shall be entitled to require (by written notice to the Facility Agent (a “Pushdown Notice”)) that the terms of the Finance Documents shall operate (with effect from the date specified in the relevant Pushdown Notice (the “Pushdown Date”)) on the basis that:

(i) the Group (and all related provisions) shall comprise only the IPO Entity and its Restricted Subsidiaries from time to time;

(ii) all financial ratio calculations shall be made excluding any Holding Company of the IPO Entity and all reporting obligations shall be assumed at the level of the IPO Entity;

(iii) each reference in this Agreement to the Parent shall be deemed to be a reference to the IPO Entity (to the extent applicable and unless the context requires otherwise, and provided further that nothing in this paragraph (a), including the deeming construct contemplated by this paragraph (iii) and any action taken by the IPO Entity prior to it being deemed to be the Parent,
shall, or shall be deemed to, directly or indirectly constitute or result in a breach of any representation, warranty, undertaking or other term in the Finance Documents or a Default or an Event of Default);

(iv) none of the representations, warranties, undertakings or Events of Default in the Finance Documents shall apply to any Holding Company of the IPO Entity (whether in its capacity as an Obligor or otherwise);

(v) no event, matter or circumstance relating to any Holding Company of the IPO Entity (whether in its capacity as an Obligor or otherwise) shall, or shall be deemed to, directly or indirectly constitute or result in a breach of any representation, warranty, undertaking or other term in the Finance Documents or a Default or an Event of Default;

(vi) each Holding Company of the IPO Entity shall be irrevocably and unconditionally released from all obligations under the Finance Documents (including any Transaction Security granted by any such Holding Company); and/or

(vii) unless otherwise notified by the Obligors’ Agent:

(A) each person which is party to the Intercreditor Agreement as an “Investor” shall be irrevocably and unconditionally released from the Intercreditor Agreement and all obligations and restrictions under the Intercreditor Agreement (and from the date specified by the Obligors’ Agent that person shall cease to be party to the Intercreditor Agreement as an Investor and shall have no further rights or obligations under the Intercreditor Agreement as an Investor); and

(B) there shall be no obligation or requirement for any person to become party to the Intercreditor Agreement as an Investor.

In the event that any person is released from or does not become party to the Intercreditor Agreement as an Investor as a consequence of this paragraph (a), any term of any Finance Document which requires or assumes that any person be an Investor or that any liabilities or obligations to such person be subject to the Intercreditor Agreement or otherwise subordinated shall cease to apply. A Pushdown Notice may not be delivered if a Default or Event of Default has occurred and is continuing (disregarding any Default or Event of Default that could be deemed to arise in connection with the transactions contemplated by this provision).

(b) The Finance Parties shall be required to enter into any amendment to or replacement of the Finance Documents required by the Obligors’ Agent and/or take such other action as is required by the Obligors’ Agent in order to facilitate or reflect any of the matters contemplated by paragraph (a) above. The Facility Agent and the Security Agents are each irrevocably authorised and instructed by each Finance
Party to execute any such amended or replacement Finance Documents and/or take other such action on behalf of the Finance Parties (and shall do so on the request of and at the cost of the Obligors’ Agent).

(c) For the purpose of this Clause 2.6 the “IPO Entity” shall be any member of the Group notified to the Facility Agent by the Obligors’ Agent in writing as the person to be treated as the IPO Entity in relation to the relevant IPO Event, provided that:

(i) the IPO Entity shall be the member of the Group who will issue shares, or whose shares are to be sold, pursuant to that IPO Event (or a Holding Company of such member of the Group); and

(ii) the Obligors’ Agent may not designate a Subsidiary of a Borrower as the IPO Entity unless on or prior to the date on which that Borrower will cease to be a member of the Group as a consequence of the operation of this Clause 2.6 it ceases to be a Borrower under this Agreement.

(d) If the Obligors’ Agent delivers a Pushdown Notice to the Facility Agent pursuant to paragraph (a) above in relation to a contemplated IPO Event, it shall be entitled to revoke that Pushdown Notice at any time prior to the occurrence of the relevant IPO Event by written notice to the Facility Agent. In the event that any Pushdown Notice is revoked in accordance with this paragraph (d):

(i) the provisions of paragraphs (a)(i) to (a)(vii) above shall cease to apply in relation to that Pushdown Notice;

(ii) if any Transaction Security has been released pursuant to paragraph (a) above in reliance on that Pushdown Notice, if required by the Majority Lenders (acting reasonably) by prior written notice to the Obligors’ Agent and subject to the Agreed Security Principles, the relevant member of the Group shall as soon as reasonably practicable execute a replacement Security Document in respect of that Transaction Security; and

(iii) if any person party to the Intercreditor Agreement as an “Investor” has been released from the Intercreditor Agreement pursuant to paragraph (a)(vii) above in reliance on that Pushdown Notice, if required by the Majority Lenders (acting reasonably) by prior written notice to the Obligors’ Agent and that person, that person shall as soon as reasonably practicable accede to the Intercreditor Agreement as an Investor by executing an Accession Deed.

For the avoidance of doubt:

(A) nothing in this paragraph (d) shall prohibit or otherwise restrict the Obligors’ Agent from delivering a further Pushdown Notice in relation to any actual or contemplated IPO Event; and
revocation of a Pushdown Notice shall not, and shall not be deemed to, directly or indirectly constitute or result in a breach of any representation, warranty, undertaking or other term in the Finance Documents or a Default or an Event of Default (whether by reason of any action or step taken by any person, or any matter or circumstance arising or committed, while that Pushdown Notice was effective or otherwise).

3 Purpose

3.1 Purpose

(a) The Original Borrower shall apply all amounts borrowed by it under Facility B towards financing or refinancing, directly or indirectly, in whole or in part:

(i) any cash consideration to be paid to fund the Acquisition and the acquisition of any Target Shares to be acquired after the Closing Date pursuant to a Squeeze-Out Procedure;

(ii) the refinance and discharge (including principal, interest, redemption premiums and any make whole) of the Existing Target Debt and other costs, fees and expenses incurred or payable in connection with such refinancing or discharge; and

(iii) the Transaction Costs,

in each case in accordance with the Funds Flow Statement or as otherwise agreed between the Parent and the Agent, with any residual amount to be applied directly or indirectly in or towards financing or refinancing the general corporate purposes and/or working capital requirements of the Group.

(b) Each Borrower of the Revolving Facility shall apply all amounts borrowed by it under the Revolving Facility, any Letter of Credit and any utilisation of any Ancillary Facility directly or indirectly in or towards financing or refinancing the general corporate purposes and/or working capital requirements of the Group (including, for the avoidance of doubt, towards acquisitions and capital expenditure).

3.2 Monitoring

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

4 Conditions of Utilisation

4.1 Initial conditions precedent

The Lenders are only 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 is satisfied that it will receive or has waived the requirement to receive) all of the documents and other
evidence listed in Part 1 and Part 2 of Schedule 2 (Conditions Precedent) in form and substance satisfactory (save to the extent otherwise expressly specified in Schedule 2 (Conditions Precedent)) to the Agent (acting reasonably). The Agent shall notify the Obligors’ Agent and the Lenders upon being so satisfied.

4.2 Further conditions precedent

Subject to Clauses 4.1 (Initial conditions precedent), 4.4 (Utilisations during the Certain Funds Period) and 28.15 (Clean-up period), the Lenders are only obliged to comply with Clause 5.4 (Lenders’ participation) if, on the date of the Utilisation Request and on the proposed Utilisation Date:

(a) other than in the case of a Rollover Loan:
   (i) no Default is continuing or would result from the proposed Utilisation; and
   (ii) the Repeating Representations to be made by each Obligor are true in all material respects (where such representation is not already qualified by materiality) or true (where such representation is already qualified by materiality); and

(b) in relation to any Rollover Loan:
   (i) no Acceleration Event is continuing; and
   (ii) no Event of Default is continuing under Clause 28.6 (Insolvency), Clause 28.7 (Insolvency proceedings) or Clause 28.8 (Similar events elsewhere).

4.3 Maximum number of Utilisations

(a) A Borrower (or the Obligors’ Agent) may not (unless the Agent otherwise agrees) deliver a Utilisation Request if as a result of the proposed Utilisation:
   (i) if the Acquisition is implemented by means of a Scheme:
      (A) more than 3 Facility B1 Loans would be outstanding; or
      (B) more than 3 Facility B2 Loans would be outstanding;
   (ii) if the Acquisition is implemented by means of an Offer:
      (A) more than 5 Facility B1 Loans would be outstanding; or
      (B) more than 5 Facility B2 Loans would be outstanding;
   (iii) more than 20 Revolving Loans would be outstanding; or
   (iv) more than 20 Letters of Credit would be outstanding.

(b) Any Separate Loan 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), during the Certain Funds Period, each Lender will be obliged to comply with Clause 5.4 (Lenders’ participation) in respect of any Utilisation unless, on the proposed Utilisation Date:

(i) a Certain Funds Default is continuing or would result from the proposed Utilisation;

(ii) due to a change in law after the date that any such Lender becomes a Lender under this Agreement, it has become unlawful in any applicable jurisdiction for that Lender to perform any of its obligations to lend or participate in any Utilisation provided that such unlawfulness alone will not excuse any other Lender from participating in the proposed Utilisation;

(iii) a Change of Control has occurred; or

(iv) the Minimum Equity Condition (but for the purposes of a Utilisation Date other than the first Utilisation Date, taking into account the aggregate funded capital structure of the Acquisition as at the Closing Date and any equity investment made since the Closing Date and applied towards the acquisition of Target Shares and any Loans made since the the Closing Date) is not satisfied upon, and calculated pro forma for, the relevant Loan (and any other Loans which have been or will be advanced on or prior to the relevant Utilisation Date) being advanced on the relevant Utilisation Date.

(b) During the Certain Funds Period (save in circumstances where, because of the occurrence of any of the events specified in paragraph (a) above, a Lender is not obliged to comply with Clause 5.4 (Lenders’ participation)), none of the Finance Parties shall be permitted or entitled to (or to take any action or threaten to):

(i) cancel any of its Commitments;

(ii) rescind, terminate or cancel this Agreement or any of the Facilities or exercise any similar right or remedy or make or enforce any claim under the Finance Documents or under any applicable law it may have or, notwithstanding the terms of the Intercreditor Agreement, enforce any Transaction Security or take any other action to the extent to do so would or will prevent or limit (i) the making of a Utilisation or (ii) any Borrower from applying the proceeds of a Utilisation in accordance with Clause 3.1 (Purpose);

(iii) refuse or fail to make or participate in the making of a Utilisation;

(iv) exercise any right of set-off or counterclaim in respect of a Utilisation to the extent to do so would or will prevent or limit the making of a Utilisation; or
(v) cancel, accelerate, make demand for 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 or will prevent or limit the making of a Utilisation or which would require the same to be repaid, prepaid or cancelled,

provided that immediately upon expiry of the Certain Funds Period (but subject to Clause 28.15 (Clean-up period)) all such rights, remedies and entitlements shall, to the extent otherwise permitted, 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 currency will constitute an Optional Currency in relation to a Revolving Utilisation if it is:

(a) Euro or USD; or

(b) any other currency approved by the Lenders under the Revolving Facility which is readily available in the amount required and freely convertible into the Base Currency in the Relevant Market on the Quotation Day and the Utilisation Date for that Utilisation.

Section 3.

Utilisation

5 Utilisation - Loans

5.1 Delivery of a Utilisation Request

A Borrower (or the Obligors’ Agent on its behalf) may utilise a Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time (or, in the case of any Utilisation on the Closing Date, up to 11.00 a.m. three Business Days prior to the Closing Date or such later time as the Agent may agree (acting on the instructions of the Lenders)).

5.2 Completion of a Utilisation Request for Loans

(a) Utilisation by the Company of Facility B shall be on a pro rata basis.

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

(i) it identifies the Borrower and 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 15 (Interest Periods).

(c) Multiple Utilisations may be requested in a Utilisation Request where the proposed Utilisation Date is or is in respect of the Closing Date. Only one Utilisation may be requested in each subsequent Utilisation Request.

5.3 Currency and amount

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

(i) in relation to Facility B1, GBP;

(ii) in relation to Facility B2, EUR; and

(iii) in relation to the Revolving Facility, the Base Currency or an Optional Currency.

(b) Unless otherwise agreed by the Agent, the amount of the proposed Utilisation must be:

(i) in relation to Facility B, a minimum of £1,000,000 (or its equivalent in other currencies) or, if less, the Available Facility; and

(ii) for the Revolving Facility:

   (A) if the currency selected is the Base Currency, a minimum of £1,000,000 or, if less, the Available Facility; or

   (B) if the currency selected is an Optional Currency, a minimum of amount equal to the currency equivalent of £1,000,000 or, if less, the Available Facility.

5.4 Lenders’ participation

(a) If the conditions set out in this Agreement have been met, and subject to Clause 10.2 (Repayment of Revolving Loans), each Lender shall make its participation in each Loan available to the Agent for the account of the relevant Borrower 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 Available Commitment to the relevant Available Facility immediately prior to making the Loan.

(c) The Agent shall in relation to a Facility:
(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 amount, the currency and the Base Currency Amount of each Loan and the amount of its participation in that Loan (and, in the case of Facility B2, the EUR amount of its participation in that Loan), in each case by the Specified Time (or, in the case of any Utilisation on the Closing Date, up to 11.00am two Business Days prior to the Closing Date or such later time as the Agent may agree (acting on the instructions of the Lenders)).

(d) If a Revolving Utilisation is made to repay Ancillary Outstandings, each Lender’s participation in that Utilisation will be in an amount (as determined by the Agent) which will result as nearly as possible in the aggregate amount of its participation in the Revolving Utilisations then outstanding bearing the same proportion to the aggregate amount of the Revolving Utilisations then outstanding as its Revolving Facility Commitment bears to the Total Revolving Facility Commitments.

5.5 Limitations on Utilisations

The Revolving Facility shall not be utilised unless the first Utilisation Date under Facility B1 or Facility B2 has occurred (or will occur on the proposed Utilisation Date for the relevant Revolving Utilisation).

5.6 Cancellation of Commitment

(a) Subject to Clause 10.1 (Repayment of Facility B),

(i) Facility B1 Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for Facility B1; and

(ii) Facility B2 Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for Facility B2.

(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.

5.7 Affiliates of Lenders

(a) In respect of Utilisations to a particular Borrower (“Designated Loans”) a Lender (a “Designating Lender”) may at any time and from time to time designate (by written notice to the Agent and the Obligors’ Agent):

(i) a substitute Facility Office from which it will make Designated Loans; or
(ii) nominate an Affiliate to act as the Lender of Designated Loans (a “Substitute Affiliate Lender”).

(b) Any Substitute Affiliate Lender shall accede to the Intercreditor Agreement as a Senior Lender by delivery of a duly completed Creditor/Agent Accession Undertaking (as defined in the Intercreditor Agreement) and the notice to nominate a Substitute Affiliate Lender must be in the form set out in Schedule 17 (Form of Substitute Affiliate Lender Designation Notice) and be countersigned by the relevant Substitute Affiliate Lender confirming it will be bound as a Lender under this Agreement and the Intercreditor Agreement in respect of the Designated Loans in respect of which it acts as Lender.

(c) The Designating Lender will act as the representative of any Substitute Affiliate Lender it nominates for all administrative purposes under this Agreement and shall remain liable and responsible for the performance of all obligations assumed by a Substitute Affiliate on its behalf under this Clause 5.7 and non-performance of a Designating Lender’s obligations by its Designated Affiliate following a nomination under this Clause 5.7 shall not relieve such Designating Lender from its obligations under this Agreement.

(d) The Obligors, the Agent and the other Finance Parties will be entitled to deal only with the Designating Lender, except that payments (excluding, for the avoidance of doubt, in respect of any commitment fees) will be made in respect of Designated Loans to the Facility Office of the Substitute Affiliate Lender. In particular, the Commitments of the Designating Lender will not be treated as reduced by the introduction of the Substitute Affiliate Lender for the purposes of compliance with Clause 29.1 (Assignments and transfers by the Lenders) and for voting purposes under this Agreement or the other Finance Documents (and a Substitute Affiliate Lender shall not have any voting rights under the Finance Documents).

(e) Save as mentioned in paragraph (c) above, a Substitute Affiliate Lender will be treated as a Lender for all purposes under the Finance Documents and having a Commitment equal to the principal amount of all Designated Loans in which it is participating if and for so long as it continues to be a Substitute Affiliate Lender under this Agreement. For the purposes of calculating the Lender’s Available Commitment, the Lender’s Commitment shall be reduced to the extent of the Commitment of the Substitute Affiliate Lender under the Designated Loans.

(f) A Designating Lender may revoke its designation of an Affiliate as a Substitute Affiliate Lender by notice in writing to the Agent and the Company provided that such notice may only take effect when there are no Designated Loans outstanding to the Substitute Affiliate Lender. Upon such Substitute Affiliate Lender ceasing to be a Substitute Affiliate Lender the Designating Lender will automatically assume (and be deemed to assume without further action by any Party) all rights and obligations previously vested in the Substitute Affiliate Lender.
6 Utilisation – Letters of Credit

6.1 The Revolving Facility

(a) The Revolving Facility may be utilised by way of Letters of Credit.

(b) Other than Clause 5.5 (Limitations on Utilisations), Clause 5 (Utilisation – Loans) does not apply to utilisations by way of Letters of Credit.

6.2 Delivery of a Utilisation Request for Letters of Credit

A Borrower (or the Obligors’ Agent on its behalf) may request a Letter of Credit to be issued by delivery to the Agent of a duly completed Utilisation Request (unless otherwise agreed by the relevant Issuing Bank and the Lenders under the Revolving Facility) not later than the Specified Time.

6.3 Completion of a Utilisation Request for Letters of Credit

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

(a) it specifies that it is for a Letter of Credit;

(b) it identifies the Borrower of the Letter of Credit;

(c) it identifies the Issuing Bank which has agreed to issue the Letter of Credit;

(d) the proposed Utilisation Date is a Business Day within the Availability Period applicable to the Revolving Facility;

(e) the currency and amount of the Letter of Credit comply with Clause 5.3(b) (Currency and amount);

(f) the form of Letter of Credit is attached and is acceptable to the Issuing Bank and the Lenders under the Revolving Facility (each acting reasonably);

(g) the Expiry Date of the Letter of Credit falls on or before the applicable Maturity Date in relation to the Revolving Facility, unless the relevant Borrower has agreed at the time of issuance to provide cash cover for such Letter of Credit or cover such Letter of Credit by a letter of credit or guarantee issued by a financial institution acceptable to the Issuing Bank (acting reasonably) at least 20 Business Days prior to the applicable Maturity Date in relation to the Revolving Facility;

(h) the delivery instructions for the Letter of Credit are specified;

(i) the provision of the Letter of Credit to the requested beneficiary would not be contrary to any law, regulation, internal regulation (which internal regulation is binding on, and applicable to, the relevant Lender’s business of issuing guarantees
and letters of credit generally), sanction or embargo applicable to any Lender under the Revolving Facility; and

(j) the identity and address of the beneficiary of the Letter of Credit and the nature of the underlying obligations are approved by the Issuing Bank and the Lenders under the Revolving Facility.

6.4 Currency and amount

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

(b) Unless otherwise agreed by the relevant Issuing Bank, the amount of the proposed Letter of Credit must be an amount whose Base Currency Amount is not more than the Available Facility and which is:

(i) if the currency selected is the Base Currency, a minimum of £1,000,000 or, if less, the Available Facility; or

(ii) if the currency selected is an Optional Currency, a minimum of amount equal to the currency equivalent of £1,000,000 or, if less, the Available Facility.

6.5 Issue of Letters of Credit

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

(b) Subject to Clause 4.1 (Initial conditions precedent) and Clause 28.15 (Clean-up period), the relevant Issuing Bank will only be obliged to comply with paragraph (a) above in relation to a Letter of Credit other than one to which paragraph (c) below applies if, on the date of the Utilisation Request or Renewal Request and on the proposed Utilisation Date:

(i) other than in the case of a Letter of Credit to be renewed in accordance with Clause 6.6 (Renewal of a Letter of Credit):

(A) no Default is continuing or would result from the proposed Utilisation; and

(B) the Repeating Representations to be made by each Obligor are true in all material respects (where such representation is not already qualified by materiality) or true (where such representation is already qualified by materiality); and

(ii) in the case of a Letter of Credit to be renewed in accordance with Clause 6.6 (Renewal of a Letter of Credit):
(A) no Acceleration Event has occurred; and

(B) no Event of Default is continuing under Clause 28.6 (Insolvency), Clause 28.7 (Insolvency proceedings) or Clause 28.8 (Similar events elsewhere).

(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.

(d) The Agent shall determine the Base Currency Amount of each Letter of Credit which is to be issued in an Optional Currency and shall notify the Issuing Bank and each Lender of the details of the requested Letter of Credit and its participation in that Letter of Credit by the Specified Time.

(e) The Issuing Bank has no duty to enquire of any person whether or not any of the conditions set out in paragraph (b) above have been met. The Issuing Bank may assume that those conditions have been met unless it is expressly notified to the contrary by the Agent at least two Business Days prior to issue of the Letter of Credit. The Issuing Bank will have no liability to any person for issuing a Letter of Credit based on such assumption.

(f) The Issuing Bank is solely responsible for the form of the Letter of Credit that it issues. The Agent has no duty to monitor the form of that document.

(g) Each of the Issuing Bank and the Agent shall provide the other with any information reasonably requested by the other that relates to a Letter of Credit and its issue.

(h) The Issuing Bank may issue a Letter of Credit in the form of a SWIFT message or other form of communication customary in the Relevant Market but has no obligation to do so.

6.6 Renewal of a Letter of Credit

(a) A Borrower (or the Obligors’ Agent on its behalf) may request that any Letter of Credit issued on behalf of that Borrower be renewed by delivery to the Agent of a Renewal Request in substantially similar form to a Utilisation Request for a Letter of Credit by the Specified Time (or by such later time as the Agent may agree).

(b) The Finance Parties shall treat any Renewal Request in the same way as a Utilisation Request for a Letter of Credit except that the conditions set out in paragraph (f) of Clause 6.3 (Completion of a Utilisation Request for Letters of Credit) shall not apply.

(c) The terms of each renewed Letter of Credit shall be the same as those of the relevant Letter of Credit immediately prior to its renewal, except that:
(i) its amount may be less than the amount of the Letter of Credit immediately prior to its renewal; and

(ii) its Term shall start on the date which was the Expiry Date of the Letter of Credit immediately prior to its renewal (unless this is not a Business Day, in which case it shall start on the next Business Day following the Expiry Date of the Letter of Credit immediately prior to its renewal), and shall end on the proposed Expiry Date specified in the Renewal Request.

(d) Subject to paragraph (e) below, if the conditions set out in this Agreement have been met, the relevant Issuing Bank shall amend and re-issue any Letter of Credit pursuant to a Renewal Request.

(e) Where a new Letter of Credit is to be issued to replace by way of renewal an existing Letter of Credit, the Issuing Bank is not required to issue that new Letter of Credit until that existing Letter of Credit has been returned to the Issuing Bank or the Issuing Bank is satisfied that, upon issue of that new Letter of Credit, that existing Letter of Credit will be returned to the Issuing Bank.

6.7 Reduction of a Letter of Credit

(a) If, on the proposed Utilisation Date of a Letter of Credit, any of the Lenders under the Revolving Facility (other than the relevant Issuing Bank in its capacity as a Lender or any Affiliate of it) is a Non-Acceptable L/C Lender and:

(i) that Lender has failed to provide cash collateral to the relevant Issuing Bank in accordance with Clause 7.4 (Cash collateral by Non-Acceptable L/C Lender); and

(ii) the relevant Borrower has failed to provide cash cover to the relevant Issuing Bank when requested to do so in accordance with Clause 7.5 (Cash cover by Borrower),

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 Non-Acceptable L/C Lender in respect of that Letter of Credit and that Non-Acceptable L/C Lender shall be deemed not to have any participation (or have an 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 notify the Agent of each reduction made pursuant to this Clause 6.7.

(c) This Clause 6.7 shall not affect the participation of each other Lender in that Letter of Credit.

6.8 Revaluation of Letters of Credit
(a) If any Letters of Credit are denominated in an Optional Currency, the Agent shall at six monthly intervals after the date of the Letter of Credit recalculate the Base Currency Amount of each Letter of Credit by notionally converting into the Base Currency the outstanding amount of that Letter of Credit on the basis of the Agent's Spot Rate of Exchange on the date of calculation.

(b) The Obligors’ Agent shall, if requested by the Agent within 10 Business Days of any calculation under paragraph (a) above, ensure that sufficient Revolving Utilisations are prepaid to prevent the Base Currency Amount of the Revolving Utilisations exceeding the Total Revolving Facility Commitments (after deducting the total Ancillary Commitments) following any adjustment to a Base Currency Amount under paragraph (a) above.

6.9 Reduction or expiry of Letter of Credit

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

6.10 Appointment of Additional Issuing Banks

Any Lender which has agreed to the Obligors’ Agent’s request to be an Issuing Bank pursuant to this Agreement shall become an Issuing Bank for the purposes of this Agreement upon notifying the Agent and the Obligors’ Agent it has so agreed to be an Issuing Bank and on making that notification that Lender shall become bound by this Agreement as an Issuing Bank.

7 Letters of Credit

7.1 Immediately payable

If a Letter of Credit or any amount outstanding under a Letter of Credit becomes immediately payable, the Borrower that requested (or on behalf of which the Obligors’ Agent requested) the issue of that Letter of Credit shall repay or prepay that amount within five Business Days of demand.

7.2 Claims under a Letter of Credit

(a) Each Borrower irrevocably and unconditionally authorises the relevant Issuing Bank to pay any claim made or purported to be made under a Letter of Credit requested by it (or requested by the Obligors’ Agent on its behalf) and which appears on its face to be in order (in this Clause 7, a “claim”).

(b) Each Borrower shall, within five Business Days of demand, pay to the Agent for the relevant Issuing Bank an amount equal to the amount of any claim paid by such Issuing Bank to the extent it is not otherwise reimbursed under this Agreement.

(c) On receipt of any demand under Clause 7.1 (Immediately payable) or this Clause 7.2, the relevant Borrower shall (unless the Obligors’ Agent notifies the Agent
otherwise) be deemed to have delivered to the Agent a duly completed Utilisation Request requesting a Revolving Loan:

(i) in an amount equal to the amount of the relevant claim or amount demanded (net of any applicable cash cover) and in the same currency;

(ii) for an Interest Period of three Months or such other period of up to six Months as notified by the relevant Borrower to the relevant Issuing Bank prior to the Utilisation Date; and

(iii) with a Utilisation Date on the date payment falls due from such Borrower under Clause 7.1 **(Immediately payable)** or this Clause 7.2. The Available Commitment of each Lender under the Revolving Facility shall for the purpose of this Loan be calculated ignoring its participation in the relevant Letter of Credit.

The Lenders with a Revolving Facility Commitment shall be required to make such Revolving Loan pursuant to this paragraph (c) unless:

(A) an Acceleration Event has occurred; or

(B) an Event of Default is continuing under Clause 28.6 **(Insolvency)**, Clause 28.7 **(Insolvency proceedings)** or Clause 28.8 **(Similar events elsewhere)**.

The proceeds of any such Revolving Loan shall be used to repay the relevant claim or amount demanded.

(d) Each Borrower acknowledges that an Issuing Bank:

(i) is not obliged to carry out any investigation or seek any confirmation from any other person before paying a claim; and

(ii) deals in documents only and will not be concerned with the legality of a claim or any underlying transaction or any available set-off, counterclaim or other defence of any person.

(e) The obligations of a Borrower under this Clause 7 will not be affected by:

(i) the sufficiency, accuracy or genuineness of any claim or any other document; or

(ii) any incapacity of, or limitation on the powers of, any person signing a claim or other document.

7.3 Indemnities

(a) Each Borrower shall within 5 Business Days of demand, indemnify each Issuing Bank against any cost, loss or liability (other than any cost, loss or liability in respect of Tax, as to which Clause 18.3 **(Tax Indemnity)** applies) incurred by that
Issuing Bank (otherwise than by reason of the Issuing Bank’s gross negligence or wilful misconduct or breach of Clause 6 (Utilisation - Letters of Credit) or this Clause 7) in acting as an Issuing Bank under any Letter of Credit requested by (or on behalf of) that Borrower.

(b) Each Lender shall (according to its L/C Proportion) promptly on demand indemnify each Issuing Bank against any cost, loss or liability (other than any cost, loss or liability in respect of Tax, as to which Clause 18.3 (Tax Indemnity) applies) incurred by that Issuing Bank (including as a result of a failure by a Borrower to indemnify the relevant Issuing Bank pursuant to paragraph (a) above or failure by a Borrower to provide cash cover in respect of a Letter of Credit whose Expiry Date falls after the applicable Maturity Date in relation to the Revolving Facility pursuant to paragraph (g) of Clause 6.3 (Completion of a Utilisation Request for Letters of Credit) but otherwise than by reason of the relevant Issuing Bank’s gross negligence or wilful misconduct or breach of Clause 6 (Utilisation - Letters of Credit) or this Clause 7) in acting as an Issuing Bank under any Letter of Credit (unless the relevant Issuing Bank has been reimbursed by an Obligor pursuant to a Finance Document).

(c) If any Lender is not permitted (by its constitutional documents or any applicable law) to comply with paragraph (b) above, then that Lender will not be obliged to comply with paragraph (b) above and shall instead be deemed to have taken, on the date the Letter of Credit is issued (or, if later, on the date the Lender’s participation in the Letter of Credit is transferred or assigned to the Lender in accordance with this Agreement), an undivided interest and participation in the Letter of Credit in an amount equal to its L/C Proportion of that Letter of Credit. On receipt of demand from the Agent, that Lender shall, within five Business Days of demand, pay to the Agent (for the account of the relevant Issuing Bank) an amount equal to its L/C Proportion of the amount demanded.

(d) The Borrower which requested (or on behalf of which the Obligors’ Agent requested) a Letter of Credit shall, within 5 Business Days of demand, reimburse any Lender for any payment it makes to the relevant Issuing Bank under this Clause 7.3 in respect of that Letter of Credit.

(e) The obligations of each Lender or Borrower under this Clause 7.3 are continuing obligations and will extend to the ultimate balance of sums payable by that Lender or Borrower in respect of any Letter of Credit, regardless of any intermediate payment or discharge in whole or in part.

(f) If a Borrower has provided cash cover in respect of a Lender’s participation in a Letter of Credit, the Issuing Bank shall seek reimbursement from that cash cover before making a demand of that Lender under paragraph (b) above. Any recovery made by an Issuing Bank pursuant to that cash cover will reduce that Lender’s liability under paragraph (b) above.
(g) The obligations of any Lender or Borrower under this Clause 7.3 will not be affected by any act, omission, matter or thing which, but for this Clause 7.3, would reduce, release or prejudice any of its obligations under this Clause 7.3 (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;

(vi) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, any Letter of Credit or any other document or security; or

(vii) any insolvency or similar proceedings.

7.4 Cash collateral by Non-Acceptable L/C Lender

(a) If, at any time, a Lender under the Revolving Facility is a Non-Acceptable L/C Lender, an 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 three Business Days after the request by an Issuing Bank, an amount equal to that Lender’s L/C Proportion of the outstanding amount of a Letter of Credit or in the case of a proposed Letter of Credit, the amount of that 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 relevant Issuing Bank.

(b) The Non-Acceptable L/C Lender to whom a request has been made in accordance with paragraph (a) above shall enter into a security document or other form of collateral arrangement over the account, in form and substance satisfactory to the relevant Issuing Bank, as collateral for any amounts due and payable under the Finance Documents by that Lender to the relevant Issuing Bank in respect of that Letter of Credit.
(c) Subject to paragraph (f) below, until no amount is or may be outstanding under that Letter of Credit, withdrawals from the account may only be made to pay to the relevant Issuing Bank amounts due and payable to the relevant Issuing Bank by the Non-Acceptable L/C Lender under the Finance Documents in respect of that Letter of Credit.

(d) Each Lender under the Revolving Facility shall notify the Agent and the Obligors’ Agent:

(i) on the date of this Agreement or on any later date on which it becomes such a Lender in accordance with Clause 2.2 (Increase – general) or Clause 29 (Changes to the Lenders) that it is not a Non-Acceptable L/C Lender; and

(ii) as soon as practicable upon becoming aware of the same, that it has become a Non-Acceptable L/C Lender,

and an indication in Schedule 1 (The Original Parties), in a Transfer Certificate, in an Assignment Agreement or in an Increase Confirmation to that effect will constitute a notice under paragraph (d)(i) above to the Agent and, upon delivery in accordance with Clause 29.8 (Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Obligors’ Agent), to the Obligors’ Agent.

(e) Any notice received by the Agent pursuant to paragraph (d) above shall constitute notice to the relevant Issuing Bank of that Lender’s status and the Agent shall, upon receiving each such notice, promptly notify the relevant Issuing Bank of that Lender’s status as specified in that notice.

(f) Notwithstanding paragraph (c) above, a Lender which has provided cash collateral in accordance with this Clause 7.4 may, by notice to each Issuing Bank, request that an amount equal to the amount of the cash provided by it as collateral in respect of the relevant Letter of Credit (together with any accrued interest) standing to the credit of the relevant account held with the relevant Issuing Bank be returned to it:

(i) to the extent that such cash collateral has not been applied in satisfaction of any amount due and payable under this Agreement by that Lender to the Issuing Bank in respect of the relevant Letter of Credit;

(ii) if:

(A) it ceases to be a Non-Acceptable L/C Lender;

(B) its obligations in respect of the relevant Letter of Credit are transferred to a New Lender in accordance with this Agreement; or

(C) an Increase Lender has agreed to undertake that Lender’s obligations in respect of the relevant Letter of Credit in accordance with this Agreement; and
(iii) if no amount is due and payable by that Lender in respect of a Letter of Credit,

and that Issuing Bank shall pay that amount to the Lender within five Business Days after the request from the Lender (and shall cooperate with the Lender in order to procure that the relevant security or collateral arrangement is released and discharged).

7.5 Cash cover by Borrower

(a) If a Lender which is a Non-Acceptable L/C Lender fails to provide cash collateral (or notifies the relevant Issuing Bank that it will not provide cash collateral) in accordance with Clause 7.4 (Cash collateral by Non-Acceptable L/C Lender) and the relevant Issuing Bank notifies the Obligors’ Agent (with a copy to the Agent) that it requires the Borrower of the relevant Letter of Credit or proposed Letter of Credit to provide cash cover to an account with the relevant Issuing Bank in an amount equal to that Lender’s L/C Proportion of the outstanding amount of that Letter of Credit and in the currency of that Letter of Credit, then that Borrower shall do so prior to the proposed Utilisation Date of that Letter of Credit and in any event within 5 Business Days after the notice is given. The Available Commitment of the Non-Acceptable L/C Lender under the Revolving Facility shall be calculated ignoring its participation in respect of any such relevant Letter of Credit.

(b) Notwithstanding paragraph (g) of Clause 1.2 (Construction), the relevant Issuing Bank will agree to the withdrawal of amounts up to the level of that cash cover from the account (together with any accrued interest in respect of such withdrawal amount) if:

(i) it is satisfied (acting reasonably) that the relevant Lender is no longer a Non-Acceptable L/C Lender; or

(ii) the relevant Lender’s obligations in respect of the relevant Letter of Credit are transferred to a New Lender in accordance with this Agreement; or

(iii) an Increase Lender has agreed to undertake the obligations in respect of the relevant Lender’s L/C Proportion of the Letter of Credit.

(c) To the extent that a Borrower has complied with its obligations to provide cash cover in accordance with this Clause 7.5, the relevant Lender’s L/C Proportion in respect of that Letter of Credit will remain (but that Lender’s obligations in relation to that Letter of Credit may be satisfied in accordance with paragraph (h) of Clause 1.2 (Construction)). However, the relevant Borrower’s obligation to pay any Letter of Credit fee in relation to the relevant Letter of Credit to the Agent (for the account of that Lender) in accordance with paragraph (b) of Clause 17.4 (Fees payable in respect of Letters of Credit) will be reduced proportionately as from the date on which it complies with that obligation to provide cash cover (and for so long as the relevant amount of cash cover continues to stand as collateral).
(d) The relevant Issuing Bank shall promptly notify the Agent of the extent to which a Borrower provides cash cover pursuant to this Clause 7.5 and of any change in the amount of cash cover so provided.

(e) Each Borrower shall provide cash cover in respect of any Letter of Credit requested by that Borrower which remains outstanding on termination of the Facilities for any reason.

7.6 Rights of contribution

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

8 Optional Currencies

8.1 Selection of currency

A Borrower (or the Obligors’ Agent on its behalf) shall select the currency of a Revolving Utilisation in a Utilisation Request.

8.2 Unavailability of a currency

If before the Specified Time on any Quotation Day:

(a) a Lender notifies the Agent that the Optional Currency requested is not readily available to it in the amount required; or

(b) a Lender notifies the Agent that compliance with its obligation to participate in a Loan in the proposed Optional Currency would contravene a law or regulation applicable to it,

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

8.3 Agent's calculations

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

9 Ancillary Facilities

9.1 Type of Facility

An Ancillary Facility may be by way of:
(a) an overdraft or other current account facility;
(b) a guarantee, bonding, documentary or stand-by letter of credit facility;
(c) a short-term loan facility;
(d) a derivatives facility;
(e) a foreign exchange facility; or
(f) any other facility or accommodation required in connection with the business of the
   Group and which is agreed by the Obligors’ Agent with an Ancillary Lender.

9.2 Availability

(a) If a Borrower (or the Obligors’ Agent on its behalf) and a Lender agree and except
   as otherwise provided in this Agreement, the Lender may provide all or part of its
   Revolving Facility Commitment as an Ancillary Facility on a bilateral basis.

(b) An Ancillary Facility shall not be made available unless not later than three
    Business Days prior to the Ancillary Commencement Date for an Ancillary Facility,
    the Agent has received from the Obligors’ Agent:

   (i) a notice in writing of the establishment of an Ancillary Facility specifying:

      (A) the proposed Borrower(s) (or Affiliates of a Borrower) which may
          use the Ancillary Facility;

      (B) the proposed Ancillary Commencement Date and expiry date of the
          Ancillary Facility;

      (C) the proposed type of Ancillary Facility to be provided;

      (D) the proposed Ancillary Lender;

      (E) the proposed currency of the Ancillary Facility (if not denominated
          in the Base Currency); and

      (F) the proposed applicable Ancillary Commitment and the maximum
          amount of the Ancillary Facility and, if the Ancillary Facility is a
          Multi-account Overdraft its maximum gross amount (that amount
          being the “Ancillary Facility Designated Gross Amount”) and its
          maximum net amount (that amount being the “Ancillary Facility
          Designated Net Amount”); and

   (ii) any other information which the Agent may reasonably request in
        connection with the Ancillary Facility.
The Agent shall promptly notify the Ancillary Lender and the other Lenders of the establishment of an Ancillary Facility.

Subject to compliance with paragraph (b) of Clause 9.3 (Terms of Ancillary Facilities), no amendment or waiver of a term of any Ancillary Facility shall require the consent of any Finance Party other than the relevant Ancillary Lender unless such amendment or waiver itself relates to or gives rise to a matter which would require an amendment of or waiver under this Agreement (including, for the avoidance of doubt, under this Clause). In such a case, the provisions of this Agreement with regard to amendments and waivers will apply.

Subject to compliance with paragraph (b) above and the proposed Ancillary Lender having notified the Agent prior to the date referred to in paragraph (b)(i)(B) above that they agree to make available that Ancillary Facility:

(i) the Lender concerned will become an Ancillary Lender; and

(ii) the Ancillary Facility will be available,

with effect from the date referred to in paragraph (b)(i)(B) above or such later date agreed by a Borrower (or the Obligors’ Agent on its behalf) and the Ancillary Lender.

The Ancillary Commitment applicable to any of the Ancillary Facilities shall be the amount specified in or notified under this Clause but shall not exceed the Available Commitment of that Lender under the Revolving Facility.

9.3 Terms of Ancillary Facilities

Except as provided below, the terms of any Ancillary Facility will be those agreed by the Ancillary Lender and the Obligors’ Agent.

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 9.9 (Affiliates of Borrowers)) to use the Ancillary Facility;

(iii) may not allow the Ancillary Outstandings to exceed the relevant Ancillary Commitment;

(iv) may not allow the Ancillary Commitment of a Lender to exceed the Available Commitment with respect to the Revolving Facility of that Lender (ignoring for this purpose any reduction in the Available Commitment arising out of such Lender providing that Ancillary Commitment as referred to in paragraph (a) of the definition of Available Commitment); and
(v) unless otherwise agreed with the relevant Ancillary Lender in writing, must provide that the Ancillary Commitment is reduced to nil, and that all Ancillary Outstandings are repaid (or cash cover provided in respect of all the Ancillary Outstandings) not later than the applicable Maturity Date for the Revolving Facility (or such earlier date as the Revolving Facility Commitment of the relevant Ancillary Lender (or its Affiliate) is reduced to zero).

(c) If there is any inconsistency between any term of an Ancillary Facility and 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 (ii) an Ancillary Facility comprising more than one account where the terms of the Ancillary Documents shall prevail to the extent required to permit the netting of balances on those accounts and (iii) where the relevant term of this Agreement would be contrary to, or inconsistent with, the law governing the relevant Ancillary Document, in which case that term of this Agreement shall not prevail.

(d) Interest, commission and fees on Ancillary Facilities are dealt with in Clause 17.5 (Interest, commission and fees on Ancillary Facilities).

(e) Subject to compliance with paragraph (b) above, no amendment or waiver in respect of any Ancillary Facility shall require the consent of any Finance Party other than the relevant Ancillary Lender.

9.4 Repayment of Ancillary Facility

(a) An Ancillary Facility shall (unless otherwise agreed in accordance with paragraph (b)(v) of Clause 9.3 (Terms of Ancillary Facilities)) cease to be available on the applicable Maturity Date in relation to the Revolving Facility or such earlier date on which its maturity date occurs or on which it is cancelled in each case in accordance with this Agreement and the relevant Borrower shall repay or pay on the due date any amount payable under an Ancillary Facility.

(b) If an Ancillary Facility expires or is finally and irrevocably repaid in full in accordance with its terms, the Ancillary Commitment of the Ancillary Lender shall be reduced to zero.

(c) No Ancillary Lender may demand repayment or prepayment of any amounts or demand cash cover for any liabilities made available or incurred by it under its Ancillary Facility (except where the Ancillary Facility is provided on a net limit basis to the extent required to reduce the Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Net Outstandings) or otherwise take any action (without the consent of the Obligors’ Agent) to terminate, prior to its maturity date, any Ancillary Facility unless:

(i) the Total Revolving Facility Commitments have been cancelled in full, or all outstanding Utilisations under the Revolving Facility have become due
and payable in accordance with this Agreement, or the Agent has declared all outstanding Utilisations under the Revolving Facility immediately due and payable; or

(ii) the originally scheduled expiry date or maturity date of the Ancillary Facility (as the same may be amended from time to time in accordance with the relevant Ancillary Facility) occurs; or

(iii) it becomes unlawful in any applicable jurisdiction for the Ancillary Lender to fund, issue or maintain its participation in its Ancillary Facility; or

(iv) the Ancillary Outstandings (if any) under that Ancillary Facility can be repaid by a Revolving Utilisation and not less than five Business Days’ notice is given to the relevant Borrower before payment is due.

(d) For the purposes of determining whether or not the Ancillary Outstandings under an Ancillary Facility mentioned in paragraph (c)(iv) above can be refinanced by a Utilisation of the Revolving Facility:

(i) the Available Commitment of the Ancillary Lender in respect of the Revolving Facility will be increased by the amount of its Ancillary Commitment; and

(ii) the Utilisation may (so long as paragraph (c)(i) above does not apply) be made irrespective of whether a Default or Event of Default is outstanding or any other applicable condition precedent is not satisfied (but only to the extent that the proceeds are applied in refinancing those Ancillary Outstandings) and irrespective of whether Clause 4.3 (Maximum number of Utilisations) or paragraph (b)(iii) of Clause 5.2 (Completion of a Utilisation Request for Loans) applies.

(e) On the making of a Utilisation of the Revolving Facility to refinance Ancillary Outstandings:

(i) each Lender will participate in that Utilisation in an amount (as determined by the Agent) which will result as nearly as possible in the aggregate amount of its participation in the Revolving Utilisations then outstanding bearing the same proportion to the aggregate amount of the Revolving Utilisations then outstanding as its Revolving Facility Commitment bears to the Total Revolving Facility Commitments; and

(ii) the relevant Ancillary Facility shall be cancelled.

(f) In relation to an Ancillary Facility which comprises an overdraft facility where an Ancillary Facility Designated Gross Amount or Ancillary Facility Designated Net Amount (as the case may be) has been established, the Ancillary Lender providing that Ancillary Facility shall only be obliged to take into account for the purposes of calculating compliance with the Ancillary Facility Designated Gross Amount or
Ancillary Facility Designated Net Amount (as the case may be) those credit balances which it is permitted to take into account by the then current law and regulations in relation to its reporting of exposures to applicable regulatory authorities as netted for capital adequacy purposes.

9.5 Ancillary Outstandings

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

(a) the Ancillary Outstandings under any Ancillary Facility provided by that Ancillary Lender shall not exceed the Ancillary Commitment applicable to that Ancillary Facility and where the Ancillary Facility is a Multi-account Overdraft, Ancillary Outstandings under that Ancillary Facility shall not exceed the Ancillary Facility Designated Net Amount in respect of that Ancillary Facility; and

(b) where all or part of the Ancillary Facility is a Multi-account Overdraft, the Ancillary Outstandings (calculated on the basis that the words in brackets in paragraph (a) of the definition of that term were deleted) shall not exceed the Ancillary Facility Designated Gross Amount applicable to that Ancillary Facility.

9.6 Adjustment for Ancillary Facilities upon acceleration

(a) In this Clause 9.6:

(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) if the Lender is also an Ancillary Lender, the Ancillary Outstandings in respect of Ancillary Facilities provided by that Ancillary Lender (or by its Affiliate) (together with the aggregate amount of all accrued interest, fees and commission owed to it (or to its Affiliate) as an Ancillary Lender in respect of the Ancillary Facility); and

(ii) “Total Revolving Outstandings” means the aggregate of all Revolving Outstandings.

(b) If an Acceleration Event occurs, each Lender and each Ancillary Lender shall promptly adjust by corresponding transfers (to the extent necessary) their claims in respect of amounts outstanding to them under the Revolving Facility and each Ancillary Facility to the extent necessary to ensure that, after such transfers, the Revolving Outstandings of each Lender bear the same proportion to the Total Revolving Outstandings as such Lender’s Revolving Facility Commitment bears to
the Total Revolving Facility Commitments, each as at the date the notice of such Acceleration Event is served under Clause 28.14 (Acceleration).

(c) If an amount outstanding under an Ancillary Facility is a contingent liability and that contingent liability becomes an actual liability or is reduced to zero after the original adjustment is made under paragraph (b) above, then each Lender and Ancillary Lender will make a further adjustment by corresponding transfers (to the extent necessary) to put themselves in the position they would have been in had the original adjustment been determined by reference to the actual liability or, as the case may be, zero liability and not the contingent liability.

(d) Any transfer relating to Revolving Outstandings made pursuant to this Clause 9.6 shall be made for a purchase price in cash, payable at the time of transfer, in an amount equal to those Revolving Outstandings (less any accrued interest, fees and commission to which the transferor will remain entitled to receive notwithstanding that transfer, pursuant to Clause 29.11 (Pro rata interest settlement)).

(e) Prior to the application of the provisions of paragraph 9.6 above, an Ancillary Lender that has provided a Multi-account Overdraft under an Ancillary Facility shall set off any liabilities owing to it under such overdraft facility against credit balances on any account comprised in such overdraft facility.

(f) All calculations to be made pursuant to this Clause 9.6 shall be made by the Agent based upon information provided to it by the Lenders and Ancillary Lenders and the Agent’s Spot Rate of Exchange.

9.7 Information

Each Borrower and each Ancillary Lender shall, promptly upon request by the Agent, supply the Agent with any information relating to the operation of an Ancillary Facility to which it is 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.

9.8 Affiliates of Lenders as Ancillary Lenders

(a) Subject to this Agreement, an Affiliate of a Lender may become an Ancillary Lender. In such case, the Lender and its Affiliate shall be treated as a single Lender whose Revolving Facility Commitment is the amount set out opposite the relevant Lender’s name in Part 2 of Schedule 1 (The Original Parties) and/or the amount of any Revolving Facility Commitment transferred to or assumed by that Lender under this Agreement, to the extent (in each case) not cancelled, reduced or transferred by it under this Agreement.

(b) The Obligors’ Agent shall specify any relevant Affiliate of a Lender in any notice delivered by the Obligors’ Agent to the Agent pursuant to paragraph (b)(i) of Clause 9.2 (Availability).
(c) An Affiliate of a Lender which becomes an Ancillary Lender shall accede to the Intercreditor Agreement in accordance with the provisions thereof as an Ancillary Lender and any person which so accedes to the Intercreditor Agreement shall, at the same time, become a party to this Agreement as an Ancillary Lender.

(d) If a Lender assigns all of its rights and benefits or transfers all of its rights and obligations to a New Lender (as defined in Clause 29 (Changes to the Lenders)), its Affiliate shall cease to have any obligations under this Agreement or any Ancillary Document, provided that a Lender may not assign or transfer its obligations to the extent that to do so would terminate any Ancillary Facility except as would be permitted by paragraph (c) of Clause 9.4 (Repayment of Ancillary Facility).

(e) Where this Agreement or any other Finance Document imposes an obligation on an Ancillary Lender and the relevant Ancillary Lender is an Affiliate of a Lender which is not a party to that document, the relevant Lender shall ensure that the obligation is performed by its Affiliate.

9.9 Affiliates of Borrowers

(a) Subject to this Agreement, an Affiliate of a Borrower that is a member of the Group may, with the approval of the relevant Ancillary Lender, become a borrower with respect to an Ancillary Facility.

(b) The Obligors’ Agent shall specify any relevant Affiliate of a Borrower in any notice delivered by the Obligors’ Agent to the Agent pursuant to paragraph (b)(i) of Clause 9.2 (Availability).

(c) If a Borrower ceases to be a Borrower under this Agreement in accordance with Clause 31.3 (Resignation of an Obligor), its Affiliate shall cease to have any rights under this Agreement or any Ancillary Document.

(d) Where this Agreement or any other Finance Document imposes an obligation on a Borrower under an Ancillary Facility and the relevant Borrower is an Affiliate of a Borrower which is not a party to that document, the relevant Borrower shall ensure that the obligation is performed by its Affiliate.

(e) Any reference in this Agreement or any other Finance Document to a Borrower being under no obligations (whether actual or contingent) as a Borrower under such Finance Document shall be construed to include a reference to any Affiliate of a Borrower which has become a borrower with respect to an Ancillary Facility being under no obligations under any Finance Document or Ancillary Document.

9.10 Rights of contribution/subrogation

No Obligor will be entitled to any right of subrogation, contribution or indemnity from any Finance Party for so long as any sum remains payable or capable of becoming payable under the Finance Documents or in respect of any payment it may make under this Clause 9.
9.11 Continuation of Ancillary Facilities

(a) A Borrower and an Ancillary Lender may, as between themselves only, agree to continue to provide the same banking facilities following the applicable Maturity Date applicable to the Revolving Facility or, as the case may be, the Revolving Facility Commitments being cancelled under this Agreement.

(b) If any arrangement contemplated in paragraph (a) above is to occur, each relevant Borrower and the Ancillary Lender shall confirm that to be the case in writing to the Agent. Upon such applicable Maturity Date or, as the case may be, date of cancellation, any such facility shall continue as between the said entities on a bilateral basis and not as part of, or under, the Finance Documents. Save for any rights and obligations against any Finance Party under the Finance Documents arising prior to such applicable Maturity Date or, as the case may be, date of cancellation, no such rights or obligations in respect of such Ancillary Facility shall, as between the Finance Parties, continue and the Transaction Security shall not support any such facility in respect of any matters that arise after such applicable Maturity Date or, as the case may be, date of cancellation.

9.12 Revolving Facility Commitment amounts

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

(a) its Ancillary Commitment (if any); and

(b) the Ancillary Commitment of its Affiliates (if any).

9.13 Existing Ancillary Facilities

(a) The Obligors’ Agent 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.

(b) With effect from the date specified in a notice delivered under paragraph (a), the relevant Existing Ancillary Facility shall be an Ancillary Facility for all purposes under the Finance Documents, 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 the Finance Documents.
Section 4.

Repayment, Prepayment and Cancellation

10 Repayment

10.1 Repayment of Facility B

(a) Each Borrower under Facility B1 shall repay, or shall procure the repayment of, the aggregate outstanding principal amount of the Facility B1 Loans made to it in full on the Maturity Date for Facility B1.

(b) Each Borrower under Facility B2 shall repay, or shall procure the repayment of, the aggregate outstanding principal amount of the Facility B2 Loans made to it in full on the Maturity Date for Facility B2.

10.2 Repayment of Revolving Loans

(a) Subject to paragraph (c) below:

(i) each Borrower which has drawn a Revolving Loan shall repay that Loan on the last day of its Interest Period; and

(ii) all Revolving Loans outstanding on the Maturity Date for the Revolving Facility shall be repaid in full on that date.

(b) Without prejudice to each Borrower’s obligation under paragraph (a)(i) above, if one or more Revolving Loans are to be made available to a Borrower:

(i) on the same day that a maturing Revolving Loan is due to be repaid by that Borrower under that Revolving Facility; and

(ii) in the same currency,

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

(A) if the amount of the maturing Revolving Loan exceeds the aggregate amount of the new Revolving Loans:

(1) the relevant Borrower will only be required to pay an amount in cash in the relevant currency equal to that excess; and

(2) each Lender’s participation (if any) in the new Revolving Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender’s participation (if any) in the maturing Revolving Loan and that Lender will not be required to make its
participation in the new Revolving Loans available in cash; and

(B) if the amount of the maturing Revolving Loan is equal to or less than the aggregate amount of the new Revolving Loans:

(1) the relevant Borrower will not be required to make any payment in cash; and

(2) each Lender will be required to make its participation in the new Revolving Loans available in cash only to the extent that its participation (if any) in the new Revolving Loans exceeds that Lender’s participation (if any) in the maturing Revolving Loan and the remainder of that Lender’s participation in the new Revolving Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender’s participation in the maturing Revolving Loan.

(c) At any time when a Lender becomes a Defaulting Lender, the maturity date of each of the participations of that Lender in the Revolving Loans then outstanding will be automatically extended to the applicable Maturity Date in relation to the Revolving Facility and will be treated as separate Revolving Loans (the “Separate Loans”) denominated in the currency in which the relevant participations are outstanding.

(d) A Borrower to whom a Separate Loan is outstanding may prepay that Loan by giving three Business Days’ prior notice to the Agent. The Agent will forward a copy of a prepayment notice received in accordance with this paragraph (d) to the Defaulting Lender concerned as soon as practicable on receipt.

(e) Interest in respect of a Separate Loan will accrue for successive Interest Periods selected by the Borrower by the time and date specified by the Agent (acting reasonably) and will be payable by that Borrower to the Defaulting Lender on the last day of each Interest Period of that Loan.

(f) The provisions of this Agreement relating to Revolving Loans generally shall continue to apply to Separate Loans other than to the extent inconsistent with paragraphs (c) to (e) above, in which case those paragraphs shall prevail in respect of any Separate Loan.

11 Illegality, Voluntary Prepayment and Cancellation

11.1 Illegality

If, after the date it became a Party, it becomes unlawful (under the laws applicable to the relevant Lender or to an Affiliate of the relevant Lender) in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in any Utilisation:
(a) that Lender shall promptly notify the Agent upon becoming aware of that event;

(b) upon the Agent notifying the Obligors’ Agent, the Commitment of that Lender will be immediately cancelled to the extent of that unlawfulness; and

(c) each Borrower shall repay to the extent of that unlawfulness that Lender’s participation in the Utilisations made to that Borrower on the last day of the Interest Period for each Utilisation occurring not less than one Month after the Agent has notified the Obligors’ Agent 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) or, if required by the Obligors’ Agent, the Obligors’ Agent may replace that Lender pursuant to the procedure set out in Clause 41.3 (Replacement of Lender) no later than the date on which the relevant Lender would have been repaid under this Clause 11.1 had the Obligors’ Agent not made that election to replace that Lender.

11.2 Illegality in relation to an Issuing Bank

If, after the date it became an Issuing Bank, it becomes unlawful (under the laws applicable to the relevant Issuing Bank or to an Affiliate of the relevant Issuing Bank) for an Issuing Bank to issue or leave outstanding any Letter of Credit, then:

(a) that Issuing Bank shall promptly notify the Agent upon becoming aware of that event;

(b) upon the Agent notifying the Obligors’ Agent, that Issuing Bank shall not be obliged to issue any Letter of Credit;

(c) to the extent of the unlawfulness, the Obligors’ Agent shall procure that the relevant Borrower shall use all reasonable endeavours (without being obliged to make any payment) to procure the release of, or otherwise repay, each Letter of Credit issued by that Issuing Bank and outstanding at such time; and

(d) unless any other Lender has agreed to be an Issuing Bank pursuant to this Agreement, the Revolving Facility shall cease to be available for the issue of Letters of Credit by that Issuing Bank to the extent such issue would be unlawful.

11.3 Voluntary cancellation

The Obligors’ Agent may, if it gives the Agent not less than three Business Days’ (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of £1,000,000) of an Available Facility. Any cancellation under this Clause 11.3 shall reduce the Commitments of the Lenders rateably under that Facility.

11.4 Voluntary prepayment of Facility B Loans

(a) A Borrower to which a Facility B Loan has been made may, if it or the Obligors’ Agent gives the Agent not less than three Business Days’ (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of that
Facility B Loan (but, if in part, being an amount that reduces the Base Currency Amount of that Facility B Loan by a minimum amount of £1,000,000).

(b) A Borrower to which a Facility B Loan has been made or the Obligors’ Agent may elect to apply a prepayment made under this Clause 11.4 against any or all of the Facility B Loans (and against any repayment instalment) in such proportions as it selects.

11.5 Voluntary prepayment of Revolving Utilisations

A Borrower to which a Revolving Utilisation has been made may, if it or the Obligors’ Agent gives the Agent not less than three Business Days’ (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of a Revolving Utilisation (but, if in part, being an amount that reduces the Base Currency Amount of that Revolving Utilisation by a minimum amount of £1,000,000).

11.6 Right of cancellation and repayment in relation to a single Lender or Issuing Bank

(a) If:

(i) any sum payable to any Lender or Ancillary Lender by an Obligor is required to be increased under paragraph (c) of Clause 18.2 (Tax Gross-Up);

(ii) any Lender or Issuing Bank claims indemnification from the Company or an Obligor under Clause 18.3 (Tax Indemnity) or Clause 19.1 (Increased Costs); or

(iii) any Lender invokes Clause 16.2 (Market disruption),

the Obligors’ Agent may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice:

(A) (if such circumstances relate to a Lender) of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender’s participation in the Utilisations; or

(B) (if such circumstances relate to an Issuing Bank) of repayment of any outstanding Letter of Credit issued by it and cancellation of its appointment as an Issuing Bank under this Agreement in relation to any Letters of Credit to be issued in the future.

(b) On receipt of a notice referred to in paragraph (a) above in relation to a Lender, the Commitment of that Lender shall immediately be reduced to zero.

(c) On the last day of each Interest Period which ends after the Obligors’ Agent has given notice under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Obligors’ Agent in that notice), each Borrower to which a Utilisation is outstanding shall repay that Lender’s participation in that Utilisation.
together with all interest and other amounts accrued under the Finance Documents due to that Lender.

11.7 Right of cancellation in relation to a Defaulting Lender

(a) If any Lender becomes a Defaulting Lender, the Obligors’ Agent may, at any time whilst the Lender continues to be a Defaulting Lender, give the Agent three Business Days’ notice of cancellation of each Available Commitment of that Lender.

(b) On the notice referred to in paragraph (a) above becoming effective, each Available Commitment of the Defaulting Lender shall immediately be reduced to zero.

(c) The 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) a Change of Control; or

(b) a Sale,

the Parent shall promptly notify the Agent and each Lender shall be entitled to require, by written notice to the Parent received not later than the date 30 days after the date on which the a Lender was notified that such event has occurred (a “Lender Notice”), that:

(i) all amounts payable under the Finance Documents by the Obligors to that Lender will be due and payable on the date falling 30 days after the date of such Lender Notice and the Borrowers will prepay or procure the prepayment of all Utilisations provided by that Lender by such date; and

(ii) the undrawn Commitments of that Lender will be cancelled and such Lender shall have no obligation to participate in further Utilisations requested under this Agreement,

in each case save to the extent that any Ancillary Lender, or, as the case may be, Issuing Bank may, as between itself and the relevant member of the Group, agree to continue to provide such Ancillary Facility or, as the case may be, Letter(s) of Credit, in which case, after notification thereof to the Agent such arrangements shall continue on a bilateral basis and not as part of, or under, the Finance Documents.

12.2 Initial Public Offering

Upon the occurrence of an Initial Public Offering (not resulting in a Change of Control), the Parent shall promptly notify the Agent and shall ensure that:
such amount of the IPO Proceeds from that Initial Public Offering is applied in prepayment of the Facilities as is necessary to ensure that, following such prepayment, the Consolidated Senior Secured Leverage Ratio will be less than 3.5:1; or

if application of all of the IPO Proceeds from that Initial Public Offering in prepayment of the Facilities is insufficient to ensure that, following such prepayment, the Consolidated Senior Secured Leverage Ratio will be less than 3.5:1, then all of those IPO Proceeds shall be applied in prepayment of the Facilities,

in each case, subject to Clause 12.8 \textit{(Prepayment elections)}, promptly upon receipt of those IPO Proceeds and in the order of application contemplated by Clause 12.6 \textit{(Application of prepayments)}.

12.3 Asset Dispositions

Net Available Cash received by a member of the Group from an Asset Disposition shall be applied on the 366th day after the later of \( \text{A} \) the date of such Asset Disposition and \( \text{B} \) the receipt of such Net Available Cash from an Asset Disposition in prepayment on a \textit{pro rata} basis of:

(a) Facility B; and

(b) to the extent the Parent elects, Pari Passu Indebtedness that constitutes Senior Secured Indebtedness (as defined in Schedule 16 \textit{(Restrictive Covenants)}),

in each case, to the extent not otherwise applied or invested in accordance with the provisions of Section 5 \textit{(Limitation on Sales of Assets and Subsidiary Stock)} in Schedule 16 \textit{(Restrictive Covenants)}.

12.4 Insurance Claims

After the Certain Funds Period, the Parent shall ensure that the amount equal to any Insurance Proceeds are applied in prepayment of the Facilities, subject to Clause 12.8 \textit{(Prepayment elections)}, promptly upon receipt of those Insurance Proceeds and in the order of application contemplated by Clause 12.6 \textit{(Application of prepayments)}.

12.5 Excess Cash

(a) Unless otherwise agreed by the Majority Lenders, in relation to each full fiscal year (commencing with the first fiscal year starting after 31 March 2021), the Parent shall ensure that Facility B is prepaid (subject to Clause 12.8 \textit{(Prepayment elections)}) within 20 Business Days of delivery pursuant to Clause 25.1 \textit{(Financial statements)} of the Annual Financial Statements for the relevant fiscal year in an amount equal to the applicable portion set out in paragraph (b) below of Excess Cashflow for that fiscal year.

(b) To the extent that following prepayment the Consolidated Senior Secured Leverage Ratio (adjusted to take into account any prepayment or repayment to be made on the relevant day) would be:
(i) greater than 4.5:1, an amount equal to:

(A) 50 per cent. of the amount of Excess Cashflow for such fiscal year;
less

(B) the higher of (1) £15,000,000 and (2) 15 per cent. of Consolidated EBITDA (the “Threshold Amount”),

shall be applied in prepayment of Facility B; or

(ii) equal to or less than 4.5:1 but greater than 3.5:1, an amount equal to:

(A) 25 per cent. of the amount of Excess Cashflow for such fiscal year;
less

(B) the Threshold Amount,

shall be applied in prepayment of Facility B; or

(iii) equal to or less than 3.5:1, no amount of Excess Cashflow for such fiscal year shall be applied in prepayment of Facility B.

12.6 Application of prepayments

(a) A prepayment made under Clause 12.2 (Initial Public Offering) or Clause 12.4 (Insurance Claims) shall be applied in the following order:

(i) first, in prepayment of aggregate principal amount outstanding under Facility B;

(ii) second, in prepayment of the Revolving Loans and outstanding cash advances under any Ancillary Facility (in such order as the Obligors’ Agent may select); and

(iii) third, in repaying or prepaying any contingent liability under any Letter of Credit and any contingent liability under any Ancillary Facility (in such order as the Obligors’ Agent may select).

(b) Where any prepayment is applied, following such application, the Agent shall, if so requested by the Obligors’ Agent, notify the Obligors’ Agent of all outstanding Utilisations under this Agreement (in each case as adjusted) as soon as reasonably practicable following receipt of such prepayment.

(c) Each Obligor shall use all reasonable endeavours and take all reasonable steps to ensure that any transaction giving rise to a prepayment obligation is structured in such a way that it will not be unlawful for the Obligors to move the relevant proceeds received between members of the Group to enable a mandatory prepayment to be lawfully made and the proceeds lawfully applied as provided
under this Clause 12. If, however, after each Obligor has used all such reasonable endeavours and taken such reasonable steps:

(i) it will still be unlawful for such a prepayment to be made and the proceeds so applied; or

(ii) it will still be unlawful to make funds available to a member of the Group that could make such a prepayment; or

(iii) it will still result in any member of the Group making funds available to, or receiving funds from, another member of the Group to enable such a prepayment to be made incurring any material cost or expense (including any material tax liability) or it gives rise to a risk of liability for the entity concerned or its directors or officers; or

(iv) it will give rise to a risk of liability for a member of the Group and/or its officers or directors (or gives rise to a risk of breach of fiduciary or statutory duties by any director or officer or a risk of personal liability),

then such prepayment shall not be required to be made, subject to an obligation to use other Group cash which is not subject to similar restrictions to prepay an equivalent amount where the use of such cash would not be materially prejudicial to overall Group liquidity or the availability of Group liquidity to members of the Group requiring funds.

(d) Notwithstanding the above, no member of the Group shall be required to make any prepayment of the Facilities pursuant to Clause 12.2 (Initial Public Offering), Clause 12.3 (Asset Dispositions), Clause 12.4 (Insurance Claims) or Clause 12.5 (Excess Cash) if a Release Condition has been satisfied (provided that, for the avoidance of doubt, if a Release Condition will be satisfied only following a prepayment pursuant to Clause 12.2 (Initial Public Offering), Clause 12.3 (Asset Dispositions), Clause 12.4 (Insurance Claims) or Clause 12.5 (Excess Cash) (as the case may be), such prepayment shall be required to the extent necessary to satisfy a Release Condition). In respect of any amount which has not been applied in prepayment in accordance with Clause 12.2 (Initial Public Offering), Clause 12.3 (Asset Dispositions), Clause 12.4 (Insurance Claims) or Clause 12.5 (Excess Cash) (as the case may be) as a result of a Release Condition being satisfied (the “Released Amounts”), if that Release Condition subsequently cease to be satisfied after the date the prepayment would have been required had a Release Condition not been satisfied, the failure to apply the Released Amounts in prepayment shall not result in a breach of this Agreement.

12.7 Unused proceeds

Any amount not required to be prepaid in accordance with this Clause 12 shall be available for use by the Group in any manner not otherwise prohibited under this Agreement.

12.8 Prepayment elections
(a) Subject to paragraph (b) below, any prepayment required to be made under Clause 12.2 (Initial Public Offering), Clause 12.3 (Asset Dispositions), Clause 12.4 (Insurance Claims) or Clause 12.5 (Excess Cash) on a day which is not the last day of an Interest Period relating to the Loan to be prepaid may, if the Obligors’ Agent gives the Agent not less than three Business Days’ (or such shorter period as the Majority Lenders may agree) prior written notice, be applied in prepayment of that Loan instead on the last day of the current Interest Period relating to that Loan.

(b) If the Obligors’ Agent makes an election under paragraph (a) above then that Loan will become due and payable in the required amount on the last day of the relevant Interest Period.

12.9 Right of Facility B1 Lenders and Facility B2 Lenders to waive prepayment

A Facility B1 Lender and/or Facility B2 Lender may, by giving notice to the Agent not less than three Business Days’ prior notice, decline to receive a prepayment (other than any amount under Facility B1 and/or Facility B2 (as applicable) to be prepaid pursuant to Clause 11.1 (Illegality), Clause 11.4 (Voluntary Prepayment of Facility B Loans), Clause 11.6 (Right of cancellation and repayment in relation to a single Lender or Issuing Bank), Clause 11.7 (Right of cancellation in relation to a Defaulting Lender) or Clause 41.3 (Replacement of Lender)) provided that the amount in respect of which a Facility B1 Lender and/or Facility B2 Lender (as applicable) has declined its right to repayment shall be applied to the participations of Facility B1 Lenders and/or Facility B2 Lenders (as applicable) which have not declined prepayment as the Parent may elect or retained by the Group for any use permitted under this Agreement.

12.10 Facility B Prepayment Fee

(a) If within 6 months from the Closing Date:

(i) a voluntary prepayment of Facility B Loans is made with the proceeds of other broadly syndicated term loans under credit facilities with a lower Effective Yield (as defined below) than the Effective Yield of Facility B (other than any such credit facilities entered into in connection with a transaction that would, if consummated, constitute a Change of Control or Initial Public Offering); or

(ii) an amendment to this Agreement is entered into that results in a reduction of the Effective Yield of Facility B (other than any such amendment in connection with any transaction that would, if consummated, constitute a Change of Control or Initial Public Offering) and the primary purpose (as determined by the Parent in good faith) of such amendment is to lower the Effective Yield on Facility B,

a prepayment fee shall be payable in an amount of 1.00 per cent. of the principal amount of the Facility B Loans so prepaid or subject to the amendment, as the case may be.

(b) For the purposes of this Clause 12.10, “Effective Yield” means, as of any date of determination, the sum of (i) the higher of (A) the LIBOR rate (or, in the case of any Facility B Loan denominated in Euro, the EURIBOR rate on such date for a
deposit in Sterling (or, as the case may be, Euros) with a maturity of one month and (B) Sterling floor (or, in the case of any Facility B Loan denominated in Euro, the EURIBOR floor), if any, with respect thereto as of such date, (ii) the Margin applicable to the relevant Facility B Loan as of such date, and (iii) the amount (if any) of original issue discount and upfront fees paid in respect of Facility B (converted to yield assuming a three year average life and without any present value discount).

13 Restrictions

13.1 Notices of Cancellation or Prepayment

Any notice of cancellation, prepayment, authorisation or other election given by any Party under this Agreement shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment, provided that the Obligors’ Agent may give a conditional notice of cancellation or prepayment under Clause 11 (Illegality, voluntary prepayment and cancellation), and, if the relevant condition is not satisfied, the Obligors’ Agent must pay all Break Costs and other reasonable costs incurred by any Finance Party as a result of any amount not being prepaid on the proposed payment date.

13.2 Interest and other amounts

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.

13.3 No reborrowing of Facility B

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

13.4 Reborrowing of Revolving Facility

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

13.5 Prepayment in accordance with Agreement

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

13.6 No reinstatement of Commitments

Subject to Clause 2.2 (Increase – general), no amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

13.7 Effect of Repayment and Prepayment on Commitments

If all or part of a Utilisation under a Facility is repaid or prepaid and is not available for redrawing (other than by operation of Clause 4.2 (Further conditions precedent)), an amount of the Commitments in respect of that Facility will be deemed to be cancelled on the date of repayment.
or prepayment. Any cancellation under this Clause 13.7 shall reduce the Commitments of the Lenders rateably under that Facility.
Section 5.

Costs of Utilisation

14 Interest

14.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(a) Margin; and

(b) LIBOR or, in relation to any Loan in euro, EURIBOR.

14.2 Payment of interest

The Borrower to which a Loan has been made shall pay accrued interest on that Loan on the last day of each Interest Period (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of the Interest Period).

14.3 Default interest

(a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, 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 14.3 shall be immediately payable by the Obligor on demand by the Agent.

(b) If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:

(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be one per cent. per annum higher than the rate which would have applied if the overdue amount had not become due.

(c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

14.4 Notification of rates of interest
The Agent shall promptly notify the Lenders and the relevant Borrower (or the Obligors’ Agent) of the determination of a rate of interest under this Agreement.

15 Interest Periods

15.1 Selection of Interest Periods and Terms

(a) A Borrower (or the Obligors’ Agent 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 Facility B Loan and has already been borrowed) in a Selection Notice.

(b) Each Selection Notice for a Facility B Loan is irrevocable and must be delivered to the Agent by the Borrower (or the Obligors’ Agent on behalf of the Borrower) to which that Facility B Loan was made not later than the Specified Time.

(c) If a Borrower (or the Obligors’ Agent) 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 15, a Borrower (or the Obligors’ Agent on behalf of a Borrower) may select an Interest Period of:

(i) in the case of the Revolving Facility and any Incremental Facility established as a revolving facility, one week or one, two, three or six Months provided that no more than 10 one-week Interest Periods shall be permitted under any such Facility in any fiscal year; and

(ii) in the case of any other Facility, one week (but only in respect of the first two Interest Periods) or one, two, three or six Months,

or, in each case, any other period agreed between the Obligors’ Agent and the Agent (acting on the instructions of all the Lenders participating in the relevant Loan). In addition, a Borrower (or the Obligors’ Agent on behalf of a Borrower) may select an Interest Period of any duration necessary to match any relevant payment date under the Facilities and/or any hedging agreement.

(e) An Interest Period for a Loan shall not extend beyond the applicable Maturity Date.

(f) Each Interest Period for a Facility B Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.

(g) A Revolving Loan has one Interest Period only.

15.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar Month (if there is one) or the preceding Business Day (if there is not).
15.3 Consolidation and division of Facility B Loans

(a) Subject to paragraph (b) below, if two or more Interest Periods:

(i) relating to Facility B Loans made to the same Borrower; and

(ii) end on the same date,

those Facility B Loans will, unless that Borrower (or the Obligors' Agent on its behalf) specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Facility B Loan on the last day of the Interest Period.

(b) Subject to Clause 5.3 (Currency and amount), if a Borrower (or the Obligors' Agent on its behalf) requests in a Selection Notice that a Facility B Loan be divided into two or more Facility B Loans, that Facility B Loan will, on the last day of its Interest Period, be so divided with Base Currency Amounts specified in that Selection Notice, having an aggregate Base Currency Amount equal to the Base Currency Amount of the Facility B Loan immediately before its division.

16 Changes to the Calculation of Interest

16.1 Unavailability of Screen Rate

(a) Interpolated Screen Rate: If no Screen Rate is available for EURIBOR or LIBOR as applicable for the Interest Period of a Loan, the applicable EURIBOR, LIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.

(b) Shortened Interest Period: If no Screen Rate is available for EURIBOR or LIBOR as applicable for:

(i) the currency of a Loan; or

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

the Interest Period of that Loan shall (if it is longer than the applicable Fallback Interest Period) be shortened to the applicable Fallback Interest Period and EURIBOR or LIBOR as applicable for that shortened Interest Period shall be determined pursuant to the definition of “EURIBOR” or “LIBOR” as applicable.

(c) Shortened Interest Period and Historic Screen Rate: If the Interest Period of a Loan is, after giving effect to paragraph (b) above, either the applicable Fallback Interest Period or shorter than the applicable Fallback Interest Period and, in either case, no Screen Rate is available for EURIBOR or LIBOR for:

(i) the currency of that Loan; or
(ii) the Interest Period of that Loan and it is not possible to calculate the Interpolated Screen Rate,

the applicable EURIBOR or LIBOR shall be the Historic Screen Rate for that Loan.

(d) **Shortened Interest Period and Interpolated Historic Screen Rate:** If paragraph (c) above applies but no Historic Screen Rate is available for the Interest Period of the Loan, the applicable EURIBOR or LIBOR shall be the Interpolated Historic Screen Rate for a period equal in length to the Interest Period of that Loan.

(e) **Cost of funds:** If paragraph (d) above applies but it is not possible to calculate the Interpolated Historic Screen Rate, there shall be no applicable EURIBOR or LIBOR for that Loan and Clause 16.3 (**Cost of funds**) shall apply to that Loan for that Interest Period.

16.2 Market disruption

(a) If a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender’s share of that Loan for the Interest Period shall be the rate per annum which is the sum of:

(i) the Margin; and

(ii) the rate notified to the Agent by that Lender as soon as practicable and in any event by close of business on the date falling five Business Days after the Quotation Day (or, if earlier, on the date falling five Business Days prior to the date on which interest is due to be paid in respect of that Interest Period) to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Loan from whatever source it may reasonably select.

(b) If a Lender has not notified the Agent of a rate per annum pursuant to paragraph (a)(ii) above, the cost to that Lender of funding its participation in that Loan for that Interest Period shall be deemed, for the purposes of paragraph (a) above, to be LIBOR.

(c) In this Agreement, “**Market Disruption Event**” means, before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 35 per cent. of that Loan) that the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of LIBOR.

16.3 Cost of funds

(a) If this Clause 16.3 applies, the rate of interest on the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:

(i) the Margin; and
(ii) the weighted average of the rates notified to the Agent by each Lender as soon as practicable and in any event by close of business on the date falling three Business Days after the Quotation Day (or, if earlier, on the date falling two Business Days before the date on which interest is due to be paid in respect of that Interest Period), to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in that Loan from whatever source it may reasonably select.

(b) If this Clause 16.3 applies and the Agent or the Obligors’ Agent so requires, the Agent and the Obligors’ Agent shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.

(c) Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Obligors’ Agent, be binding on all Parties.

(d) If this Clause 16.3 applies, and

(i) a Lender's Funding Rate is less than EURIBOR or LIBOR as applicable; or

(ii) a Lender does not supply a quotation by the time specified in paragraph (a)(ii) above,

the cost to that Lender of funding its participation in that Loan for that Interest Period shall be deemed, for the purposes of paragraph (a) above, to be EURIBOR or LIBOR as applicable.

(e) If this Clause 16.3 applies pursuant to Clause 16.1(e) (Unavailability of Screen Rate) but any Lender does not supply a quotation by the time specified in paragraph (a)(ii) above the rate of interest shall be calculated on the basis of the quotations of the remaining Lenders.

16.4 Notification to the Obligors’ Agent

If Clause 16.3 (Cost of funds) applies the Agent shall, as soon as practicable, notify the Obligors’ Agent.

16.5 Break Costs

(a) Each Borrower shall, within five Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.

(b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent (at the request of the Obligors’ Agent), provide to the Agent and the Obligors’ Agent a certificate confirming (in reasonable detail) the amount of its Break Costs for any Interest Period in which they accrue.
17 Fees

17.1 Commitment fee

(a) The Obligors’ Agent shall pay or procure that there is paid to the Agent (for the account of each Lender) a commitment fee in the Base Currency computed at the rate of 35 per cent. of the applicable Margin per annum on that Lender’s Available Commitment under the Revolving Facility for the period commencing on the Closing Date and ending on the last day of the Availability Period applicable to the Revolving Facility.

(b) The accrued commitment fee is payable quarterly in arrear during the relevant Availability Period, on the last day of the relevant Availability Period and on the cancelled amount of the relevant Lender’s Commitment at the time the cancellation is effective.

(c) No commitment fee is payable in respect of any Lender’s Facility B1 Commitment or Facility B2 Commitment.

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

17.2 Arrangement fee

The Obligors’ Agent shall pay or procure there is paid to the Arrangers an arrangement fee in the amount and at the times agreed in the Senior Syndication and Fee Letter.

17.3 Agency fees

The Obligors’ Agent shall pay or procure there is paid to each of the Agent and the Security Agent (for its own account) an agency fee and a security agency fee (respectively) in the amount and at the times agreed in a Fee Letter.

17.4 Fees payable in respect of Letters of Credit

(a) A Borrower shall pay to an Issuing Bank a fronting fee in the Base Currency at the rate of 0.125 per cent. per annum on the outstanding amount (net of any amount which has been repaid or prepaid) which is counter-indemnified by the other Revolving Lenders (not being the relevant Issuing Bank or any Affiliate of it) of each Letter of Credit requested by it for the period from the issue of that Letter of Credit until its Expiry Date (excluding the amount of the share of the relevant Issuing Bank and its Affiliates in the Letter of Credit if that Issuing Bank (or an Affiliate of it) is also a Lender)).

(b) A Borrower shall pay to the Agent (for the account of each Revolving Lender) a Letter of Credit fee in respect of the relevant outstanding amount under the relevant Letter of Credit computed at the rate of the Margin applicable to a Revolving Loan
on the outstanding amount (net of any amount which has been repaid or prepaid) of each Letter of Credit requested by it for the period from the issue of that Letter of Credit until its Expiry Date. This fee shall be distributed according to each Lender’s L/C Proportion of that Letter of Credit.

(c) All accrued fronting fees and Letter of Credit fees on Letter of Credits (if any) shall be payable on the last day of each successive period of three Months or part thereof (or such shorter period as shall end on the Expiry Date for that Letter of Credit) starting on the Closing Date. The accrued fronting fee and Letter of Credit fee is also payable to the Agent on the cancelled amount of any Lender’s Revolving Facility Commitment at the time the cancellation is effective if that Commitment is cancelled in full and the Letter of Credit is prepaid or repaid in full.

17.5 Interest, commission and fees on Ancillary Facilities

The rate and time of payment of interest, commission, fees and any other remuneration in respect of each Ancillary Facility shall be determined by agreement between the relevant Ancillary Lender and the Borrower of that Ancillary Facility based upon normal market rates and terms.

17.6 Completion

No fees, costs, expenses or other amounts shall be due from or payable by any member of the Group under any of the Finance Documents unless the Closing Date occurs, other than legal costs and expenses incurred by the Finance Parties in negotiating the Finance Documents to the extent agreed separately in writing between the Arrangers and the Obligors’ Agent.
Section 6.

Additional Payment Obligations

18 Tax Gross-Up and Indemnities

18.1 Definitions

In this Agreement:

"BEPS-related Change" means a change 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 as a result of the ratification or entering into force of the Multilateral Convention to Implement Tax Treaty Related Measures to prevent BEPS (the “MLI”) and which relates to any of articles 6 to 11 of the MLI.

“Borrower DTTP Filing” means an HM Revenue & Customs’ Form DTTP2 duly completed and filed by the relevant Borrower, which:

(a) where it relates to a UK Treaty Lender that is an Original Lender, contains the scheme reference number and jurisdiction of tax residence stated opposite that Original Lender’s name in Part 2 of Schedule 1 (The Original Parties), and:

(i) where the Borrower is an Original Borrower, is filed with HM Revenue & Customs within 30 days of the date of this Agreement; or

(ii) where the Borrower is an Additional Borrower, is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower; or

(b) where it relates to a UK Treaty Lender that is a New Lender or an Increase Lender or a Substitute Affiliate Lender, contains the scheme reference number and jurisdiction of tax residence stated in respect of that Lender in the relevant Transfer Certificate, Assignment Agreement or Increase Confirmation or Substitute Affiliate Lender Designation Notice, and:

(i) where the Borrower is a Borrower as at the date on which that UK Treaty Lender becomes a Party as a Lender, is filed with HM Revenue & Customs within 30 days of that date; or

(ii) where the Borrower is not a Borrower as at the date on which that UK Treaty Lender becomes a Party as a Lender, is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower.

"Cancelled Certificate" means any QPP Certificate in respect of which HM Revenue & Customs has given a notification under regulation 7(4)(b) of the QPP Regulations so that such QPP Certificate is a cancelled certificate for the purposes of the QPP Regulations.
“CTA” means the UK Corporation Tax Act 2009.

“Danish Obligor” means an Obligor incorporated in Denmark.

“Danish Qualifying Lender” means a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and:

(a) in relation to payments from any Danish Obligor is not affiliated with such Obligor (as defined in Chapter 4 of the Danish Tax Control Act); or

(b) is a Danish Treaty Lender.

“Danish Tax Control Act” means the Danish Tax Control Act (consolidated act no. 1535 of 19 December 2017) as amended and supplemented from time to time (in Danish: Skattekontrolloven).

“Danish Treaty Lender” means in relation to a payment of interest by or in respect of a Danish Obligor under a Finance Document, a Lender which:

(a) is treated as resident of a Danish Treaty State for the purposes of the relevant Danish Treaty;

(b) does not carry on business in Denmark through a permanent establishment with which that Lender’s participation in the relevant Utilisation is effectively connected; and

(c) fulfils any conditions which must be fulfilled under the relevant Danish Treaty for residents of such Danish Treaty State to obtain full exemption from Tax imposed in Denmark on interest payments due to that Lender in respect of an advance under a Finance Document.

“Danish Treaty State” means a jurisdiction having a double taxation agreement (a “Danish Treaty”) with Denmark which makes provision for full exemption from Tax imposed by Denmark on interest payments.

“Dutch Obligor” means an Obligor incorporated in the Netherlands.

“Dutch Qualifying Lender” means a Lender which is beneficially entitled to interest payable to that Lender in respect of a Finance Document and is:

(a) a Dutch Treaty Lender; or
(b) otherwise entitled to receive payments under this Agreement without any Tax Deduction imposed by the Netherlands.

"Dutch Treaty Lender" means a Lender which:

(a) is treated as a resident of the relevant Dutch Treaty State for the purposes of the relevant Dutch Treaty;
(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) meets all other conditions in the relevant Dutch Treaty to receive interest free of any Tax Deduction imposed by the Netherlands, except that for this purpose it is assumed that any necessary procedural formalities are fulfilled.

"Dutch Treaty State" means a jurisdiction having a double taxation agreement (a “Dutch Treaty”) in force with the Netherlands which makes provision for full exemption from Tax imposed by the Netherlands on interest.

"Exempt Lender" means a Lender which:

(a) is a company that is not resident in the United Kingdom for UK tax purposes; or
(b) is a partnership, under the constitutional documents of which all UK source interest receipts are required to be allocated to one or more of its partners, each being a company,

and, in either case, the relevant company or companies (each a "Relevant Company") are entitled to sovereign immunity from UK income tax that might otherwise be withheld at source from the payment to it of UK source interest.

"German Obligor" means an Obligor incorporated in Germany.

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

(i) lending through a Facility Office in Germany; or
(ii) a German Treaty Lender; or
(iii) otherwise entitled to receive payments under this Agreement without any Tax Deduction imposed by Germany.

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

"German Treaty Lender" means a Lender which:
(a) is treated as a resident of a German Treaty State for the purposes of the German Treaty; and

(b) does not carry on a business in Germany through a permanent establishment with which that Lender’s participation in the Loan is effectively connected; and

(c) fulfils any conditions which must be fulfilled under the German Treaty and under the laws of the Federal Republic of Germany to obtain full exemption from taxation imposed by Germany on any payment of interest.


“Protected Party” means a Finance Party which is or will be subject to any liability or required to make any payment for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

“QPP Certificate” means a creditor certificate for the purposes of the QPP Regulations, given, in the case of an Original Lender, in the form set out in Schedule 18 (Form of QPP Certificate), or, in the case of a New Lender, in the form set out in Schedule 2 of Schedule 4 (Form of Transfer Certificate) or Schedule 2 of Schedule 5 (Form of Assignment Agreement) (as applicable), or, in the case of an Increase Lender, in the form set out in Schedule 2 of Schedule 13 (Form of Increase Confirmation), or, in the case of a Substitute Affiliate Lender, in the form set out in the Schedule to Schedule 17 (Form of Substitute Affiliate Lender Designation Notice).

“QPP Lender” means a Lender which has delivered a QPP Certificate to the Company (on behalf of itself or on behalf of each creditor (as defined in the QPP Regulations) which is beneficially entitled to any interest paid to that Lender), provided that, in either case, (i) such QPP Certificate is not a Withdrawn Certificate or a Cancelled Certificate and (ii) in the case of a New Lender, an Increase Lender or a Substitute Affiliate Lender (as applicable), the principal amount outstanding of any Loan transferred to and/or assumed by that Lender was at least £10,000,000 on the relevant Transfer Date or Increase Date (as applicable).


“Qualifying Lender” means:

(a) in respect of the amounts paid or payable by a Danish Obligor, a Danish Qualifying Lender;

(b) in respect of the amounts paid or payable by a Dutch Obligor, a Dutch Qualifying Lender;

(c) in respect of the amounts paid or payable by a German Obligor, a German Qualifying Lender; and

(d) in respect of the amounts paid or payable by a UK Obligor, a UK Qualifying Lender.

“Tax Credit” means a credit against, relief or remission for, or repayment of, any Tax.
“Tax Deduction” means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

“Tax Payment” means either the increase in a payment made by an Obligor to a Finance Party under Clause 18.2 (Tax Gross-Up) or a payment under Clause 18.3 (Tax Indemnity).

“Tax Transparent Lender” means a Lender which is a fiscally transparent entity for the purposes of UK income tax, where (i) interest payable to such Lender in respect of an advance under the Finance Documents is treated as the income of its members (or such other person holding a direct interest in such members where such members are themselves fiscally transparent entities) for the purposes of the UK income tax (in each case, each such member or person holding an interest in such member being a “TTL Member”), and (ii) each TTL Member would be a UK Treaty Lender if it were a Lender.

“Treaty Lender” means, as the case may be, a Danish Treaty Lender, a Dutch Treaty Lender, a German Treaty Lender or a UK Treaty Lender.

“UK Non-Bank Lender” means:

(a) where a Lender becomes a Party on the day on which this Agreement is entered into, a Lender listed as such in Part 2 of Schedule 1 (The Original Parties); and

(b) where a Lender becomes a Party after the day on which this Agreement is entered into, a Lender which gives a UK Tax Confirmation in the Transfer Certificate, Assignment Agreement or Increase Confirmation which it executes on becoming a Party.

“UK Obligor” means an Obligor incorporated in the United Kingdom, or otherwise required to make a Tax Deduction in respect of United Kingdom income tax.

“UK Qualifying Lender” means:

(a) a Lender which is beneficially entitled to interest payable to it (or, in the case of a Tax Transparent Lender, where each TTL Member is beneficially entitled to its relevant share of interest payable to such Tax Transparent Lender or, in the case of an Exempt Lender, where each Relevant Company is beneficially entitled to its relevant share of interest payable to such Exempt 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 payment apart from section 18A of the CTA; or

(B) in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made and within the
charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or

(ii) a Lender which is:

(A) a company resident in the United Kingdom for United Kingdom tax purposes;

(B) a partnership each member of which is:

(1) a company so resident in the United Kingdom; or

(2) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; 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 UK Treaty Lender;

(iv) an Exempt Lender;

(v) a QPP Lender; or

(vi) a Tax Transparent Lender.

(b) a Lender which is a building society (as defined for the purposes of section 880 of the ITA) making an advance under a Finance Document.

“UK Tax Confirmation” means a confirmation by a Lender that the person beneficially entitled to interest payable to it in respect of an advance under a Finance Document is either:

(a) a company resident in the United Kingdom for United Kingdom tax purposes; or

(b) a partnership each member of which is:

(i) a company so resident in the United Kingdom; or

(ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning
of section 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.

“UK Treaty Lender” means a Lender which is not a QPP Lender and:

(a) is treated as a resident of a UK Treaty State for the purposes of the UK Treaty;

(b) does not carry on a business in the United Kingdom through a permanent establishment with which that Lender’s participation in the Loan is effectively connected; and

(c) is entitled to be paid interest free of United Kingdom taxation by virtue of the UK Treaty.

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

"Withdrawn Certificate" means a withdrawn certificate for the purposes of the QPP Regulations.

Unless a contrary indication appears, in this Clause 18 a reference to “determines” or “determined” means a determination made in the discretion of the person making the determination, acting reasonably and in good faith.

References in this Clause 18 to Finance Documents shall not include any Ancillary Facility.

18.2 Tax Gross-Up

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

(b) The Obligors’ Agent shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall promptly notify the Agent on becoming so aware in respect of a payment payable to that Lender. 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 Danish Qualifying Lender, Dutch Qualifying Lender, German Qualifying Lender or UK Qualifying Lender within which it falls or (iii) in the case of a Danish Treaty Lender, Dutch Treaty Lender, German Treaty Lender or UK Treaty Lender, there is a change in the residence status, business details, Facility Office or similar of such Lender or (iv) (in the case of a Tax Transparent Lender) there is a change in the composition, residence status, business details, Facility Office or similar of any of the TTL Members or (v) (in the case of an Exempt Lender) there is a change in the
composition, residence status, business details, Facility Office or sovereign immunity status of any Relevant Company. If the Agent receives any such notification from a Lender it shall promptly notify the Obligors’ Agent and any relevant Obligor.

(c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

(d) A payment shall not be increased under paragraph (c) above by reason of a Tax Deduction on account of Tax imposed by the United Kingdom or Germany or the Netherlands or Denmark 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:

(A) Denmark if the Lender had been a Danish Qualifying Lender, but on that date that Lender is not or has ceased to be a Danish Qualifying Lender,

(B) the Netherlands if the Lender had been a Dutch Qualifying Lender, but on that date that Lender is not or has ceased to be a Dutch Qualifying Lender,

(C) Germany if the Lender had been a German Qualifying Lender, but on that date that Lender is not or has ceased to be a German Qualifying Lender,

(D) the United Kingdom if the Lender had been a UK Qualifying Lender, but on that date that Lender is not or has ceased to be a UK Qualifying Lender,

in each case, 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 Danish Treaty, Dutch Treaty, German Treaty or UK Treaty (as applicable) or any published practice or published concession of any relevant taxing authority which is not a BEPS-related Change; or

(ii) that Lender is a UK Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of “UK Qualifying Lender” and:

(A) an officer of H.M. Revenue & Customs has given (and not revoked) a direction (a “Direction”) under section 931 of the ITA which relates to the payment and that Lender has received from the Obligor making the payment or from the Parent a certified copy of that Direction; and
(B) the payment could have been made to the Lender without any Tax Deduction if that Direction had not been made; or

(iii) that Lender is a UK Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of “UK Qualifying Lender” and:

(A) it has not given a UK Tax Confirmation to the Parent; and

(B) the payment could have been made to the Lender without any Tax Deduction if the Lender had given a UK Tax Confirmation to the Parent, on the basis that the UK Tax Confirmation would have enabled the Parent to have formed a reasonable belief that the payment was an “excepted payment” for the purpose of section 930 of the ITA; or

(iv) the relevant Lender is a Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Treaty Lender without the Tax Deduction had that Treaty Lender complied with its obligations under paragraphs (g) or (h) below (as applicable);

(v) the relevant Lender is a UK Treaty Lender and the Obligor making the payment is not holding a direction (whether or not of a provisional nature) from HM Revenue & Customs pursuant to Paragraph 2 of the Double Taxation Relief (Taxes on Income)(General) Regulations 1970 pursuant to which it is entitled to make interest payments to that UK Treaty Lender without a Tax Deduction in respect of tax imposed by the United Kingdom on a payment of interest on a Loan, save where such direction (whether or not of a provisional nature) is not held by the Obligor due exclusively to any fault of the Obligor (including, without limitation, where the Borrower has not made a Borrower DTTP Filing despite the relevant Lender having complied with its obligations under Clause 18.2(g)(ii)), or where a direction that is held by the relevant Obligor ceases to be valid solely as a result of any change after the date the Lender became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or UK Treaty or any published practice or published concession of any relevant taxing authority which is not a BEPS-related Change;

(vi) the relevant Lender is an Exempt Lender and the Obligor making the payment is not holding a direction (whether or not of a provisional nature) from HM Revenue & Customs pursuant to which it is entitled to make interest payments to that Exempt Lender without a Tax Deduction in respect of tax imposed by the United Kingdom on a payment of interest on a Loan, save where such direction (whether or not of a provisional nature) is not held by the Obligor due exclusively to any fault of the Obligor, or where a direction that is held by the relevant Obligor ceases to be valid solely as a result of any change after the date the Lender became a Lender under this Agreement in (or in the interpretation, administration, or application of) any
law or UK Treaty or any published practice or published concession of any relevant taxing authority which is not a BEPS-related Change; or

(vii) the relevant Lender is a Tax Transparent Lender and the Obligor making the payment is not holding a direction (whether or not of a provisional nature) from HM Revenue & Customs pursuant to which it is entitled to make interest payments to that Tax Transparent Lender without a Tax Deduction in respect of tax imposed by the United Kingdom on a payment of interest on a Loan, save where such direction (whether or not of a provisional nature) is not held by the Obligor due exclusively to any fault of the Obligor, or where a direction that is held by the relevant Obligor ceases to be valid solely as a result of any change after the date the Lender became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or UK Treaty or any published practice or published concession of any relevant taxing authority which is not a BEPS-related Change.

(e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(f) Within thirty days of a UK Obligor making either a Tax Deduction or any payment required in connection with that Tax Deduction, that UK Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

(g)

(i) Subject to sub-paragraph (ii) below (if applicable), a Treaty Lender or Tax Transparent Lender and each Obligor which makes a payment to which that Treaty Lender or Tax Transparent Lender is entitled shall co-operate in promptly completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction. In particular a UK Treaty Lender shall, if it does not have a valid passport under the HMRC DT Treaty Passport Scheme, promptly (unless it is unable to do so as a result of any change after the date it becomes a Party in (or in the interpretation, administration or application of) any law or Treaty, or any published practice or concession of any relevant taxing authority), file with the appropriate taxing authority a duly completed application form for relief from double taxation and provide the relevant Obligor with reasonably satisfactory evidence that such form has been filed, and a Tax Transparent Lender shall provide the relevant Obligor with reasonably satisfactory evidence that it and its TTL Members have taken steps to co-operate in completing such procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.
Deduction. In the event that (a) such authorisation is granted subject to an expiry date and, to the extent such expiry date permits at the date three months prior to such expiry date or to the extent that such authorisation is given subject to an expiry date of less than three months at a date prior to such expiry date, and that Lender remains a UK Treaty Lender or Tax Transparent Lender, that Lender shall promptly co-operate to complete further procedural formalities for the previously granted authorisation to be extended and provide the relevant Obligor with reasonably satisfactory evidence that steps have been taken to co-operate in completing such procedural formalities. Without prejudice to paragraph (b) of Clause 18.2, in the event that authorisation for an Obligor to make a payment to which a UK Treaty Lender or Tax Transparent Lender is entitled without a Tax Deduction is granted subject to a condition which may result in such authorisation ceasing to have effect in the event of a change in the residence status or business details or similar of such UK Treaty Lender or Tax Transparent Lender, and there is such a change, such UK Treaty Lender or Tax Transparent Lender shall (unless it is unable to do so as a result of any change after the date it becomes a Party in (or in the interpretation, administration or application of) any law or Treaty, or any published practice or concession of any relevant taxing authority) co-operate in promptly completing any procedural formalities necessary for each Obligor which makes a payment to which that UK Treaty Lender or Tax Transparent Lender is entitled to continue to have authorisation to make that payment without a Tax Deduction. This sub-paragraph (i) shall also apply where a Lender increases its Commitment under a Finance Document where any existing authorisation does not extend to such increased Commitment.

(ii)

(A) A UK Treaty Lender or Tax Transparent Lender which becomes a Party on the day on which this Agreement is entered into that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence opposite its name in Part 2 of Schedule 1 (The Original Parties); and

(B) a New Lender or an Increase Lender or a Substitute Affiliate Lender that is a UK Treaty Lender or Tax Transparent Lender that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence in the Transfer Certificate, Assignment Agreement or Increase Confirmation or Substitute Affiliate Lender Designation Notice which it executes,
and, having done so, that Lender shall be under no obligation pursuant to sub-
paragraph (g)(i) above in relation to any Borrower making a payment to that
Lender.

(iii) To the extent a Lender or New Lender or an Increase Lender or a Substitute
Affiliate Lender provides the confirmations described in sub-paragraphs
(g)(ii)(A) or (g)(ii)(B) above thereby notifying each Borrower that the
HMRC DT Treaty Passport scheme is to apply in respect of the
Commitment of the Lender or its participation in any Loan to that Borrower,
that Borrower must file a Borrower DTTP Filing.

(h) If a Lender or New Lender or Increase Lender or Substitute Affiliate Lender has
confirmed its scheme reference number and its jurisdiction of tax residence in
accordance with sub-paragraph (g)(ii) above and:

(i) a Borrower tax resident or incorporated in the United Kingdom making a
payment to that Lender has not made a Borrower DTTP Filing in respect of
that Lender (or, where that Lender has increased its Commitment under a
Finance Document, a Borrower tax resident or incorporated in the United
Kingdom making a payment to that Lender has not made a Borrower DTTP
Filing in respect of that Lender following such increase in Commitment);
or

(ii) a Borrower tax resident or incorporated in the United Kingdom 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 Borrower 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 gave but subsequently withdrew authority
for the Borrower to make payments to that Lender without a Tax
Deduction or such authority has otherwise terminated or expired or
is due to otherwise terminate or expire within the next three months,

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

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

(j) The Borrower shall, promptly on making a Borrower DTTP Filing, deliver to the Agent a copy of that Borrower DTTP Filing to the relevant Lender.

(k) A UK Non-Bank Lender which becomes a Party on the day on which this Agreement is entered into gives a UK Tax Confirmation to the Parent by entering into this Agreement.

(l) A UK Non-Bank Lender, it shall promptly notify the Parent if there is any change in the position from that set out in the UK Tax Confirmation.

(m) If any Obligor receives a notification from HM Revenue & Customs that a QPP Certificate given by a Lender has no effect, that Obligor (or the Company and/or the Parent on its behalf) shall promptly deliver a copy of that notification to that Lender.

18.3 Tax Indemnity

(a) The Obligors’ Agent shall (or shall procure that an Obligor will) (within three (3) Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.

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

(i) with respect to any Tax assessed on a Finance Party:

(A) under the 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 Facility Office is located in respect of amounts received or receivable in that jurisdiction; or

(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,

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

(ii) to the extent a loss, liability or cost:
(A) is compensated for by an increased payment under Clause 18.2 (Tax Gross-Up) or a payment under Clause 18.6 (Stamp Taxes); or

(B) would have been compensated for by an increased payment under Clause 18.2 (Tax Gross-Up) but was not so compensated solely because one of the exclusions in Clause 18.2 (Tax Gross-Up) applied; or

(C) arises in respect of any stamp duty, registration or similar Taxes payable in respect of an assignment, transfer or sub-participation by a Finance Party of any of its rights under a Finance Document; or

(D) relates to a FATCA Deduction required to be made by a Party; or

(E) is in respect of or relates to any Bank Levy; or

(F) is attributable to VAT (which shall instead be dealt with pursuant to Clause 18.7 (Value Added Tax)).

(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 Obligors’ Agent.

(d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 18.3, notify the Agent.

18.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant 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,

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

18.5 Lender Status Confirmation

(a) Each Lender which becomes a Party to this Agreement after the date of this Agreement shall indicate, in the Transfer Certificate, Assignment Agreement, Increase Confirmation or Substitute Affiliate Lender Designation Notice which it executes on becoming a Party, which of the following categories it falls in:

(i) in respect of an advance under a Finance Document to a Danish Obligor:
(A) not a Danish Qualifying Lender;
(B) a Danish Qualifying Lender (other than a Danish Treaty Lender); or
(C) a Danish Treaty Lender.

(ii) in respect of an advance under a Finance Document to a Dutch Obligor:
(A) not a Dutch Qualifying Lender;
(B) a Dutch Qualifying Lender (other than a Dutch Treaty Lender); or
(C) a Dutch Treaty Lender.

(iii) In respect of an advance under a Finance Document to a German Obligor:
(A) not a German Qualifying Lender;
(B) a German Qualifying Lender (other than a German Treaty Lender); or
(C) a German Treaty Lender.

(iv) in respect of an advance under a Finance Document to a UK Obligor:
(A) not a UK Qualifying Lender;
(B) a UK Qualifying Lender (other than a UK Treaty Lender, an Exempt Lender or a Tax Transparent Lender);
(C) a UK Treaty Lender;
(D) an Exempt Lender; or
(E) a Tax Transparent Lender.

(b) If a New Lender, Increase Lender of Substitute Affiliate Lender fails to indicate its status in accordance with paragraph (a) above, then such Lender shall be treated for the purposes of this Agreement (including by each Obligor) as if it is not a Qualifying Lender until such time as it notifies the Agent (copying the Obligors’ Agent) which category applies.

(c) For the avoidance of doubt, a Transfer Certificate, Assignment Agreement, Increase Confirmation or Substitute Affiliate Lender Designation Notice shall not be invalidated by any failure of a Lender to comply with this Clause 18.5.

18.6 Stamp Taxes
The Parent shall (or shall procure that an Obligor will) pay and, within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability that such Finance Party incurs in relation to all stamp duty, documentary, property transfer, registration and other similar Taxes payable in respect of any Finance Documents, provided that this Clause 18.6 shall not apply in respect of any stamp duty, registration or similar Taxes payable in respect of an assignment or transfer by a Lender of any of its rights or obligations under a Finance Document save (i) where the assignment or transfer is requested by the Borrower or (ii) following an Event of Default.

18.7 Value Added Tax

(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 any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):

(i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and

(ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.

(c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party
reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

(d) Any reference in this Clause 18.7 to any Party shall, at any time when such Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) or any other similar provision in any jurisdiction which is not a member state of the European Union) so that a reference to a Party shall be construed as a reference to that Party or the relevant group or unity (or fiscal unity) of which that Party is a member for VAT purposes at the relevant time or the relevant representative member (or head) of that group or unity (or fiscal unity) at the relevant time (as the case may be).

(e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party shall promptly provide such Finance Party with details of that Party’s VAT registration and any such other information as is reasonably requested in connection with such Finance Party’s VAT reporting requirements in relation to such supply.

(f) None of the Finance Parties shall waive an applicable VAT exemption on amounts payable under this Agreement for the purposes of German VAT.

18.8 FATCA Information

(a) Subject to paragraph (c) below, each Party shall, within ten (10) Business Days of a reasonable request by another Party:

(i) confirm to that other Party whether it is:

(A) a FATCA Exempt Party; or

(B) not a FATCA Exempt Party; and

(ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party’s compliance with FATCA; and

(iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party’s compliance with any other law, regulation or exchange of information regime.

(b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has
ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.

(c) Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:

(i) any law or regulation;
(ii) any fiduciary duty; or
(iii) any duty of confidentiality.

(d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (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 (in each case) such time as the Party in question provides the requested confirmation, forms, documentation or other information.

18.9 FATCA Deduction

(a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.

(b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Obligors’ Agent and the Agent, and the Agent shall notify the other Finance Parties.

19 Increased Costs

19.1 Increased Costs

(a) Subject to Clause 19.3 (Exceptions), the Obligors’ Agent shall (or shall procure that another Obligor will), 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, in any such case made after the date of this Agreement, or (iii) the implementation or application of, or compliance with, Basel III or CRD IV.
(b) In this Agreement,

(i) “Increased Costs” means:

(A) a reduction in the rate of return from a Facility or on a Finance Party’s (or its Affiliate’s) overall capital;

(B) an additional or increased cost; or

(C) a reduction of any amount due and payable under any Finance Document,

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

(ii) “Basel III” means:

(A) the agreements on capital requirements, a leverage ratio and liquidity standards contained in “Basel III: A global regulatory framework for more resilient banks and banking systems”, “Basel III: International framework for liquidity risk measurement, standards and monitoring” and “Guidance for national authorities operating the countercyclical capital buffer” published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated; and

(B) the rules for global systemically important banks contained in “Global systemically important banks: assessment methodology and the additional loss absorbency requirement - Rules text” published by the Basel Committee on Banking Supervision in November 2011 as amended, supplemented or restated; and

(C) any further guidance or standards published by the Basel Committee on Banking Supervision relating to “Basel III”.

(iii) “CRD IV” means:

(A) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms; and

19.2 Increased Cost claims

(a) A Finance Party intending to make a claim pursuant to Clause 19.1 (Increased Costs) shall promptly notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Obligors’ Agent.

(b) Each Finance Party shall, as soon as practicable after a demand by the Agent (on the request of the Obligors’ Agent), provide a certificate (giving reasonable detail of the circumstances and calculation of the Increased Costs) to the Agent and the Obligors’ Agent confirming the amount of its Increased Costs provided that no Finance Party shall be required to disclose any confidential or price sensitive information.

19.3 Exceptions

(a) Clause 19.1 (Increased Costs) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law to be made by an Obligor;

(ii) compensated for under Clause 18 (Tax Gross-Up and Indemnities) or which would have been so compensated for but for the operation of paragraph (d) of Clause 18.2 (Tax Gross-Up) or paragraph (b) of Clause 18.3 (Tax Indemnity);

(iii) attributable to the wilful breach by a Finance Party or its Affiliates of any law or regulation or the terms of any Finance Document;

(iv) attributable to any Bank Levy (or any payment attributable to, or liability arising as a consequence of, a Bank Levy);

(v) attributable to a FATCA Deduction required to be made by a Party; or

(vi) attributable to any breach of any provision of Clause 29 (Changes to the Lenders) by a Lender.

(b) In this Clause 19.3 “Tax Deduction” has the same meaning given to that term in Clause 18.1 (Definitions).

20 Other Indemnities

20.1 Currency indemnity

(a) If any sum due from an Obligor under the Finance Documents (a “Sum”), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the “First Currency”) in which that Sum is payable into another currency (the “Second Currency”) for the purpose of:

(i) making or filing a claim or proof against that Obligor; or
(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within five Business Days of demand, indemnify each Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum provided that, if the amount produced or payable as a result of the conversion exceeds the relevant Sum due, the relevant Secured Party will, unless an Acceleration Event has occurred and is continuing, refund any such excess amount to the relevant Obligor.

(b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

20.2 Other indemnities

(a) The Obligors’ Agent shall (or shall procure that an Obligor will), within five Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by it as a result of:

(i) the occurrence of any Event of Default;

(ii) a failure by an Obligor to pay any amount due under a 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 a Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone);

(iv) issuing or making arrangements to issue a Letter of Credit requested by the Obligors’ Agent or a Borrower in a Utilisation Request but not issued by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or

(v) a Utilisation (or part of a Utilisation) not being prepaid in accordance with a notice of prepayment given by a Borrower or the Obligors’ Agent.

(b) The Obligors’ Agent shall (or shall procure that an Obligor will), within five Business Days of demand, indemnify each Finance Party, each Affiliate of a Finance Party and each director, officer, employee or agent of the Finance Parties (each an Indemnified Person) within ten Business Days of written demand against any and all duly documented losses, damages, liabilities or expenses of any kind or nature whatsoever which may be reasonably incurred by or asserted against any
such Indemnified Person as a result of or directly arising out of or in any way related to or resulting from any third party action (including any inquiry or investigation), suit or proceeding relating to the Acquisition, the Finance Documents or the performance by the Finance Parties of their obligations under the Finance Documents or the funding of the Acquisition (but excluding in each case consequential damages and any loss of profit incurred); provided, however, that the Parent shall not have to indemnify any Indemnified Person against any loss, claim, liability or action to the extent that (i) the same resulted from the gross negligence, wilful misconduct of, or breach of law or any term of the Finance Documents by, such Indemnified Person and provided that the Indemnified Persons together shall instruct only one legal counsel in any one jurisdiction at any one time (unless it is reasonably determined they have a conflict as between themselves) or (ii) it relates to disputes solely among the Indemnified Persons and not arising out of any act or omission by any member of the Group. Any Indemnified Person may rely on this paragraph (b) subject (if not a Party) to Clause 1.4 (Third Party rights) and the provisions of the Third Parties Act.

20.3 Indemnity to the Agent

The Obligors’ Agent shall (or shall procure that an Obligor will), within five Business Days of demand (accompanied by reasonable details of the amount claimed), indemnify the Agent against any third party cost, loss or liability incurred by the Agent (acting reasonably) as a result of:

(a) investigating any event which it reasonably believes is a Default; or

(b) acting or relying on any notice, request or instruction from an Obligor which it reasonably believes to be genuine, correct and appropriately authorised.

21 Mitigation by the Lenders

21.1 Mitigation

(a) Each Finance Party shall, in consultation with the Obligors’ Agent, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 11.1 (Illegality) (or, in respect of an Issuing Bank, Clause 11.2 (Illegality in relation to an Issuing Bank)), Clause 18 (Tax Gross-Up and Indemnities) or Clause 19 (Increased Costs) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

(b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

21.2 Limitation of liability

(a) The Obligors’ Agent shall (or shall procure that an Obligor will), within five Business Days of demand (accompanied by reasonable details of the amount
claimed), indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 21.1 (Mitigation).

(b) A Finance Party is not obliged to take any steps under Clause 21.1 (Mitigation) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it in any material respect.

22 Costs and Expenses

22.1 Transaction expenses

The Obligors’ Agent shall (or shall procure that an Obligor will) within 30 days of demand pay the Agent, the Arrangers and the Security Agent (in the case of the Security Agent, including any Receiver or Delegate) the amount of all reasonable fees, costs and expenses (including legal fees subject to any agreed caps) incurred by any of them in connection with the arrangement, negotiation, preparation, printing, execution, perfection and syndication of:

(a) this Agreement and any other documents referred to in this Agreement (other than any Assignment Agreement or Transfer Certificate) and the Transaction Security; and

(b) any other Finance Documents executed after the date of this Agreement (other than any Assignment Agreement or Transfer Certificate),

in each case subject to any limits agreed in accordance with a Fee Letter, provided that no such costs and expenses (other than legal fees (and applicable Value Added Tax thereon) to the extent agreed) shall be payable by the Obligors’ Agent or any other Obligor if the Closing Date does not occur.

22.2 Amendment costs

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 35.10 (Change of currency), the Obligors’ Agent shall (or will procure that another member of the Group will), within 30 days of demand, reimburse each of the Agent, and the Security Agent (in the case of the Security Agent, including any Receiver or Delegate) for the amount of all third party costs and expenses (including legal fees) reasonably incurred by the Agent and the Security Agent (and/or any Receiver or Delegate, where applicable) in responding to, evaluating, negotiating or complying with that request or requirement subject to limits that must be agreed by the Obligors’ Agent prior to commencement of any material work.

22.3 Enforcement and preservation costs

The Obligors’ Agent shall (or will procure that another member of the Group will), within five Business Days of demand, pay to the Agent and each other Secured Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under any Finance Document and the Transaction Security.

22.4 Payment of fees and expenses
The agreed fees from the Obligors’ Agent payable on the Closing Date pursuant to Clause 17 (Fees) will be paid by a deduction from the proceeds of the first Facility B Loan (or as otherwise agreed between the Finance Parties and the Obligors’ Agent). The Agent shall, if requested by the Obligors’ Agent, provide reasonable details of any costs and expenses required to be paid by any member of the Group under the Finance Documents.

22.5 Transfer costs and expenses

Notwithstanding any other provision of the Finance Documents, if a Lender assigns or transfers any of its rights, benefits or obligations 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).
Section 7.

Guarantee

23 Guarantee and Indemnity

23.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally, jointly and severally:

(a) guarantees to each Finance Party punctual performance by each other Obligor of all that Obligor’s payment obligations under the Finance Documents;

(b) undertakes with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it were the principal obligor; and

(c) agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 23 if the amount claimed had been recoverable on the basis of a guarantee,

subject to the limitations referred to in this Clause 23 or in any Accession Deed by which it became a Guarantor.

23.2 Continuing guarantee

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

23.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 23 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

23.4 Waiver of defences
The obligations of each Guarantor under this Clause 23 will not be affected by an act, omission, matter or thing which, but for this Clause 23, would reduce, release or prejudice any of its obligations under this Clause 23 (without limitation and whether or not known to it or any Finance Party), including:

(a) any time, waiver or consent granted to, or composition with, any Obligor or other person;

(b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;

(e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security, including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or

(g) any insolvency or similar proceedings.

23.5 Guarantor Intent

Without prejudice to the generality of Clause 23.4 (Waiver of defences), each Guarantor expressly confirms that it intends that this guarantee shall, subject to any limitations referred to in this Clause 23 or any Accession Deed by which it became a Guarantor, extend from time to time to any (however fundamental and of whatever nature and whether or not more onerous) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

23.6 Immediate recourse

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from
any person before claiming from that Guarantor under this Clause 23. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

23.7 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full (or a Finance Party (or any trustee or agent on its behalf) has received a sufficient amount to pay all amounts then due to such Finance Party), each Finance Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor’s liability under this Clause 23.

23.8 Deferral of Guarantors’ rights

(a) Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent otherwise directs or as permitted by the Intercreditor Agreement, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 23:

(i) to be indemnified by an Obligor;

(ii) to claim any contribution from any other guarantor of any Obligor’s obligations under the Finance Documents;

(iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;

(iv) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 23.1 (Guarantee and indemnity);

(v) to exercise any right of set-off against any Obligor; and/or

(vi) to claim or prove as a creditor of any Obligor in competition with any Finance Party.
(b) If a Guarantor receives any benefit, payment or distribution in relation to such rights, it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust (to the extent it is able to do so in accordance with any law applicable to it) for the Finance Parties and shall promptly pay or transfer the same to the Agent or as the Agent may direct for application in accordance with Clause 35 (Payment Mechanics).

23.9 Release of Guarantors’ right of contribution

If any Guarantor (a “Retiring Guarantor”) ceases to be a Guarantor in accordance with the provisions of the Finance Documents for the purpose of any sale or other disposal of that Retiring Guarantor or any Holding Company of it, or as required in order to implement a Permitted Reorganisation or Permitted Transaction then on the date such Retiring Guarantor ceases to be a Guarantor:

(a) that Retiring Guarantor is released by each other Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Guarantor arising by reason of the performance by any other Guarantor of its obligations under the Finance Documents; and

(b) each other Guarantor waives any rights it may have by reason of the performance of its obligations under the Finance Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under any Finance Document or of any other security taken pursuant to, or in connection with, any Finance Document where such rights or security are granted by or in relation to the assets of the Retiring Guarantor.

23.10 Additional security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

23.11 Guarantee limitations - General

This guarantee does not apply to any liability to the extent that would result in this guarantee constituting unlawful financial assistance within the meaning of Section 677 of the Companies Act 2006 or any equivalent provision of any applicable law.

23.12 Waiver of Jersey customary law rights

(a) Each Guarantor irrevocably and unconditionally waives and abandons any and all rights or entitlement which it has or may have under the existing or future laws of Jersey, whether by virtue of the customary law rights of droit de discussion or otherwise, to require that recourse be had to the assets of any other person before any claim is enforced against it in respect of its obligations under any Finance Document.
(b) Each Guarantor irrevocably and unconditionally waives and abandons any and all rights or entitlement which it has or may have under the existing or future laws of Jersey, whether by virtue of the customary law rights of droit de division or otherwise, to require that any liability under the guarantee contained herein or under any Finance Document be divided or apportioned with any other person or reduced in any manner.

23.13 Guarantee limitations – Germany

(a) In this Clause 23.12:

"German Guarantor" means a Guarantor incorporated or established in Germany in the legal form of a limited liability company (GmbH) or a limited partnership with a limited liability company as general partner (GmbH & Co. KG).

"Guarantee" means any guarantee and indemnity given pursuant to this Clause 23 or under any other Finance Document.

"Net Assets" means an amount equal to the sum of the amounts of the German Guarantor's (or, in the case of a GmbH & Co. KG, its general partner's) assets (consisting of all assets which correspond to the items set forth in section 266 para 2 A, B, C, D and E of the German Commercial Code (Handelsgesetzbuch, "HGB")) less the aggregate amount of such German Guarantor's (or, in the case of a GmbH & Co. KG, its general partner's) liabilities (consisting of all liabilities and liability reserves which correspond to the items set forth in section 266 para 3 B, C, D and E HGB), save that any obligations (Verbindlichkeiten) of the German Guarantor (and, in the case of a GmbH & Co. KG, of its general partner):

(i) owing to any member of the Group or any other affiliated company which are subordinated by law or by contract to any Indebtedness outstanding under this Agreement (including, for the avoidance of doubt, obligations that would in an insolvency be subordinated pursuant to section 39 para 1 no 5 or section 39 para 2 of the German Insolvency Code (Insolvenzordnung)) and including obligations under guarantees for obligations which are so subordinated; or

(ii) incurred in violation of any of the provisions of the Finance Documents,

shall be disregarded.

The Net Assets shall be determined in accordance with the generally accepted accounting principles applicable from time to time in Germany (Grundsätze ordnungsmäßiger Buchführung) and be based on the same principles that were applied by the German Guarantor (or, in the case of a GmbH & Co. KG, its general partner) in the preparation of its most recent annual balance sheet (Jahresbilanz).

"Protected Capital" means in relation to a German Guarantor the aggregate amount of:

(i) its (or, where the German Guarantor is a GmbH & Co. KG, its general partner's) share capital (Stammkapital) as registered in the commercial
register (Handelsregister) provided that any increase from own funds (Kapitalerhöhung aus Gesellschaftsmitteln) registered after the date of this Agreement shall not be taken into account unless (i) such increase is permitted under this Agreement or any other Finance Document and (ii) only to the extent it is fully paid up; and

(ii) its (or when applicable where the German Guarantor is a GmbH & Co. KG, its general partner's) amount of profits (Gewinne) or reserves (Rücklagen) which are not available for distribution to its shareholder(s) in accordance with section 253 para. 6 HGB, section 268 para 8 HGB or section 272 para 5 HGB, as applicable.

"Up-stream and/or Cross-stream Guarantee" means any Guarantee if and to the extent such Guarantee secures the obligations of an Obligor which is a shareholder of the German Guarantor (and/or, in the case of a GmbH & Co. KG, of its general partner) or an affiliated company (verbundenes Unternehmen) of such shareholder within the meaning of section 16, 17 or 18 of the German Stock Corporation Act (Aktiengesetz) (other than the German Guarantor and its Subsidiaries and, in the case of a GmbH & Co. KG, the general partner and its Subsidiaries), provided that it shall not constitute an Up-stream and/or Cross-stream Guarantee if and to the extent the Guarantee guarantees amounts outstanding under any Finance Document in relation to any financial accommodation made available under such Finance Document to any Borrower and on-lent or otherwise passed on to, or issued for the benefit of, the relevant German Guarantor or any of its Subsidiaries (and, where the German Guarantor is a GmbH & Co. KG, to, or for the benefit of, its general partner or any of its Subsidiaries) and outstanding from time to time.

(b) This Clause 23.12 applies if and to the extent the Guarantee is given by a German Guarantor and is an Up-stream and/or Cross-stream Guarantee.

(c) Each Finance Party agrees that the enforcement of the Guarantee given by a German Guarantor shall be limited if and to the extent that:

(i) the Guarantee constitutes an Up-stream and/or Cross-stream Guarantee; and

(ii) payment under the Guarantee would otherwise:

(A) have the effect of reducing the German Guarantor's (or, where the German Guarantor is a GmbH & Co. KG, its general partner's) Net Assets to an amount that is lower than the amount of its (or, in the case of a GmbH & Co. KG, its general partner's) Protected Capital or, if the amount of the Net Assets is already lower than the amount of its (or, in the case of a GmbH & Co. KG, its general partner's) Protected Capital, cause the Net Assets to be further reduced (a "Capital Impairment"); and

(B) thereby give rise to a violation of the capital maintenance requirement as set out in section 30 para 1 of the German Limited Liability Companies Act (Gesetz betreffend die Gesellschaften mit beschränkter Haftung - GmbH); and
(iii) the relevant German Guarantor has complied with its obligation to deliver the Management Determination and the Auditor's Determination, in each case together with an up-to-date balance sheet, in accordance with the requirements set out in paragraphs (d) and (e) below.

(d) For the purposes of the calculation of the Net Assets, within 15 Business Days after a Finance Party has made a demand under the Guarantee and provided that an Acceleration Event is continuing at such time, the German Guarantor shall provide to the Agent a certificate signed by its managing director(s) (Geschäftsführer) confirming in writing if and to what extent the Guarantee is an Up-stream and/or Cross-stream Guarantee and an enforcement of the Guarantee would cause a Capital Impairment (the "Management Determination"). Such confirmation shall comprise an up-to-date balance sheet of the German Guarantor (and, in the case of a GmbH & Co. KG, its general partner) and a detailed calculation, based on the provisions of this Agreement, of the amount of the Net Assets and Protected Capital of the German Guarantor (or, in the case of a GmbH & Co. KG, its general partner).

(e) If the Agent (acting on the instructions of the Majority Lenders) disagrees with the Management Determination, it may within 20 Business Days of its receipt request the German Guarantor to deliver, at its own cost and expense, within 20 Business Days of such request an up-to-date balance sheet of the German Guarantor (and, in the case of a GmbH & Co. KG, of its general partner), drawn-up by a firm of auditors appointed by the German Guarantor, together with a detailed calculation, based on the provisions of this Agreement, of the amount of the Net Assets and Protected Capital of the German Guarantor (or, in the case of a GmbH & Co. KG, its general partner) (the "Auditor's Determination"). The Auditor’s Determination shall, in the absence of any manifest error, be binding on the parties to this Agreement.

(f) No reduction of the amount enforceable pursuant to this Clause 23.12 will prejudice the right of the Finance Parties to continue to enforce the Guarantee (subject always to the operation of the limitations set out above at the time of such enforcement) until full satisfaction of the claims guaranteed.

(g) In the event of enforcement of the Guarantee, each German Guarantor shall (and, in the case of a German Guarantor in the form of a GmbH & Co. KG, shall procure that its general partner will) do everything commercially justifiable and legally permitted to avoid a Capital Impairment and shall in particular, within three (3) months after a written request of the Agent (provided that an Acceleration Event is continuing at such time) realise at least at market value any of its (and, in the case of a GmbH & Co. KG, any of its general partner's) assets that is not necessary for its business (nicht betriebsnotwendig) (or, in the case of a GmbH & Co. KG, that of its general partner) and is shown in its (or, in the case of a GmbH & Co. KG, its general partner's) balance sheet with a book value that is significantly lower than the market value.
The enforcement of the Guarantee and the joint and several liability assumed in this Clause 23 against a German Guarantor shall be further excluded (*pactum de non petendo* it being understood, however, that the claims arising under such guarantee shall in all other aspects continue to exist due and payable both before and after the commencement of insolvency proceedings) to the extent that such enforcement would result in the German Guarantor becoming illiquid (*zahlungsunfähig*) (such situation hereinafter referred to as "**Liquidity Impairment**") and would for that reason constitute an unlawful payment within the meaning of § 64 GmbH-Act and therefore result in a liability of the directors of the German Guarantor.

The Agent is not prevented from enforcing the Guarantee created under this Clause 23.13 due to the occurrence of a Liquidity Impairment if:

(i) the German Guarantor does not make payments in accordance with the liquidity schedule referred to in paragraph (j) below or in accordance with any other payment schedule subsequently agreed with the Agent (on behalf of the Finance Parties);

(ii) the German Guarantor does not or stops to take promptly all acceptable (*zumutbar*) measures in order to increase the German Guarantor's liquidity;

(iii) the German Guarantor does not promptly deliver further liquidity schedules and/or payment schedules or any other information or assistance if reasonably so requested by the Agent;

(iv) the German Guarantor otherwise does not use its best efforts to be able to fulfil its payment obligations under the Guarantee; or

(v) the German Guarantor has not complied with its obligations under paragraph (j) below within the time periods stated therein.

For the purpose of determination if and to which extent a payment under this Clause 23.13 would result in a Liquidity Impairment, the relevant German Guarantor will deliver (within 30 days after receipt from the Agent of a notice stating that the Agent intends to demand payment under the Guarantee) to the Agent:

(i) a liquidity status and a liquidity forecast for the next following 13 weeks together with a payment schedule showing at what times and in what instalments the German Guarantor will be able to make payments under this Guarantee;

(ii) evidence to the satisfaction of the Agent that all acceptable (*zumutbar*) measures have been taken or will promptly (*unverzüglich*) be taken in order to increase the German Guarantor's liquidity; and

(iii) a confirmation by a firm of auditors of international standard and repute if and to which extent payment under this Clause 23.13 (taken into account payment by instalments) would result in a Liquidity Impairment.
(k) Notwithstanding anything to the contrary set out in paragraph (b) and (c) above, if a German Guarantor demonstrates that, according to the decisions of the German Federal Supreme Court (Bundesgerichtshof) or a higher regional court of appeals (Oberlandesgericht), the payment under and/or enforcement of the Guarantee against such German Guarantor would result in personal liability of its managing director(s) (Geschäftsführer) for a reimbursement of payments made under the Guarantee pursuant to section 43 paragraph 3 in connection with sections 30 and 64 German Limited Liability Companies Act (Gesetz betreffend die Gesellschaften mit beschränkter Haftung - GmbHG), the German Guarantor shall have a defence (Einrede) against the Guarantee to the extent required in order not to incur such liability.

23.14 Guarantee limitations – Denmark

(a) Notwithstanding any provision of this Agreement or any other Finance Document and in particular this Clause 23 (Guarantee and Indemnity), the obligations of any Guarantor incorporated in Denmark (each a "Danish Guarantor") and, if required of the board of directors or management board of that Danish Guarantor in order to comply with their obligations in respect of such statutory provisions, of any Obligor that, directly or indirectly, is a Subsidiary of that Danish Guarantor and is incorporated in a jurisdiction other than Denmark, expressed to be assumed in this Agreement or any other Finance Document and in particular this Clause 23 (Guarantee and Indemnity):

(i) shall be deemed not to be assumed (and any security created in relation thereto shall be limited) if and to the extent required to comply with Danish statutory provisions on unlawful financial assistance including, but not limited to, sections 206 through 212 of the Danish Companies Act (in Danish: selskabsloven) as amended and supplemented from time to time; and

(ii) shall, in relation to obligations not incurred as a result of borrowings under this Agreement by the Danish Guarantor or by a direct or indirect Subsidiary of the Danish Guarantor, further be limited to an amount equal to the greater of:

(A) the equity of the Danish Guarantor at the date of the Danish Guarantor’s accession to this Agreement; and

(B) the equity at the date when a claim for payment is made against the Danish Guarantor under this Agreement or any other Finance Document and in particular this Clause 23 (Guarantee and Indemnity),

in each case calculated in accordance with the Danish Guarantor's generally accepted accounting principles at the relevant time (including, if applied by the Danish Guarantor, IFRS), however, adjusted:
(1) upwards if and to the extent any book value is not equal to market value;

(2) in the case of paragraph (B) above only, by adding back obligations (in the amounts outstanding at the time when a claim for payment is made) of the Danish Guarantor in respect of any intercompany loan owing by the Danish Guarantor to a Borrower and originally borrowed by that Borrower under this Agreement and on-lent by that Borrower to the Danish Guarantor provided always that any payment made by the Danish Guarantor under this Clause 23 (Guarantee and Indemnity) in respect of such obligations of the Danish Guarantor shall reduce pro tanto the outstanding amount of the intercompany loan owing by the Danish Guarantor.

(b) The above limitations shall apply to any security by guarantee, indemnity, collateral or otherwise and to subordination of rights and claims, subordination or turnover of rights of recourse, application of proceeds and any other means of direct and indirect financial assistance.

23.15 Further guarantee limitations - other jurisdictions

This guarantee and indemnity, with respect to any Additional Guarantor, is subject to any limitations set out in the Accession Deed applicable to such Additional Guarantor.
Section 8.

Representations, Undertakings and Events of Default

24 Representations

24.1 General

Each Obligor unless otherwise specified makes the representations and warranties set out in this Clause 24 to each Finance Party at the times specified in Clause 24.29 (Times when representations made) and the Parent acknowledges that the Finance Parties have entered into this Agreement in reliance on these representations and warranties.

24.2 Status

Each member of the Group is a limited liability company, private company limited by shares or, as the case may be, limited partnership, duly incorporated or organised (as applicable), validly existing and in good standing (as applicable) under the law of its jurisdiction of incorporation or organisation.

24.3 Binding obligations

Subject to the Legal Reservations and the Perfection Requirements:

(a) the obligations expressed to be assumed by each Obligor in each Finance Document to which it is a party are legal, valid, binding and enforceable obligations; and

(b) (without limiting the generality of paragraph (a) above), each Transaction Security Document to which an Obligor is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective.

24.4 Non-conflict with other obligations

The execution, delivery and performance by each Obligor of, and the transactions contemplated by, the Finance Documents, in each case, to which it is a party do not conflict with:

(a) any law or regulation applicable to it in any material respect;

(b) its constitutional documents in any material respect; or

(c) any agreement or instrument binding upon it or constitute a default or termination event (howsoever described) under any such agreement or instrument to an extent which has or would reasonably be expected to have a Material Adverse Effect.

24.5 Power and authority

(a) Each Obligor 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 party and the transactions contemplated by those Finance Documents.

(b) No limit on the powers of any Obligor will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party.

24.6 Authorisations

(a) All Authorisations required by an Obligor:

(i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and

(ii) to make the Finance Documents to which it is a party admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect, subject to the Legal Reservations and Perfection Requirements.

(b) All Authorisations necessary for the conduct of the business, trade and ordinary activities of each member of the Group have been obtained or effected and are in full force and effect except to the extent that the failure to obtain or effect those Authorisations will not, or would not reasonably be expected to, have a Material Adverse Effect.

24.7 Governing law and enforcement

(a) The choice of the governing law of each Finance Documents will be recognised and enforced in its jurisdiction of incorporation subject to the Legal Reservations.

(b) Subject to the Legal Reservations, any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its jurisdiction of incorporation.

24.8 Insolvency

None of the circumstances described in Clause 28.6 (Insolvency), Clause 28.7 (Insolvency proceedings) or Clause 28.8 (Similar events elsewhere) is continuing in relation to the Parent, an Obligor or any of their respective assets (in each case subject to the exceptions set out therein).

24.9 No default

(a) No Event of Default and, on the date of this Agreement and the first Utilisation Date only, no Default is continuing or is reasonably likely to result from the making of any Utilisation or the entry into, the performance of, or any transaction contemplated by, any Finance Document.
To the best of its knowledge after due enquiry, no event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on any member of the Group or to which any member of the Groups’ assets are subject which has or is reasonably likely to have a Material Adverse Effect.

24.10 No misleading information

(a) Save as disclosed to the Agent prior to the date of this Agreement, all material factual information (taken as a whole) relating to the Group provided in writing to a Finance Party by or on behalf of the Parent on or before the date of this Agreement is to the best of the Parent’s knowledge and belief, accurate and not misleading in any material respect.

(b) Save as disclosed to the Agent or the Arrangers prior to the date of the Information Memorandum, all material factual information (taken as a whole) relating to the Group supplied by or on behalf of the Parent in writing and contained in the Information Memorandum was, to the best of the Parent’s knowledge and belief, accurate and not misleading in any material respect as at the date of the Information Memorandum or, if earlier, the date the information was expressed to be to be given.

24.11 Financial Model

The financial projections and forecasts contained in the Financial Model were made after careful consideration and were prepared on the basis of recent historical information and assumptions believed by the Parent to be reasonable at the time of being made.

24.12 Accounts

In the case of the Parent only:

(a) the Annual Financial Statements most recently delivered pursuant to paragraph (1) of Section 11 (Reports) of Schedule 16 (Restrictive Covenants) were prepared on a basis consistent in all material respects with IFRS applicable at that time and present a true and fair view of the consolidated financial position of the Group, as at the date to which they were prepared and for the fiscal year then ended; and

(b) the Quarterly Financial Statements most recently delivered pursuant to paragraph (2) of Section 11 (Reports) of Schedule 16 (Restrictive Covenants) were prepared on a basis consistent in all material respects with IFRS at that time and fairly present the consolidated financial position of the Group as at the date to which they were prepared and for the Test Period then ended,

in each case (A) save as set out therein or the notes thereto, (B) having regard, in the case of paragraph (b) above, to the fact they are management accounts prepared for management purposes and not subject to audit procedures, and (C) subject to customary year-end adjustments.
24.13 Disputes

(a) No litigation, arbitration or other proceedings or investigations of, or before, any court, arbitral body or agency are outstanding, pending or so far as it is aware threatened against any member of the Group which are reasonably likely to be determined adversely to it and which, if so adversely determined, would have or would reasonably be expected to have a Material Adverse Effect.

(b) No labour disputes are outstanding in respect of any member of the Group which are reasonably likely to be adversely determined to it, and which if so adversely determined, would have or would reasonably be expected to have a Material Adverse Effect.

24.14 Compliance with law

Each member of the Group is in compliance with all applicable laws and regulations where failure to do so would have or would reasonably be expected to have a Material Adverse Effect.

24.15 Environmental laws and claims

(a) Each member of the Group is in compliance with all applicable Environmental Laws and regulations and has obtained all Environmental Permits necessary to conduct the business of the Group, in each case where failure to do so would have or would reasonably be expected to have a Material Adverse Effect.

(b) No Environmental Claim has been commenced or is threatened against any member of the Group where that claim is reasonably likely to be determined adversely to a member of the Group and which would have or would reasonably be expected to have, if so adversely determined, a Material Adverse Effect.

24.16 Taxation

(a) No claims are being asserted against any member of the Group with respect to Taxes which are reasonably likely to be adversely determined to it and which, if so adversely determined, would have or would reasonably be expected to have a Material Adverse Effect.

(b) All reports and returns with respect to Taxes that are required to be filed by any member of the Group within any applicable time limits, and all Taxes required to be paid by it, have been filed and paid within any applicable time limit (taking into account any extension or grace period) save, in each case, to the extent that failure to do so would not have or would not reasonably be expected to have a Material Adverse Effect.

24.17 Security, Indebtedness and guarantees

(a) No Security exists over all or any of the assets of any member of the Group other than as permitted or not prohibited by this Agreement.
(b) No member of the Group has any Indebtedness outstanding other than as permitted or not prohibited by this Agreement.

(c) No member of the Group has granted any guarantees of Indebtedness which are still in place other than as permitted or not prohibited by this Agreement.

24.18 Good title to assets

It has a good title to, or valid leases or licences of or are otherwise entitled to use, all assets necessary to carry on its business as presently conducted, in each case, to the extent that where failure to do so have, or would be reasonably expected to have, a Material Adverse Effect.

24.19 Shares

(a) The shares of any Obligor or Material Company which are subject to the Transaction Security are fully paid and not subject to any pre-emption, option to purchase or similar rights, other than as may arise under applicable law.

(b) Other than any mandatory provisions required by law, the constitutional documents of companies whose shares are subject to the Transaction Security do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security.

24.20 Pensions

All pension schemes operated by members of the Group are funded to the extent required by law where failure to do so would have or would reasonably be expected to have a Material Adverse Effect.

24.21 Intellectual Property

The Intellectual Property required in order to conduct the business of the Group is beneficially owned or licensed to a member of the Group and all formal or procedural actions required to maintain such Intellectual Property have been taken, in each case, where failure to be or do so would have or would reasonably be expected to have a Material Adverse Effect.

24.22 Group Structure Chart

As at the date of this Agreement, the Group Structure Chart delivered to the Agent pursuant to Part 1 of Schedule 2 (Conditions Precedent) is true, complete and accurate in all material respects.

24.23 Pari passu ranking

Its payment obligations under the Finance Documents rank at least pari passu in right and priority of payment with all its other present and future unsecured and unsubordinated indebtedness, except for any indebtedness preferred by laws of general application.

24.24 Centre of main interests
It has its “centre of main interests” (as that term is used in Article 3(1) of Regulation (EU) 2015/848 of May 2015 on Insolvency Proceedings (Recast)) in its jurisdiction of incorporation or establishment.

24.25 Holding Company

In the case of the Parent and the Company only, prior to the first Utilisation Date it has not incurred any material liabilities other than:

(a) under or in connection with the Finance Documents, the Second Lien Debt Documents and the Acquisition Documents and the transactions contemplated therein and/or transactions permitted thereunder;

(b) any liabilities arising under or in connection with any Shareholder Contributions;

(c) Transaction Costs and/or establishment and administration costs; or

(d) liabilities for Tax and other customary liabilities for a holding company.

24.26 Anti-Corruption Laws and Sanctions

(a) Each member of the Group have implemented and maintained policies and procedures designed to ensure compliance with Anti-Corruption Laws, Export Control Laws and applicable Sanctions and each member of the Group are in compliance with Anti-Corruption Laws, Export Control Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in any member of the Group being designated as a Sanctioned Person.

(b) No member of the Group is a Sanctioned Person or is controlled by (including, without limitation, by virtue of such person being a director or owning voting shares or interest by which such person exercises control), or acts directly or indirectly, for or on behalf, of any Sanctioned Person.

(c) To the knowledge of the Parent, no Utilisation, use of proceeds or other transaction contemplated by this Agreement will violate Anti-Corruption Laws or applicable Sanctions.

(d) Any representation made under this Clause 24.26 by any Obligor is made only to the extent any such representation does not result in a violation of, or conflict with, and will not expose any Obligor or any of its Subsidiaries or any director, officer or employee thereof to any liability under, any anti-boycott or blocking law, regulation or statute that is in force from time to time and applicable to such entity (including, without limitation, EU Regulation (EC) 2271/96 (and any similar and applicable UK anti-boycott law, instrument or regulation created following the UK's exit from the European Union) and Section 7 of the German Foreign Trade Payments Rules (Verordnung zur Durchführung des Außenwirtschaftsgesetzes Außenwirtschaftsverordnung), together the "Blocking Laws").
In relation to each Finance Party, which notifies the Agent in writing that it is a "Restricted Finance Party" for the purposes of this Clause 24.26, the representations in this Clause 24.26 shall only apply for the benefit of the Restricted Finance Party to the extent (as notified by such Restricted Finance Party to the Agent) that this would not result in any violation of, conflict with or liability under the Blocking Laws. In connection with any amendment, waiver, determination or direction relating to any part of this Clause 24.26 of which a Restricted Finance Party does not have the benefit, the Commitments of that Restricted Finance Party (to the extent that it is a Lender) will be excluded from the numerator and denominator for the purposes of determining whether the consent of the Majority Lenders has been obtained or whether the determination or direction of the Majority Lenders has been made.

24.27 Insurances

Members of the Group maintain insurance cover (whether Group-wide or individual policies) with reputable independent insurers:

(a) which provides cover against all material risks which are normally insured against by other companies in the Relevant Jurisdiction carrying on a similar business; and

(b) is at levels appropriate to a business of its size and nature to the extent such insurance is reasonably available in the insurance market,

in each case, where failure to do so would have or would reasonably be expected to have a Material Adverse Effect.

24.28 Acquisition Documents

(a) As at the date of this Agreement, the Announcement and Acquisition Documents delivered to the Agent pursuant to Clause 4.1 (Initial conditions precedent) contain all the material terms and conditions of the Acquisition.

(b) The Scheme Documents or, if an Election is made, the Offer Documents will reflect the terms of the Acquisition in all material respects as at the date on which they are published.

24.29 Times when representations made

(a) All the representations and warranties in this Clause 24 are made on the date of this Agreement and on the Closing Date except that:

(i) the representations and warranties set out in paragraph (b) of Clause 24.10 (No misleading information) shall only be made on the date the Information Memorandum is approved by the Company and shall be deemed repeated on the Syndication Date provided that the Agent has given the Company at least five Business Days’ prior written notice of the Syndication Date and
subject to the right of the Company to make disclosures against those representations and warranties; and

(ii) the representations and warranties set out in Clause 24.12 (Accounts) will be made once only in respect of each set of financial statements delivered to the Agent and shall be made on the date such financial statements are delivered to the Agent.

(b) The Repeating Representations are deemed to be made by each Obligor on the date of each Utilisation Request, on each Utilisation Date and on the first day of each Interest Period.

(c) The representations and warranties at Clauses 24.2 (Status) to 24.7 (Governing law and enforcement) (inclusive), Clause 24.23 (Pari passu ranking) and Clause 24.26 (Anti-Corruption Laws and Sanctions) are deemed to be made by each Additional Obligor on the day on which it becomes an Additional Obligor.

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

24.30 Awareness and disclosure

(a) The Parties acknowledge that projections and forecasts are subject to significant uncertainties and contingencies and no assurance can be given that such projections or forecasts will be realised.

(b) The contents of the Reports are disclosed against and qualify the representations and warranties in this Clause 24.

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 annual reports delivered to the Agent pursuant to paragraph (1) of Section 11 (Reports) of Schedule 16 (Restrictive Covenants).

“Quarterly Financial Statements” means the quarterly reports delivered to the Agent pursuant to paragraph (2) of Section 11 (Reports) of Schedule 16 (Restrictive Covenants).

25.1 Financial statements

The Parent shall comply with the provisions of Section 11 (Reports) in Schedule 16 (Restrictive Covenants).

25.2 Provision and contents of Compliance Certificate
(a) The Parent shall deliver to the Agent a Compliance Certificate with each set of Annual Financial Statements and Quarterly Financial Statements.

(b) Each Compliance Certificate shall be signed by an authorised signatory of the Parent.

(c) In the case of a Compliance Certificate delivered with the Annual Financial Statements, it shall:

(i) set out (in reasonable detail and where applicable) computations as to:

(A) compliance with the financial covenant in Clause 26.1 (Financial condition) to the extent that such financial covenant is required to be satisfied;

(B) the applicable Margin; and

(C) Excess Cashflow for the relevant fiscal year to the extent applicable in respect of that fiscal year;

(ii) confirm those members of the Group that are Material Companies based upon the relevant Annual Financial Statements; and

(iii) confirm that, as at the end of the relevant fiscal year, either:

(A) the Guarantor Coverage Threshold is satisfied; or

(B) if the Guarantor Coverage Threshold is not satisfied, and without prejudice to the obligations of the Parent under paragraph (a)(ii) of 27.18 (Refinancing of Existing Target Debt, guarantees and security) and/or to the rights of the Finance Parties under this Agreement, when the Guarantor Coverage Threshold will be satisfied.

(d) In the case of a Compliance Certificate delivered with the Quarterly Financial Statements, it shall set out (in reasonable detail and where applicable) computations as to:

(i) compliance with the financial covenants in Clause 26.1 (Financial condition) to the extent that such financial covenant is required to be satisfied; and

(ii) the applicable Margin.

25.3 Requirements as to financial statements

(a) Each set of Annual Financial Statements and Quarterly Financial Statements delivered pursuant to Section 11 (Reports) of Schedule 16 (Restrictive Covenants):
(i) shall be deemed to constitute a confirmation by the Parent that such financial statements fairly present in all material respects its financial condition and operations as at the date as at which, and for the period in relation to which, those financial statements were drawn up (subject, in the case of Quarterly Financial Statements, to year-end adjustments);

(ii) shall be accompanied by a statement by a member of Senior Management commenting on the performance of the Group for the period to which the Financial Statements relate and any material developments or proposals affecting the Group or its business; and

(iii) shall be prepared in accordance with IFRS applicable as in effect on the date of such financial statements and on a consistent basis for the periods presented (unless otherwise referred to in such financial statements, or the notes thereto, and, in the case of Quarterly Financial Statements, to the extent appropriate in the context of Quarterly Financial Statements, and in each case save as disclosed to the Agent in writing on or prior to the date of delivery of those financial statements), provided that, in relation to any such financial statements, if there has been any change as regards the accounting principles or accounting practices applied by the Parent when compared to IFRS and that change is material (including by way of impacting upon the amount of “Excess Cashflow” required to be applied in prepayment pursuant to Clause 12.5 (Excess Cash) or the Margin for any Facility or compliance with the financial covenant set out in Clause 26.1 (Financial condition), the Parent shall notify the Agent accordingly (unless the Agent has been notified of the relevant change in relation to a previous set of financial statements) and, if requested by the Agent, the Parent shall deliver to the Agent a statement (the “Reconciliation Statement”) containing:

(A) a description of any change necessary for those financial statements to reflect in all material respects IFRS; and

(B) sufficient information (to the extent not addressed by the description referred to in (A) above) to enable the Lenders to determine:

(1) whether Clause 26.1 (Financial condition) has been complied with to the extent that such financial covenant is required to be satisfied;

(2) the Margin; and

(3) the amount of any prepayment to be made from Excess Cashflow under Clause 12.5 (Excess Cash), provided that, for the avoidance of doubt and unless otherwise agreed pursuant to this Clause 25.3, each financial ratio in this Agreement shall continue to be calculated in all material respects in accordance with IFRS (subject to any adjustments made by or in accordance with this Agreement).
(b) If the Parent notifies the Agent of a change in accordance with paragraph (a)(iii) above, then, at the request of the Parent or the Agent, the Parent and Agent shall enter into negotiations in good faith with a view to agreeing:

(i) whether or not the change might result in any alteration in the commercial effect of any of the terms of this Agreement;

(ii) if so, any amendments to this Agreement which may be necessary to ensure that the change does not result in either the Finance Parties or the Obligors being in a worse position in relation to the determination of the “Margin”, their respective rights and obligations under Clause 12.5 (Excess Cash) and/or compliance with Clause 26.1 (Financial condition) than if the change had not been made; and

(iii) any other amendments to this Agreement which may be necessary to ensure that the adoption by the Group of such different accounting basis does not result in any material alteration in the commercial effect of the rights and/or obligations of any Obligor in the Senior Finance Documents (including more onerous information reporting requirements),

and if any amendments satisfactory to the Agent and the Parent are agreed (each acting reasonably) they shall take effect and be binding on each of the Parties in accordance with their terms.

(c) If no agreement is reached under paragraph (b) above on the required amendments to this Agreement within thirty days of the relevant notification by the Parent (and it is not agreed that no such amendments are required), the Parent shall:

(i) (if a Reconciliation Statement is required by the Agent under paragraph (a)(iii) above) ensure that each set of financial statements is accompanied by a Reconciliation Statement or, at the option of the Parent, provide financial statements prepared on the basis most recently agreed in accordance with this Agreement; or

(ii) instruct the auditors of the Parent (or any other accounting firm referred to in paragraph (d) below selected by the Parent) (the “Designated Accountants”) to determine any amendment to Clause 26.1 (Financial condition), the Margin computations set out in the definition of Margin, Clause 12.5 (Excess Cash) and any other terms of this Agreement which the Designated Accountants (acting as experts and not as arbitrators) consider appropriate to ensure the change does not result in either the Finance Parties or the Obligors being in a worse position than if the change had not been made. Those amendments shall take effect when so determined by the Designated Accountants. The cost and expense of the Designated Accountants shall be for the account of the Parent.
(d) The Parent shall procure that each set of Annual Financial Statements shall be audited by a firm of independent auditors licensed to practice in the jurisdiction of incorporation of the Parent.

25.4 Budget

(a) The Parent shall supply to the Agent (in sufficient copies for all the Lenders if requested by the Agent) within 30 days after the start of each fiscal year, an annual budget for that fiscal year, commencing with the fiscal year starting 1 April 2021.

(b) The Parent shall ensure that each budget:

(i) includes a projected consolidated balance sheet, profit and loss account (or income account) and cashflow statement for the Group; and

(ii) is accompanied by a reasonably detailed commentary from the senior management of the Group;

(iii) includes a monthly breakdown of projections for each month of that fiscal year;

(iv) subject to paragraph (b) of Clause 25.3 (Requirements as to financial statements), is prepared on a basis consistent with IFRS; and

(v) has been approved by the board of directors of the Parent.

25.5 Annual Presentation

If requested by the Agent and not more often than once in every fiscal year (commencing with the first fiscal year starting on or after the first anniversary of the Closing Date) one or more representatives from the senior management of the Group shall give a single presentation to the Finance Parties, at a time and venue agreed with the Agent (acting reasonably), about the financial performance of the Group. For the avoidance of doubt, any such presentation may be made way of a telephone call to which Lenders are invited.

25.6 Information: miscellaneous

The Parent shall (or shall procure that another member of the Group shall) supply to the Agent for distribution to the Lenders:

(a) a copy of all documents of a general nature dispatched by the Parent to its creditors generally (other than in the ordinary course of business);

(b) promptly upon becoming aware of them, details of any material litigation or arbitration proceedings, environmental claims or labour disputes which if adversely determined, would have a Material Adverse Effect; and

(c) such further information regarding the performance of the Group as any Finance Party through the Agent may reasonably request.
subject in each case to any confidentiality other legal or regulatory restrictions on disclosure.

25.7 Restrictions

Notwithstanding any other term of the Finance Documents, all reporting and other information requirements in the Finance Documents shall be subject to any confidentiality, regulatory or other restrictions relating to the supply of information concerning the Group or otherwise binding on any member of the Group.

25.8 Notification of default

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

(b) Promptly upon a request by the Agent (such request only to be made if the Agent reasonably believes that a Default is continuing), the Parent shall supply to the Agent a certificate signed by an authorised signatory certifying that so far as it is aware no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

25.9 “Know your customer” checks

(a) If:

(i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;

(ii) any change in the status of an Obligor or the composition of the shareholders of an Obligor after the date of this Agreement; or

(iii) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent, the Security Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with “know your customer” or similar identification procedures concerning any Obligor in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Agent, the Security Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender), the Security Agent or any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender) in order for the Agent, the Security Agent, such Lender or, in the case of the event described in paragraph (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks relating to any Obligor under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
Each Lender shall promptly upon the request of the Agent and/or the Security Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) and/or the Security Agent (as applicable) in order for the Agent and/or the Security Agent (as applicable) to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

The Obligors’ Agent shall, by not less than five Business Days’ prior written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that a Subsidiary of the Parent becomes an Additional Obligor pursuant to Clause 31 (Changes to the Obligors).

Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Obligor obliges the Agent, the Security Agent or any Lender to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Obligors’ Agent shall promptly upon the request of the Agent, the Security Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender), the Security Agent or any Lender (for itself or on behalf of any prospective new Lender) in order for the Agent, the Security Agent or such Lender or any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this Agreement as an Additional Obligor.

Quarter Dates

The Parent or a Borrower shall confirm in writing to the Agent (which confirmation may be by way of e-mail) within 30 days of the start of a fiscal year of the Parent the Quarter Dates for that fiscal year.

Financial Covenant

Financial condition

For the benefit of the Lenders under the Revolving Facility only (in that capacity only), unless otherwise agreed by the Majority Revolving Facility Lenders, the Parent shall ensure that the Consolidated Senior Secured Leverage Ratio (as shown in the relevant Compliance Certificate) in respect of any Test Period ending three full quarters after the Closing Date is not greater than 9.25:1, provided that notwithstanding anything to the contrary in the Finance Documents:

(a) the financial covenant contemplated by this Clause 26.1 shall not be required to be satisfied for any purpose unless at 5.00 p.m. London time on the last day of the applicable Test Period the aggregate Base Currency Amount of all outstanding Revolving Loans borrowed by members of the Group is greater than 40 per cent. of the Total Revolving Facility Commitments at that time; and
in relation to Facility B and subject to paragraph (d) of Clause 28.5 (*Cross default*), failure to satisfy the financial covenant set out in this Clause 26.1 shall not (or be deemed to) directly or indirectly constitute, or result in, a breach of any representation, warranty, undertaking or other provision of the Finance Documents or a Default or an Event of Default.

26.2 Equity Cure

(a) If the requirement of Clause 26.1 (*Financial condition*) is not met, or would, but for this Clause 26.2, not be met in respect of a Test Period, all or part of the proceeds (the “*Cure Amount*”) received by the Parent pursuant to a Shareholder Contribution prior to the end of the period of twenty Business Days following the date on which the Compliance Certificate in respect of that Test Period is required to be delivered (and ignoring any grace period on such delivery for those purposes) shall, at the option of the Parent, be included in the calculation or, as the case may be, a recalculation of the financial covenant set out in Clause 26.1 (*Financial condition*), with such financial covenant to be tested or, as applicable, retested giving effect to the following adjustments (without double counting), in each case, at the option of the Parent:

(i) Consolidated EBITDA for the Test Period shall be increased by an amount equal to the Cure Amount (an “*EBITDA Cure*”); or

(ii) Senior Secured Indebtedness will be notionally reduced by an amount equal to the Cure Amount (a “*Net Debt Cure*”),

and in relation to any EBITDA Cure, any Cure Amount so provided in respect of any Test Period shall be deemed to have been provided immediately prior to the last date of such Test Period and shall be included in all relevant covenant calculations until such date falls outside the Test Period.

(b) If, after giving effect to the adjustments referred to in paragraph (a) above, the requirement of Clause 26.1 (*Financial condition*) is met, then (subject to the other provisions of this Clause 26.2) the requirement of Clause 26.1 (*Financial condition*) shall be deemed to have been satisfied as at the relevant original date of determination.

(c) The ability of the Parent to prevent or cure breaches of the financial covenant in Clause 26.1 (*Financial condition*) by making adjustments to Consolidated EBITDA and/or Senior Secured Indebtedness pursuant to an EBITDA Cure or Net Debt Cure is subject to the following:

(i) not more than four different Cure Amounts may be taken into account pursuant to this Clause 26.2 prior to the Maturity Date in respect of Facility B;

(ii) different Cure Amounts may not be taken into account for the purpose of this Clause 26.2 in consecutive Quarter Periods;
(iii) any Shareholder Contribution elected to be applied by the Parent as an EBITDA Cure and/or a Net Debt Cure shall not automatically count towards any other permission or usage under or in respect of the Finance Documents; and

(iv) to the extent such Shareholder Contribution is provided following the date of delivery of the relevant Compliance Certificate for the Test Period, the Parent shall, promptly following such provision, provide a revised Compliance Certificate to the Agent setting out the revised financial covenant calculations for the Test Period by giving effect to the adjustments in paragraph (a) above.

(d) In the case of an EBITDA Cure, the amount of any Cure Amount shall not exceed the minimum amount required to prevent or, as the case may be, cure any breach of the financial covenant set out in Clause 26.1 (Financial condition).

(e) There shall be no requirement to apply any Cure Amount in prepayment of the Facilities.

(f) During the 20 Business Day period during which a Cure Amount may be contributed, no Default shall be deemed to have occurred as a result of the financial covenant set out in Clause 26.1 (Financial condition) not being complied with, provided that the Parent is entitled to procure an EBITDA Cure and/or a Net Debt Cure pursuant to this Clause 26.2 in respect of the Test Period.

27 General Undertakings

The undertakings in this Clause 27 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

27.1 Restrictive Covenants

Each Obligor shall comply with the covenants set out in Schedule 16 (Restrictive Covenants).

27.2 Authorisations

Each Obligor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect any material Authorisation required under any law or regulation of a Relevant Jurisdiction to:

(a) enable it to perform its obligations under the Finance Documents to which it is a party;

(b) subject to the Legal Reservations and Perfection Requirements, ensure the legality, validity, enforceability or admissibility in evidence of each Finance Document to which it is a party; and
(c) to own property and carry on its business 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 Parent shall ensure that each other member of the Group will) comply in all respects with all laws to which it may be subject, where failure to do so has or would reasonably be expected to have a Material Adverse Effect.

27.4 Environmental compliance

Each Obligor shall (and the Parent shall ensure that each other member of the Group will):

(a) comply with all Environmental Laws; and

(b) obtain, maintain and ensure compliance with all requisite Environmental Permits necessary to conduct its business,

in each case where failure to do so has or would reasonably be expected to have a Material Adverse Effect.

27.5 Taxation

Each Obligor shall (and the Parent shall ensure that each other member of the Group will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties where in any such case failure to do so has or would reasonably be expected to have a Material Adverse Effect.

27.6 Intellectual Property

Each Obligor shall (and the Parent shall ensure that each other member of the Group will):

(a) preserve and maintain the subsistence and validity of the Intellectual Property necessary for the conduct of its business (“Material IP”);

(b) use reasonable endeavours to prevent any infringement in any material respect of the Material IP;

(c) make registrations and pay all registration fees and taxes necessary to maintain the Material IP in full force and effect and record its interest in that Material IP; and

(d) not use or permit the Material IP to be used in a way or take any step or omit to take any step in respect of that Material IP which may materially and adversely affect the existence of the Material IP or imperil the right of any member of the Group to use such property,

where failure to do so, in the case of paragraphs (a), (b) and (c) above, or, in the case of paragraph (d) above, such use, permission to use, step, omission or discontinuation, has or would reasonably be expected to have a Material Adverse Effect.
27.7 **Pari passu ranking**

Each Obligor shall ensure that its payment obligations under each of the Finance Documents at all times rank at least *pari passu* in right of payment with all its other unsecured and unsubordinated indebtedness (actual or contingent) except indebtedness preferred by laws of general application.

27.8 **Pensions**

The Parent will ensure that all pension schemes operated by any member of the Group from time to time are funded to the extent required by law (taking into account any applicable insurance arrangements) in each case where failure to do so has or would reasonably be expected to have a Material Adverse Effect.

27.9 **Insurance**

The Parent shall ensure that the Group will effect and maintain insurance cover (whether Group-wide or individual policies) with reputable independent insurers:

(a) which provides appropriate cover against all material risks which are normally insured against by other companies of comparable size, geographical location and scope of operation carrying on similar businesses; and

(b) is at levels appropriate to a business of its size and nature for so long as such insurance is reasonably available in the insurance market,

in each case, where failure to do so has or would reasonably be expected to have a Material Adverse Effect.

27.10 **Treasury Transactions**

(a) No Obligor shall (and the Parent shall ensure that no other member of the Group will) enter into any interest rate swap, cap, ceiling, collar or floor or any currency swap, futures, foreign exchange or commodity contract or option or any similar derivative instrument for managing or hedging exposure.

(b) Paragraph (a) above shall not prohibit any arrangements referred to therein:

(i) of a person or business acquired by a member of the Group after the date of this Agreement which are in place as at the date of that acquisition;

(ii) required to be entered into under the Finance Documents;

(iii) relating to the Facilities, any Permitted Refinancing and/or any other indebtedness permitted by this Agreement;

(iv) entered into to manage or hedge, directly or indirectly, actual or anticipated exposures arising in the ordinary course of business of the Group; and/or
(v) to which the Agent (acting on the instructions of the Majority Lenders) has
given prior written consent,

...and in each case, any replacements, extensions, renewals or options thereof provided that
in each case any such arrangements are not for speculative purposes.

27.11 Further assurance

(a) Subject to the Agreed Security Principles, each Obligor shall (and the Parent shall
ensure that each other member of the Group will) promptly do all such acts or
execute all such documents (including assignments, transfers, mortgages, charges,
notices and instructions) as the Security Agent may reasonably specify (and in such
form as the Security Agent may reasonably require (but on no more onerous terms
than any security over the same type of assets provided by any other Obligor) in
favour of the Security Agent or its nominee(s):

(i) to perfect the Security created or intended to be created under or evidenced
by the Transaction Security Documents (which may include the execution
of a mortgage, charge, assignment or other Security over all or any of the
assets which are, or are intended to be, the subject of the Transaction
Security) or for the exercise of any rights, powers and remedies of the
Security Agent or the Finance Parties provided by or pursuant to the Finance
Documents or by law; and

(ii) following the occurrence of an Event of Default that is continuing to
facilitate the realisation of the assets which are, or are intended to be, the
subject of the Transaction Security.

(b) Subject to the Agreed Security Principles, each Obligor shall (and the Parent shall
ensure that each other member of the Group shall) take all such action as is available
to it (including making all filings and registrations) as may be necessary for the
purpose of the creation, perfection, protection or maintenance of any Security
conferred or intended to be conferred on the Security Agent or the Finance Parties
by or pursuant to the Finance Documents.

(c) In relation to any provision of this Agreement which requires the Obligors or any
other member of the Group to deliver a Transaction Security Document for the
purposes of granting any guarantee or Security for the benefit of the Finance Parties,
the Security Agent agrees to execute, as soon as reasonably practicable, any such
guarantee or Transaction Security Document which is presented to it for execution.

27.12 Centre of Main Interests

Unless otherwise agreed by the Majority Lenders, other than pursuant to a Permitted
Reorganisation no Obligor shall knowingly cause or allow its “centre of main interests” (as that
term is used in Article 3(1) of Regulation (EU) 2015/848 of May 2015 on Insolvency Proceedings
(Recast)) to change from that of its jurisdiction of incorporation or establishment where to do so
would be reasonably likely to be material and adverse to the interest of the Lenders taken as a whole under the Finance Documents.

27.13 Anti-Corruption Laws and Sanctions

(a) Each member of the Group will maintain in effect and enforce policies and procedures designed to ensure compliance by it with Anti-Corruption Laws and applicable Sanctions.

(b) Each other Obligor will (and the Parent shall ensure that each member of the Group will):

(i) conduct its businesses in compliance with applicable Anti-Corruption Laws and applicable Sanctions; and

(ii) maintain policies and procedures designed to promote and achieve compliance with such laws.

(c) The Borrowers will not request any Utilisation, and the Borrowers shall not knowingly use, and the Parent shall ensure that no member of the Group shall use, the proceeds of any Utilisation:

(i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of any Anti-Corruption Laws;

(ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country;

(iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto; or

(iv) for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.

(d) The undertakings under this Clause 27.13 shall not be made by any Obligor to the extent that any such undertaking would result in a violation of, conflict with, the Blocking Laws.

(e) In relation to each Finance Party, which notifies the Agent in writing that it is a "Restricted Finance Party" for the purposes of this Clause 27.13, the undertakings in this Clause 27.13, shall only apply for the benefit of the Restricted Finance Party to the extent (as notified by such Restricted Finance Party to the Agent) that this would not result in any violation of conflict with or liability under the Blocking Laws. In connection with any amendment, waiver, determination or direction relating to any part of this Clause 27.13 of which a Restricted Finance Party does
not have the benefit, the Commitments of that Restricted Finance Party (to the extent that it is a Lender) will be excluded from the numerator and denominator for the purposes of determining whether the consent of the Majority Lenders has been obtained or whether the determination or direction of the Majority Lenders has been made.

27.14 Access

While an Event of Default is continuing (or where the Agent reasonably suspects an Event of Default is continuing), the Obligors will permit the Agent and/or the Security Agent and/or accountants or other professional advisers and contractors engaged by the Agent or Security Agent free access at all reasonable times and on reasonable notice to:

(a) inspect and take copies and extracts from the books, accounts and records of each Obligor;

(b) view the premises of each Obligor; and

(c) meet and discuss matters with senior management of the Group,

in each case only to the extent the Agent (acting reasonably) considers to be necessary to investigate and plan any action in connection with an Event of Default referred to above. If an Event of Default referred to above was continuing at the time such accountants or other professional advisers or contractors were appointed the costs of such persons shall be for the account of the Parent, otherwise it shall be for the account of the Lenders.

27.15 Rating

The Parent shall use commercially reasonable efforts to obtain and maintain a corporate rating for the Group and Facility B1 and Facility B2 from Moody’s and/or S&P provided that:

(a) there shall be no requirement to obtain and/or maintain a specific rating;

(b) obtaining and/or maintaining a rating shall not be a condition to the availability of the Facilities; and

(c) if a rating is not obtained and/or maintained, the Parent shall not be in breach of this Clause 27.15 nor shall it result in a Default of an Event of Default so long as it has used its commercially reasonable efforts in relation thereto.

27.16 Release Condition

(a) Notwithstanding anything to the contrary in this Agreement or any other Finance Document, during the period (if any) that a Release Condition is satisfied, the following obligations and restrictions shall be suspended and shall not apply:

(i) the requirement to make mandatory prepayments under Clause 12.2 (Initial Public Offering), Clause 12.3 (Asset Dispositions) or Clause 12.4 (Insurance Claims); and
(ii) the restrictions set out in Section 1 (Limitation on Indebtedness), Section 2 (Limitation on Restricted Payments), Section 4 (Limitation on Restrictions on Distributions from Restricted Subsidiaries), Section 5 (Limitation on Sales of Assets and Subsidiary Stock) and Section 7 (Merger and Consolidation) of Schedule 16 (Restrictive Covenants) provided that no Transaction Security already granted will be required to be released.

(b) Notwithstanding anything to the contrary in this Agreement or any other Finance Document, during the period that a Release Condition is satisfied, the amount of each basket set out in Clause 1.1 (Definitions), Schedule 16 (Restrictive Covenants) and in any other provision of this Agreement (including all “annual”, “life of Facilities” and “at any time” baskets) shall be increased by 25 per cent.

(c) A certificate from the Obligors’ Agent confirming that a Release Condition is satisfied shall be prima facie evidence thereof. If at any time after a Release Condition has been satisfied a Release Condition subsequently ceases to be satisfied, any breach of this Agreement or of any other Finance Documents that arises as a result of the obligations or restrictions referred to in paragraph (a) above ceasing to be suspended or amended shall not (provided that it did not constitute an Event of Default at the time the relevant event or occurrence took place) constitute, or be deemed to constitute, or result in, a breach of any provision of this Agreement or of any other Finance Documents, a Default or an Event of Default.

(d) For the purposes of this Agreement, “Release Condition” means satisfaction of the following conditions:

(i) on or after the occurrence of an Initial Public Offering, the Consolidated Senior Secured Leverage Ratio (for the Test Period ending on the most recent Quarter Date for which a Compliance Certificate has been delivered to the Agent) is equal to or less than 3.5:1; or

(ii) the long-term corporate credit rating of the Parent (or, as the case may be, any Holding Company of the Parent) is equal to or better than Baa3 according to Moody’s or BBB- according to S&P.

27.17 Acquisition Undertakings

(a) Unless otherwise agreed by the Majority Lenders (acting reasonably), the Company shall:

(i) not waive or amend any condition relating to the Acquisition where such waiver or amendment would be reasonably expected to be materially adverse to the interests of the Lenders taken as a whole under the Finance Documents except:

(A) to the extent required by the Takeover Code, the Takeover Panel or the Court or any other applicable law, regulation or regulatory body;
(B) the waiver of any condition relating to the Acquisition where such waiver does not relate to a condition which the Company reasonably considers that it would be entitled, in accordance with Rule 13.5(a) of the Code, to invoke so as to cause the offer not to proceed, lapse, or be withdrawn;

(C) in relation to any Election made to undertake the Acquisition by way of an Offer rather than pursuant to the Scheme;

(D) increasing the price to be paid for the Target Shares but only to the extent such increase is directly or indirectly funded or to be funded with proceeds from sources other than the Facilities; and/or

(E) in relation to extending the period in which holders of the Target Shares may accept the terms of the Scheme or, as the case may be, the Offer, including (1) in relation to an extension to any date for any meeting or court hearing and/or (2) by reason of the adjournment of any meeting or court hearing, in each case, in connection with the Scheme or, as the case may be, the Offer). For the avoidance of doubt, no extension of any period contemplated in this sub-paragraph (a)(i)(E) shall operate or be construed as an extension of the Certain Funds Period; and

(ii) if following an Election in accordance with the terms of this Agreement the Acquisition is implemented by means of the Offer, not set, waive or reduce the acceptance condition below 75% of the Target Shares to which the Offer relates without the prior written consent of all Lenders (such consent not to be unreasonably withheld or delayed).

(b) The Company shall:

(i) comply with the Takeover Code in all material respects (subject to any dispensation or waiver granted by the Takeover Panel or Court) unless any failure to comply will not be materially prejudicial to the interests of the Lenders taken as whole under the Finance Documents;

(ii) if the Acquisition is effected by means of a Scheme, procure that the Target be delisted from the Official List of the UK Listing Authority as soon as reasonably practicable after the Scheme Effective Date to the extent permitted by law and the rules of the London Stock Exchange and the UK Listing Authority;

(iii) if following an Election made in accordance with the terms of this Agreement the Acquisition is effected by means of an Offer:

(A) and in each case to the extent the Company owns or controls not less than 75% of the voting rights of all members of Target and to the extent permitted by law and the rules of the London Stock Exchange
and the UK Listing Authority, procure that the Target is delisted from the Official List of the UK Listing Authority as soon as reasonably practicable after the Unconditional Date and in any event shall procure that the Target be delisted from the Official List of the UK Listing Authority no later than 80 days after the Unconditional Date; and

(B) as soon as legally possible upon becoming entitled to do so, exercise its rights in respect of a Squeeze-Out Procedure, including (1) giving notice to all other holders of Target Shares that it intends to acquire all their Target Shares pursuant to the Squeeze-Out Procedure and (2) subsequently purchasing such Target Shares as soon as legally possible on or before the Squeeze-Out Date; and

(iv) to the extent the Company owns or controls not less than 75% of the voting rights of all members of Target and in each case to the extent permitted by law, the Company shall procure the re-registration of the Target as a private company pursuant to Section 97 of the Act as soon as reasonably practicable after the Acquisition Completion Date.

27.18 Refinancing of Existing Target Debt, guarantees and security

(a) Existing Target Debt, guarantees and security

The Borrower shall ensure that:

(i) by no later than 10 Business Days after the Closing Date, the Existing Target Debt is redeemed and/or prepaid and cancelled in full (and all Security granted in connection therewith is released); and

(ii) by no later than 45 days after the date on which Target is re-registered as a private company in accordance with paragraph (b)(iv) of Clause 27.17 (Acquisition Undertakings) subject to and on terms consistent with the Agreed Security Principles, members of the Target Group that are Material Companies (together with their immediate Holding Companies if such Holding Companies are members of the Group):

(A) become Additional Guarantors in accordance with Clause 31.4 (Additional Guarantors and Transaction Security); and

(B) grant Security in favour of the Security Agent:

(1) in the case of a member of the Target Group incorporated in England and Wales, over its material assets in substantially the same form as that granted by the Original Obligors referred to in paragraph 8(a) of Part 2 (Conditions Precedent to first Utilisation) of Schedule 2 (Conditions Precedent); and
(2) in the case of a member of the Target Group incorporated in a jurisdiction other than England and Wales, over its material bank accounts, intra-Group receivables and shares owned by it in other Obligors, in order to ensure that, following satisfaction of subparagraphs (a)(i) and (ii) above, the Guarantor Coverage Threshold is satisfied.

(b) *Annual test*

(i) The Parent shall ensure that, subject to subparagraph (ii) below and the Agreed Security Principles, the Guarantor Coverage Threshold is satisfied when tested by reference to Annual Financial Statements delivered in respect of a fiscal year.

(ii) The Parent shall ensure that, subject to the Agreed Security Principles, if as at the date of delivery of the Annual Financial Statements for a fiscal year, the Guarantor Coverage Threshold is not satisfied, each Material Company that is not already a Guarantor (together with such other members of the Group as is necessary) shall, within 60 days (or, in the case of a member of the Group incorporated in a jurisdiction other than England and Wales, within 90 days) of the delivery of those Annual Financial Statements, accede as Additional Guarantors in accordance with Clause 31.4 (Additional Guarantors and Transaction Security) to ensure that the Guarantor Coverage Threshold is satisfied (calculated as if such Additional Guarantors had been Guarantors on the relevant test date and provided that, for the avoidance of doubt, if the Guarantor Coverage Threshold is satisfied within such time period, no Default or other breach of this Agreement shall arise in respect thereof) and each such acceding Material Company and member of the Group shall grant Security in favour of the Security Agent:

(A) in the case of a member of the Group incorporated in England and Wales, over its material assets in substantially the same form as that granted by the Original Obligors referred to in paragraph 8(a) of Part 2 (Conditions Precedent to first Utilisation) of Schedule 2 (Conditions Precedent); and

(B) in the case of a member of the Group incorporated in a jurisdiction other than England and Wales, over its material bank accounts, intra-Group receivables and shares owned by it in other Obligors, in each case subject to and on terms consistent with the Agreed Security Principles.

27.19 Second Lien Payments

The second lien facilities incurred pursuant to the Second Lien Facility Agreement shall constitute “Subordinated Indebtedness” for the purposes of Section 2 (Limitation on Restricted Payments) of Schedule 16 (Restrictive Covenants).
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:

(a) the payment is of principal or interest and the failure to pay is caused by administrative or technical error or a Disruption Event and payment is made within 5 Business Days of its due date; or

(b) the payment is of any other amount and payment is made within 10 Business Days of its due date.

28.2 Financial covenant

(a) In relation to the Revolving Facility only and subject to paragraphs (a) and (b) of Clause 26.1 (Financial condition) and Clause 26.2 (Equity Cure) and paragraph (b) below, the Parent does not comply with the financial covenant set out in Clause 26.1 (Financial condition).

(b) If the financial covenant set out in Clause 26.1 (Financial condition) has been breached in respect of any Test Period (the “First Period”) but is complied with when tested in the next Test Period (the “Second Period”) then the prior breach of such financial covenant in respect of the First Period or any Event of Default arising under this Clause 28.2 therefrom shall no longer be outstanding or continuing for the purposes of the Finance Documents unless the Agent has taken any action referred to in paragraph (b)(ii) of Clause 28.14 (Acceleration) before delivery of the Compliance Certificate in respect of the Second Period.

28.3 Other obligations

(a) An Obligor does not comply with any provision of the Finance Documents to which it is party (other than those referred to in Clauses 28.1 (Non-payment) and 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 notice to the Obligors’ Agent, and (ii) the relevant Obligor becoming aware of the relevant matter and that it constitutes an Event of Default under this Clause 28.2.

28.4 Misrepresentation

Any representation or statement made or deemed to be made by an Obligor in a Finance Document to which it is a party or any other document delivered by or on behalf of an Obligor under or in
connection with any Finance Document to which it is a party is or proves to have been incorrect or misleading in any material respect (where such representation is not already qualified by materiality) when made or deemed to be made, unless the circumstances giving rise to that misrepresentation are capable of remedy and are remedied within 20 Business Days of the earlier of (a) the Agent giving notice to the Obligors’ Agent, and (b) the relevant Obligor becoming aware of the relevant matter and that it constitutes an Event of Default under this Clause 28.4.

28.5 Cross default

(a) Any Indebtedness of any member of the Group is not paid when due (after the expiry of any originally applicable grace period).

(b) Any Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity, in each case as a result of an event of default (however described).

(c) Any creditor of any member of the Group becomes entitled to declare any Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).

(d) In relation to Facility B only, an Acceleration Event has occurred and is continuing under paragraph (b) of Clause 28.14 (Acceleration).

(e) For the purpose of this Clause 28.5:

(i) subject to paragraph (ii) below, no Event of Default will occur under paragraphs (a) to (c) above if the aggregate amount of Indebtedness falling within paragraphs (a) to (c) above is less than or equal to £25,000,000 (or its equivalent in other currencies); and

(ii) no Indebtedness covered by a Letter of Credit or other letter of credit, guarantee, indemnity or similar instrument issued under the Revolving Facility, an Ancillary Facility (or any equivalent facility under any Permitted Refinancing) or otherwise issued under or pursuant to a Permitted Refinancing Document shall be taken into account when calculating whether an Event of Default has occurred.

28.6 Insolvency

(a) An Obligor or Material Company is unable or admits in writing its inability to pay its debts as they fall due or suspends making payments on any of its debts.

(b) A moratorium is declared in respect of any Indebtedness of an Obligor or Material Company.

28.7 Insolvency proceedings

(a) In the case of an Obligor or Material Company:
(i) any internal formal corporate action or formal legal proceeding is taken or a shareholders' resolution is passed, or an order is made, for the winding-up, administration, dissolution or reorganisation of, or a liquidator, administrator, compulsory manager or other similar officer is appointed in respect of, an Obligor or Material Company;

(ii) any internal formal corporate action or formal legal proceeding is taken or a shareholders' resolution is passed, or an order is made, or an agreement is entered into or formally proposed by an Obligor or Material Company, for the suspension of payments by, a moratorium of any Indebtedness of, or a general composition or assignment for the benefit of the creditors of, or any similar arrangement with the creditors generally of or any class of the creditors of, an Obligor or Material Company (in each case for reasons of financial difficulty and excluding any arrangements or negotiations with any of the Finance Parties);

(iii) the directors of an Obligor or Material Company pass a resolution for that Obligor or Material Company's administration or otherwise formally request the appointment of an administrator for that Obligor or Material Company; or

(iv) a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer is appointed in respect of an Obligor or Material Company or any of their respective material assets.

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

(i) any action, proceedings, procedure, step or other matter which is, or is part of or arises in connection with, a Permitted Reorganisation or Permitted Transaction; or

(ii) any winding-up petition, proceeding or other step, action or matter which is discharged, stayed, recalled or dismissed within 20 Business Days of the relevant Obligor or Material Company becoming aware of that winding-up petition, proceeding or other step, action or matter.

28.8 Similar events elsewhere

Any event equivalent to an event described in Clause 28.6 (Insolvency) or Clause 28.7 (Insolvency proceedings) occurs in another jurisdiction with respect to an Obligor or Material Company (subject to the exceptions set out therein).

28.9 Creditors’ process

(a) Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction in which an Obligor or Material Company conducts a material part of its principal business and has material assets is levied
or enforced upon or sued out against any asset or assets of any Material Company and that process has, or is reasonably expected to have, a Material Adverse Effect.

(b) No Event of Default will occur under this Clause 28.9 if the relevant event or circumstance is capable of remedy and is remedied within 20 Business Days of the Agent giving notice to the Obligors’ Agent of the relevant event or circumstance.

28.10 Unlawfulness, invalidity, repudiation

(a) Subject to paragraph (c) below and the Legal Reservations and Perfection Requirements, following the date of execution of the relevant Finance Document:

(i) it is or becomes unlawful for an Obligor or any Holding Company of an Obligor to perform any of its obligations under the Finance Documents to which it is a party; or

(ii) any obligation or obligations of any Obligor or any Holding Company of an Obligor under any Finance Documents to which it is a party are not or cease to be legal, valid, binding or enforceable; or

(iii) any Transaction Security created or expressed to be created under the Transaction Security Documents ceases to be effective or is or becomes unlawful, ineffective or unenforceable in accordance with the terms of the relevant Transaction Security Documents,

in each case:

(A) as a result of an event occurring after the date of execution of the relevant Finance Document (excluding any action, step or matter taken, procured or approved in writing by any Finance Party or, as the case may be, the requisite Finance Parties); and

(B) to an extent which is materially prejudicial to the interests of the Lenders taken as a whole under the Finance Documents.

(b) Subject to paragraph (c) below, an Obligor or a Holding Company of an Obligor rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document to which it is party or any of the Transaction Security granted by it or evidences in writing an intention to rescind or repudiate a Finance Document to which it is party.

(c) No Event of Default will occur under this Clause 28.10 if the relevant event or circumstance is capable of remedy and is remedied within 20 Business Days of the Agent giving notice to the Obligors’ Agent of the relevant event or circumstance and that it constitutes a default.

28.11 Intercreditor Agreement
(a) Subject to paragraph (b) below, any Obligor fails to comply with a material obligation under the Intercreditor Agreement and that failure to comply is materially prejudicial to the interests of the Lenders taken as a whole under the Finance Documents.

(b) No Event of Default will occur under paragraph (a) above if the failure to comply is capable of remedy and is remedied within 20 Business Days of the Agent giving notice to the Obligors’ Agent of the failure to comply and that it constitutes a default.

28.12 Cessation of business

Any Obligor or Material Company suspends or ceases to carry on all or a material part of its business, (except as a result of a disposal permitted under this Agreement, a Permitted Reorganisation or a Permitted Transaction) and such suspension or cessation has or would reasonably be expected to have a Material Adverse Effect.

28.13 Expropriation

The authority or ability of any Obligor to conduct its business is wholly or substantially limited or curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority in relation to any Obligor or its assets which has or is reasonably likely to have a Material Adverse Effect.

28.14 Acceleration

(a) Subject to Clauses 4.4 (Utilisations during Certain Funds Period) and 28.15 (Clean-up period), on and at any time after the occurrence of an Event of Default which is continuing (other than an Event of Default which is continuing under Clause 28.2 (Financial covenant)), the Agent shall, if so directed by the Majority Lenders, by notice to the Obligors’ Agent:

(i) cancel the Total Commitments and/or Ancillary Commitments, at which time they shall immediately be cancelled;

(ii) declare that all or part of the 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;

(iii) declare that all or part of the Utilisations be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders;

(iv) 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;

(v) 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;
(vi) declare all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities to be immediately due and payable, at which time they shall become immediately due and payable;

(vii) declare that all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders; and/or

(viii) on or at any time after the occurrence of an Acceleration Event direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

(b) Subject to Clause 4.4 (Utilisations during Certain Funds Period), on and at any time after the occurrence of an Event of Default which is continuing under Clause 28.2 (Financial covenant), the Agent shall, if so directed by the Majority Revolving Facility Lenders, by notice to the Obligors’ Agent:

(i) cancel the Revolving Facility Commitments and/or Ancillary Commitments, at which time they shall immediately be cancelled;

(ii) declare that all or part of the Revolving 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;

(iii) declare that all or part of the Revolving Utilisations be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Revolving Facility Lenders;

(iv) declare 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;

(v) 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 Revolving Facility Lenders;

(vi) declare all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities to be immediately due and payable, at which time they shall become immediately due and payable;

(vii) declare that all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Revolving Facility Lenders; and/or
(viii) on or at any time after the occurrence of an Acceleration Event 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) Notwithstanding any other provision of any Finance Document, for the period from the Acquisition Completion Date until the date falling 90 days after the Acquisition Completion Date (the “Clean-Up Period”), any matter or circumstance that exists in respect of the Target Group which would constitute a breach of a representation, undertaking or any other provision or condition of a Finance Document or a Default or an Event of Default, will be deemed not to be a breach of representation or warranty, a breach of covenant or undertaking, a Default or an Event of Default (as the case may be) provided that such breach of representation or warranty, breach of covenant or undertaking, Default or Event of Default (as the case may be):

(i) could not reasonably be expected to have a Material Adverse Effect;

(ii) was not procured or approved by the Obligors’ Agent, any of its shareholders or any member of the Group (provided that knowledge of the Parent, any of its shareholders or any member of the Group shall not amount to procurement by the Parent, any of its shareholders or any member of the Group); and

(iii) is capable of remedy and is remedied before the end of the Clean-up Period, provided that 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 undertaking, a Default or an Event of Default, as the case may be, notwithstanding the above (and without prejudice to the rights and remedies of the Lenders).

(b) Notwithstanding any other provision of any Finance Document, for the period from the closing date of any acquisition not prohibited by the terms of this Agreement (each an “Approved Acquisition”) until the date falling 90 days after the closing date of such Approved Acquisition (the “Acquisition Clean-Up Period”), any matter or circumstance that exists in respect of the entity or business or undertaking which is the direct or indirect subject of the relevant Approved Acquisition which would constitute a breach of a representation, undertaking or any other provision or condition of a Finance Document or a Default or an Event of Default, will be deemed not to be a breach of representation or warranty, a breach of covenant or undertaking, a Default or an Event of Default (as the case may be) provided that such breach of representation or warranty, breach of covenant or undertaking, Default or Event of Default (as the case may be):

(i) could not reasonably be expected to have a Material Adverse Effect;

(ii) was not procured or approved by the Obligors’ Agent, any of its shareholders or any member of the Group (provided that knowledge of the
Parent, any of its shareholders or any member of the Group shall not amount to procurement by the Parent, any of its shareholders or any member of the Group); and

(iii) is capable of remedy and is remedied on or before the end of the Acquisition Clean-up Period,

provided that if the relevant circumstances are continuing after the end of the Acquisition Clean-Up Period, there shall be a breach of representation or warranty, breach of covenant or undertaking, a Default or an Event of Default, as the case may be, notwithstanding the above (and without prejudice to the rights and remedies of the Lenders).

Section 9.

Changes to Parties

29 Changes to the Lenders

29.1 Assignments and transfers by the Lenders

Subject to this Clause 29, a Lender (the “Existing Lender”) may:

(a) assign any of its rights; or

(b) transfer by novation any of its rights and obligations,

under any Finance Document to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (or any other type of person approved by the Obligors’ Agent) (the “New Lender”).

29.2 Conditions of assignment or transfer

(a) Subject to paragraph (m) below, on or prior to the expiry of the Certain Funds Period, no assignment or transfer may be made by any Existing Lender without the prior written consent of the Obligors’ Agent (in its sole discretion) provided that no consent shall be required if the assignment or transfer is to another Lender or an Affiliate of a Lender with a long term credit rating equal to or better than that ascribed for that Existing Lender.

(b) After the expiry of the Certain Funds Period, an assignment, transfer or sub-participation may only be made by any Existing Lender with the prior written consent of the Obligors’ Agent (such consent not to be unreasonably withheld or delayed and if such consent is not given within 5 Business Days of request by an Existing Lender, shall be deemed to have been given) provided that no consent shall be required if the assignment, transfer or sub-participation is:

(i) to another Lender, an Affiliate of a Lender or a Related Fund of a Lender;
(ii) made at a time when an Event of Default is continuing; or

(iii) to an entity on the Approved List.

(c) The Approved List may be amended with the prior written consent of the Agent (acting on the instruction of the Majority Lenders) and the Parent.

(d) No assignment or transfer may be made at any time to a Defaulting Lender without the prior consent of the Obligors’ Agent (and any statement by any New Lender or Existing Lender that is the assignee or transferee in any Transfer Certificate or Assignment Agreement that it is not a Defaulting Lender shall be conclusive evidence of this fact for the purposes of this paragraph (c)) but without prejudice to the other provisions of this Agreement relating to Defaulting Lenders.

(e) An assignment or transfer of part of a Lender’s participation in Facility B must be in a minimum amount of £1,000,000 (or, in the case of any Facility B2 Loans, EUR1,000,000) (in each case when aggregated with its Affiliates’ and Related Funds’ participation that are also being assigned or transferred at that time) or, if less, the whole of its participation and in an amount such that the amount of that Lender’s remaining participation (when aggregated with its Affiliates’ and Related Funds’ participation) in respect of Commitments or Utilisations made under the Facilities is in a minimum amount of £1,000,000 or zero.

(f) An assignment or transfer of part of a Lender’s participation in the Revolving Facility must be in a minimum amount of £2,000,000 (when aggregated with its Affiliates’ and Related Funds’ participation that are also being assigned or transferred at that time) or, if less, the whole of its participation and in an amount such that the amount of that Lender’s remaining participation (when aggregated with its Affiliates’ and Related Funds’ participation) in respect of Commitments or Utilisations made under the Facilities is in a minimum amount of £2,000,000 or zero.

(g) 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 and the Security Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Agent and the Security Agent (as applicable) shall promptly notify to the Existing Lender and the New Lender.
(h) A transfer will only be effective if the New Lender enters into the documentation required for it to accede as a party to the Intercreditor Agreement and if the procedure set out in Clause 29.5 (Procedure for transfer) is complied with.

(i) If:

(i) a Lender assigns, transfers or sub-participates any of its rights or obligations under the Finance Documents or changes its Facility Office; and

(ii) as a result of circumstances existing at the date the assignment, transfer, sub-participation, designation or change occurs an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 18 (Tax Gross-up and Indemnities) or Clause 19 (Increased Costs),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer, sub-participation, designation or change had not occurred.

(j) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.

(k) Any assignment or transfer by an Existing Lender to a New Lender shall only be effective if it transfers or assigns the Existing Lender’s share of the relevant Facility pro rata against the Existing Lender’s Available Commitment and its participation in Utilisations under that Facility.

(l) No Obligor will be liable to pay any fees, costs or expenses in connection with any assignment or transfer by any Lender, including, without limitation, any filing, notary or registration cost necessary to perfect, protect or preserve any Security arising under any Finance Document.

(m) Notwithstanding anything to the contrary in this Agreement, to the extent an Original Lender assigns or transfers prior to the expiry of the Certain Funds Period (in accordance with Clause 29.1 (Assignments and transfers by the Lenders) above) in respect of any of its Commitment, such Original Lender shall:

(i) remain liable to fund the amount of such Commitment during the Certain Funds Period notwithstanding such assignment or transfer of such Commitment and provided further that if the assignee or transferee defaults on its obligation to provide its pro rata share of a Loan to be made during the Certain Funds Period (a “Non-Funding Transferee”) then the Original
Lender which has made the assignment or transfer agrees to provide the amount that the Non-Funding Transferee was obliged to provide up to the amount that such Original Lender had assigned to such non-Funding Transferee and the Borrower agrees to exercise its rights under Clause 41.3 (Replacement of a Lender) to enable an assignment or transfer of the Commitment of the Non-Funding Transferee back to the Original Lender which had assigned or transferred the Commitment to the Non-Funding Transferee as soon as possible after expiry of the Certain Funds Period; and

(ii) unless the Parent provides its written consent, retain the unrestricted right to exercise all voting and similar rights in respect of its Commitments, including for the avoidance of doubt any rights to approve any amendment or waiver until expiry of the Certain Funds Period, free of any obligation to act on the instructions of any other person.

29.3 Assignment or transfer fee

Unless the Agent otherwise agrees and excluding an assignment or transfer to an Affiliate of a Lender, the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of £2,500.

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 Transaction Security or any other documents;

(ii) the financial condition of any Obligor;

(iii) the performance and observance by any Obligor or any other member of the Group of its obligations under the Finance 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 or any other document,

and any representations or warranties implied by law are excluded.

(b) Each New Lender confirms to the Existing Lender, the other Finance Parties and the Secured Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing
Lender or any other Finance Party in connection with any Finance Document; and

(ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

(c) Subject to paragraph (m) of Clause 29.2 (Conditions of assignment or transfer), nothing in any Finance Document obliges an Existing Lender to:

(i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 29; or

(ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance 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 this Agreement and delivered in accordance with this Agreement, execute that Transfer Certificate.

(b) The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.

(c) Subject to Clause 29.11 (Pro rata interest settlement), on the Transfer Date:

(i) subject to paragraph (m) of Clause 29.2 (Conditions of assignment or transfer), to the extent that, in the Transfer Certificate, the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the “Discharged Rights and Obligations”);

(ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other
member of the Group and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

(iii) the Agent, the Arrangers, the Security Agent, the New Lender, the other Lenders, each Issuing Bank and any relevant Ancillary Lender shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Arrangers, the Security Agent, each Issuing Bank and any relevant Ancillary Lender and the Existing Lender shall each be released from further obligations to each other under the Finance Documents;

(iv) the benefit of each Transaction Security Document shall be maintained in favour of the New Lender; and

(v) 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 this Agreement and delivered in accordance with this Agreement, execute that Assignment Agreement.

(b) The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.

(c) On the Transfer Date:

(i) subject to paragraph (m) of Clause 29.2 (Conditions of assignment or transfer), 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) Subject to paragraph (m) of Clause 29.2 (Conditions of assignment or transfer), 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 relevant Obligor or unless in accordance with Clause 29.5 (Procedure for transfer), to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender), provided that they comply with the conditions set out in Clause 29.2 (Conditions of assignment or transfer).

29.7 Sub-participations

(a) Any Lender may, without the consent of or consulting with any Obligor, at any time sub-participate any of its rights or obligations under the Finance Documents or enter into any credit default swap (“CDS”) or equivalent derivative instrument in relation to its rights or obligations under the Finance Documents, provided that:

(i) such Lender remains the Lender of record under this Agreement and remains liable under the Finance Documents for any such obligation;

(ii) the Group will not bear any increased cost or tax gross-up for withholding or deduction liability arising because of, and no Obligor shall be obliged to make any payment under Clause 18 (Tax Gross-up and Indemnities) or Clause 19 (Increased Costs) in relation to, such sub-participation, CDS or equivalent instrument; and

(iii) such Lender retains exclusive and unrestricted right to exercise all voting, consent and similar rights in respect of its Commitments and participations, free of any obligation to act on the instructions of any other person.

(b) Each Lender shall, if requested by the Obligors’ Agent, provide to the Obligors’ Agent information in reasonable detail concerning the identity and participation of any person with whom it has entered into any risk or sub-participation or equivalent arrangement in relation to any of the Facilities.

29.8 Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Obligors’ Agent

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 Obligors’ Agent a copy of that Transfer Certificate, Assignment Agreement or Increase Confirmation. On request from the Obligors’ Agent (not more often than once every three Months), the Agent shall promptly send to the Obligors’ Agent an up-to-date list of all the Lenders, their Commitments in each Facility and their contact details (as known to the Agent).

29.9 Maintenance of Register and provision of Transfer Certificates and Assignment Agreements
(a) The Obligors’ Agent designates the Agent to act as the Obligors’ Agent’s agent to maintain (solely for the purposes of this Clause 29.9) a register (the “Register”) on which it will record the Commitments of and the outstanding amount of the Utilisations owing to each Lender.

(b) Any failure to make or update the Register, or any error in the Register, will not affect any Obligor’s obligations in respect of the Utilisations.

(c) The Agent will promptly update the Register on the relevant Transfer Date or, as the case may be, Assignment Date.

(d) The Agent will provide a copy of the Register to the Obligors’ Agent on request provided that no more than one request may be made in any calendar Month.

29.10 Security over Lenders’ rights

In addition to the other rights provided to Lenders under this Clause 29, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender, including, without limitation:

(a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and

(b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities, except that no such charge, assignment or Security shall:

(i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or other Security for the Lender as a party to any of the Finance Documents; or

(ii) require any payments to be made by an Obligor or grant to any person any more extensive rights other than those required to be made or granted to the relevant Lender under the Finance Documents.

29.11 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 29.11, have been payable to it on that date, but after deduction of the Accrued Amounts.

(b) In this Clause 29.11, references to “Interest Period” shall be construed to include a reference to any other period for accrual of fees.

30 Debt Purchase Transactions

30.1 Permitted Debt Purchase Transactions

(a) The Parent shall not, and shall procure that no member of the Group will (i) enter into any Debt Purchase Transaction or (ii) beneficially own all or any part of the share capital of a company that is a Lender or a party to a Debt Purchase Transaction of the type referred to in paragraph (b) or (c) of the definition of Debt Purchase Transaction, other than, in any such case, in accordance with the other provisions of this Clause 30.

(b) A member of the Group may purchase, pursuant to Clause 29 (Changes to the Lenders), a participation in any Facility B Loan and any related Commitment where:

(i) such purchase is made for a consideration of less than par;

(ii) such purchase is made using one of the processes set out at paragraphs (c) and (d) below;

(iii) the consideration for such purchase is funded from a Shareholder Contribution or Retained Proceeds but not the proceeds of any Revolving Loan; and

(iv) no Default is continuing or would occur as a result of such purchase.
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 12.00 pm on a given Business Day (the “Solicitation Day”) the Parent or a financial institution or entity acting on its behalf (the “Purchase Agent”) will approach at the same time each Lender which participates in Facility B to enable them to offer to sell to the relevant Borrower(s) an amount of their participation in Facility B. Any Lender wishing to make such an offer shall, by 11.00 am on the second Business Day following such Solicitation Day, communicate to the Purchase Agent details of the amount of its participation it is offering to sell and the price at which it is offering to sell such participation. Any such offer shall be irrevocable until 5.00 pm on the fifth Business Day following such Solicitation Day and shall be capable of acceptance by the Parent on behalf of the relevant Borrower(s) on or before such time by communicating its acceptance in writing to the Purchase Agent or, if it is the Purchase Agent, the relevant Lenders. The Purchase Agent (if someone other than the Parent) will communicate to the relevant Lenders which offers have been accepted by 5.00 pm on the fifth Business Day following such Solicitation Day. In any event by 5.00 pm on the sixth Business Day following such Solicitation Date, the Parent 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. The Agent shall promptly disclose such information to the Lenders.

(ii) Any purchase of participations in Facility B pursuant to a Solicitation Process shall be completed and settled on or before the tenth Business Day after the relevant Solicitation Day.

(iii) In accepting any offers made pursuant to a Solicitation Process the Parent shall be free to select which offers and in which amounts it accepts but on the basis that 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 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 Parent (on behalf of the relevant Borrower(s)) may by itself or through another Purchase Agent place an open order (an “Open Order”) to purchase participations in Facility B up to a set aggregate amount at a set price by notifying at substantially the same time all the Lenders participating in Facility B. Any Lender wishing to sell pursuant to an Open Order will, by 11.00 am 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 tenth Business Day, following the date on which the Open
Order is placed, communicate to the Purchase Agent details of the amount
of its participations it is offering to sell. Any such offer to sell shall be
irrevocable until 11.00 am on the fifth Business Day following the date of
such offer from the Lender and shall be capable of acceptance by the Parent
on behalf of the relevant Borrower(s) on or before such time by it
communicating such acceptance in writing to the relevant Lender.

(ii) Any purchase of participations in Facility B pursuant to an Open Order
Process shall be completed and settled by the relevant Borrower(s) on or
before the tenth Business Day after the date of the relevant offer by a Lender
to sell under the relevant Open Order.

(iii) If the Purchase Agent receives on the same Business Day two or more offers
at the set price such that the maximum amount of Facility B would be
exceeded, the Parent shall only accept such offers on a pro rata basis.

(iv) The Parent shall, by 5.00 pm on the Business Day following the date on
which it has purchased any participations in Facility B pursuant to the Open
Order process is placed, notify the Agent of the amounts of the
participations purchased through such Open Order Process. The Agent shall
promptly disclose such information to the Lenders.

(e) For the avoidance of doubt, there is no limit on the number of occasions a
Solicitation Process or an Open Order Process may be implemented.

(f) In relation to any Debt Purchase Transaction entered into pursuant to this Clause
30 notwithstanding any other provision of this Agreement or the other Finance
Documents:

(i) on completion of the relevant assignment or transfer pursuant to Clause 29
(Changes to the Lenders), the portions of Facility B Loans to which it relates
shall, unless it would give rise to any adverse tax consequences or where
the purchaser is not the relevant Borrower, irrevocably be cancelled and
extinguished, provided that where such Facility B Loans are not cancelled
and extinguished, the provisions of Clause 30.2 shall apply to that member
of the Group (but not otherwise);

(ii) such Debt Purchase Transaction and any related cancellation or
extinguishment referred to in paragraph (i) above shall not constitute a
prepayment of the Facilities;

(iii) any member of the Group which is the assignee or transferee 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) following the occurrence of an Event of Default and at all times whilst that Event of Default is continuing, any amount received by an Obligor or a member of the Group as a result of a Debt Purchase Transaction (including, but not limited to, the proceeds of any enforcement) shall be held on trust for distribution to the other Finance Parties (and, to the extent that member of the Group is not party to this Agreement, the Parent shall ensure that that member of the Group enters into an agreement with the Security Agent within 10 Business Days of the occurrence of such event recording that trust) and such Obligor or that member of the Group shall (and the Parent shall ensure that the relevant member of the Group will) promptly (and in any event within 10 Business Days) pay an amount equal to that amount to the Security Agent for application in accordance with Clause 14 (Application of Proceeds) of the Intercreditor Agreement;

(vi) if an Event of Default has occurred and at all times whilst that Event of Default is continuing, any amount that is due to an Obligor or member of the Group (in whatsoever capacity) that enters into a Debt Purchase Transaction and which is received by the Agent in the circumstances described in Clause 35.6 (Partial payments) shall be applied in accordance with that Clause but as if the amount due to that Obligor or member of the Group were due under paragraph (a)(iv) of Clause 35.6 (Partial payments) (and, for the avoidance of doubt, there shall be no obligation on any other Finance Party (and that Obligor or member of the Group shall have no corresponding right) to reimburse, compensate that Obligor or member of the Group in respect thereof or share with that Obligor or member of the Group any payment received under Clause 35.6 (Partial payments) whether or not that Event of Default ceases to be continuing);

(vii) for the avoidance of doubt, any extinguishment of any part of Facility B shall not affect any amendment or waiver which prior to such extinguishment had been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement;

(viii) for the purpose of testing compliance with the financial covenants in Clause 26 (Financial Covenant), any impact of any Debt Purchase Transaction on Consolidated EBITDA shall be ignored; and

(ix) Clause 34 (Sharing among the Finance Parties) shall not be applicable to the consideration paid under such Debt Purchase Transaction.

(g) To the extent such participation is not cancelled and extinguished pursuant to this Clause 30.1, no member of the Group that is a Lender in relation to a participation in a Facility B Loan may assign, transfer or enter into a sub-participation agreement
in respect of that participation or enter into any other agreement or arrangement having a substantially similar economic effect with any person other than to another member of the Group.

30.2 Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates

(a) For so long as a Sponsor Affiliate (i) beneficially owns a Commitment (whether as a result of a Debt Purchase Transaction or otherwise) 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 (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 (a “Consent Request”) under the Finance Documents such Commitment shall be deemed to be zero; and

(ii) for the purposes of Clause 41.3 (Replacement of Lender), such Sponsor Affiliate or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Lender (unless, in the case of a person not being a Sponsor Affiliate, it is a Lender by virtue otherwise than by beneficially owning the relevant Commitment), provided that such Sponsor Affiliate or Lender with which it has entered into a sub-participation only, as the case may be, shall be included as a Lender (and its Commitment shall be included) and entitled to exercise any voting rights to the extent that the Consent Request results or is likely to result in any participation or Commitment in which such Sponsor Affiliate or Lender has an interest being treated differently from the treatment of any participation or commitment of other Lender in the same Facility.

(b) 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 (in its capacity as a Lender) or be entitled to receive the agenda or any minutes of the same; and

(ii) in its capacity as Lender, unless the Agent otherwise agrees, it shall not be entitled to receive any report or other document or information prepared at the behest of, or on the instructions of, the Agent or one or more of the Lenders excluding, for the avoidance of doubt, interest rate notifications and other communications or documents of an administrative nature.

31 Changes to the Obligors

31.1 Assignment and transfers by Obligors
No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

31.2 Additional Borrowers

(a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 25.9 ("Know your customer" checks) and paragraph (c) below, any member of the Group may become a Borrower if:

(i) it is:

(A) incorporated in the same jurisdiction as an existing Borrower;

(B) in the case of a member of the Group which will borrow under an Ancillary Facility only, approved by the relevant Ancillary Lender;

(C) in the case of a member of the Group which will borrow under an Incremental Facility only, approved by the relevant Incremental Facility Lenders; or

(D) otherwise approved by all of the Lenders (for the avoidance of doubt, other than any Defaulting Lender) with a Commitment under the Facilities in respect of which it will become a Borrower;

(ii) the Obligors’ Agent delivers to the Agent:

(A) a duly completed and executed Accession Deed; and

(B) a duly completed accession agreement or deed to the Intercreditor Agreement;

(iii) the Obligors’ Agent confirms that no Default is continuing or would occur as a result of that member of the Group becoming an Additional Borrower; and

(iv) the Agent has received all of the documents and other evidence listed in Part 3 of Schedule 2 (Conditions Precedent) in relation to that Additional Borrower, each in form and substance satisfactory to the Agent (acting reasonably).

(b) The Agent shall notify the 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 specified in paragraph (a)(iv) above.

(c) Subject to paragraph (d) 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 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.

(d) If the accession of an Additional Borrower obliges the Agent, the Security 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, the Security 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 and/or the Security Agent (as applicable) 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 (d) shall be no more extensive than the information provided to satisfy the condition precedent relating to “know your customer” set out in Part 1 (Conditions Precedent to signing of this Agreement) of Schedule 2 (Conditions Precedent).

31.3 Resignation of an Obligor

(a) The Obligors’ Agent may request that an Obligor ceases to be a Borrower by delivering to the Agent a Resignation Letter.

(b) The Obligors’ Agent may request that an Obligor ceases to be a Guarantor by delivering to the Agent a Resignation Letter if:

(i) that Obligor is the subject of a transaction permitted by this Agreement pursuant to which it will cease to be a member of the Group (including by reason of that Obligor, or a Holding Company of that Obligor, being designated as an Unrestricted Subsidiary);

(ii) required in order to implement or facilitate a Permitted Refinancing, a Permitted Reorganisation or a Facility Change or to establish or facilitate the establishment of an Incremental Facility; or

(iii) the Super 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 23.1 (Guarantee and indemnity).
(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 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 (including by reason of that Obligor, or a Holding Company of that Obligor, being designated as an Unrestricted Subsidiary), that Obligor shall automatically cease to be an Obligor and shall have no further rights or obligations under the Finance Documents as an Obligor.

31.4 Additional Guarantors and Transaction Security

(a) The Obligors' Agent may request that any member of the Group become an Additional Guarantor.

(b) A member of the Group shall become an Additional Guarantor if:

(i) the Obligors' Agent has delivered to the Agent:

(A) a duly completed Accession Deed; and

(B) a duly completed accession agreement or deed to the Intercreditor Agreement; and

(ii) the Agent has received (or waived the requirement to receive) all of the documents and other evidence listed Part 3 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 it, acting reasonably) all the documents and other evidence referred to in paragraph (b)(ii) above.

(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 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 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, the Security 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, the Security 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 and/or the Security Agent (as applicable) 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 relating to “know your customer” set out in Part 1 of Schedule 2 (Conditions Precedent)).

31.5 Repetition of Representations

Delivery of an Accession Deed constitutes confirmation by the relevant member of the Group that the representations and warranties referred to in paragraph (c) of Clause 24.29 (Times when representations made) are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

31.6 Release of Security

(a) If requested by the Obligors' Agent in connection with any disposal permitted by the provisions of this Agreement, the Security Agent shall, at the cost of the Obligors' Agent and without recourse, representation or warranty, 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 the resignation of an Obligor in accordance with this Clause 31, a Permitted Reorganisation, a Permitted Refinancing, a Facility Change or when establishing an Incremental Facility, the Security Agent shall, at the cost of the Obligors' Agent and without recourse, representation or warranty, release such assets from the Transaction Security as the Obligors' Agent may require in order to complete or facilitate that resignation, Permitted Reorganisation, that Permitted Refinancing or, as the case may be, that Facility Change or the establishment of that Incremental Facility.

(c) Following any repayment, transfer, push down or other discharge in full of all Utilisations made available to the Borrowers (and, in the case of any merger involving a Borrower, the surviving entity of that merger), if requested by and at the cost of the Obligors' Agent, the Security Agent shall (without recourse, representation or warranty) release all Security and guarantees granted by members of the Group.
Section 10.

The Finance Parties

32 Role of the Agent, The Arrangers, the Issuing Bank and Others

32.1 Appointment of the Agent

(a) Each of the Arrangers, the Lenders and each Issuing Bank appoints the Agent to act as its agent under and in connection with the Finance Documents.

(b) Each of the Arrangers, the Lenders and each Issuing Bank authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

(c) Each of the Arrangers, the Lenders and each Issuing Bank hereby relieves the Agent from the restrictions pursuant to section 181 of the German Civil Code (Bürgerliches Gesetzbuch) and any similar restrictions on self-dealing and representing several persons applicable to it pursuant to any other law, in each case to the extent legally possible to it. An Arranger, Lender or Issuing Bank that is barred by its constitutional documents or by-laws from granting such exemption 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 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 29.8 (Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Obligors’ Agent) and paragraph (e) of Clause 7.4 (Cash Collateral by Non-Acceptable L/C Lender), paragraph (b) above shall not apply to any Transfer Certificate, any Assignment Agreement or any Increase Confirmation.

(d) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(e) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
(f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent, the Arrangers 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 Arrangers

Except as specifically provided in the Finance Documents, the Arrangers have no obligations of any kind to any other Party under or in connection with any Finance Document and, except as specified in paragraph (b) of Clause 41.2 (Exceptions), the consent of the Arrangers is not required for any amendment or waiver to any Finance Document.

32.5 No fiduciary duties

(a) Nothing in any Finance Document constitutes the Agent, the Arrangers and/or an Issuing Bank as a trustee or fiduciary of any other person.

(b) None of the Agent, the Arrangers, the Issuing Banks or any Ancillary Lender, shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

32.6 Business with the Group

The Agent, the Arrangers, each Issuing Bank and each Ancillary Lender may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

32.7 Rights and discretions

(a) The Agent and the Issuing Banks may:

(i) rely on any representation, communication, notice or document (including, without limitation, any notice given by a Lender pursuant to paragraph (b) of Clause 30.2 (Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates)) believed by it to be genuine, correct and appropriately authorised;

(ii) assume that:

(A) any instructions received by it from the Majority Lenders, any Lenders or any group of Lenders are duly given in accordance with the provisions 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;

(iii) any notice or request made by the Obligors’ Agent (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors; and

(iv) no Notifiable Debt Purchase Transaction:

(A) has been entered into;

(B) has been terminated; or

(C) has ceased to be with a Sponsor Affiliate.

(c) The Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.

(d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be desirable.

(e) The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.

(f) The Agent may act in relation to the Finance Documents through its officers, employees and agents and the Agent shall not:
(i) be liable for any error of judgment made by any such person; or

(ii) be bound to supervise, or be in any way responsible for, any loss incurred by reason of misconduct, omission or default on the part of any such person, unless such error or such loss was directly caused by the Agent’s gross negligence or wilful misconduct.

(g) Unless a Finance Document expressly provides otherwise the Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

(h) Without prejudice to the generality of paragraph (g) above, the Agent:

(i) may disclose; and

(ii) on the written request of the Obligors’ Agent or the Majority Lenders shall, as soon as reasonably practicable, disclose,

the identity of a Defaulting Lender to the Obligors’ Agent and to the other Finance Parties.

(i) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent, the Arrangers or the Issuing Bank is obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality. In particular, and for the avoidance of doubt, nothing in any Finance Document shall be construed so as to constitute an obligation of the Agent, the Arranger or the Issuing Bank to perform any services which it would not be entitled to render pursuant to the provisions of the German Act on Rendering Legal Services (Rechtsdienstleistungsgesetz) or pursuant to the provisions of the German Tax Advisory Act (Steuerberatungsgesetz) or any other services that require an express official approval, licence or registration, unless the Agent, the Arranger or the Issuing Bank (as the case may be) holds the required approval, licence or registration.

(j) Notwithstanding any provision of any Finance Document to the contrary, the Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

32.8 Responsibility for documentation

None of the Agent, the Arrangers, the Issuing Banks or any Ancillary Lender is responsible or liable for:
the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, the Arrangers, the Issuing Bank, an Ancillary Lender, an Obligor or any other person in or in connection with any Finance Document 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; or

(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 Issuing Bank or any Ancillary Lender), none of the Agent, the Issuing Bank nor any Ancillary Lender will be liable for:

(i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Transaction Security unless directly caused by its gross negligence or wilful misconduct;

(ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Transaction Security unless directly caused by its gross negligence or wilful misconduct; or
(iii) without prejudice to the generality of paragraphs (i) and (ii) above, any 
damages, costs or losses to any person, any diminution in value or any 
liability whatsoever arising as a result of:

(A) any act, event or circumstance not reasonably within its control; or

(B) the general risks of investment in, or the holding of assets in, any 
jurisdiction,

including (in each case and without limitation) such damages, costs, losses, 
diminution in value or liability arising as a result of: nationalisation, expropriation 
or other governmental actions; any regulation, currency restriction, devaluation or 
fluctuation; market conditions affecting the execution or settlement of transactions 
or the value of assets (including any Disruption Event); breakdown, failure or 
malfunction of any third party transport, telecommunications, computer services 
or systems; natural disasters or acts of God; war, terrorism, insurrection or 
revolution; or strikes or industrial action.

(b) No Party (other than the Agent, the Issuing Bank or an Ancillary Lender (as 
applicable)) may take any proceedings against any officer, employee or agent of 
the Agent, the Issuing Bank or any Ancillary Lender, in respect of any claim it 
might have against the Agent, the Issuing Bank or an Ancillary Lender or in respect 
of any act or omission of any kind by that officer, employee or agent in relation to 
any Finance Document or any Finance Document and any officer, employee or 
agent of the Agent, the Issuing Bank or any Ancillary Lender may rely on this 
Clause subject to Clause 1.4 (Third party rights) and the provisions of the Third 
Parties Act.

(c) The Agent will not be liable for any delay (or any related consequences) in crediting 
an account with an amount required under the Finance Documents to be paid by the 
Agent if the Agent has taken all necessary steps as soon as reasonably practicable 
to comply with the regulations or operating procedures of any recognised clearing 
or settlement system used by the Agent for that purpose.

(d) Nothing in this Agreement shall oblige the Agent or an Arranger to carry out:

(i) any “know your customer” or other checks in relation to any person; or

(ii) any check on the extent to which any transaction contemplated by this 
Agreement might be unlawful for any Lender,

on behalf of any Lender and each Lender confirms to the Agent and the 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 an Arranger.

(e) Without prejudice to any provision of any Finance Document excluding or limiting 
the Agent’s liability, any liability of the Agent arising under or in connection with 
any Finance Document or the Transaction Security shall be limited to the amount 
of actual loss which has been finally judicially determined to have been suffered
(as determined by reference to the date of default of the Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent at any time which increase the amount of that loss. In no event shall the Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent has been advised of the possibility of such loss or damages.

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 an Obligor pursuant to a Finance Document).

(b) Subject to paragraph (c) below, the Obligors’ Agent shall within three Business Days of demand reimburse (or procure the reimbursement of) any Lender for any payment that Lender makes to the Agent pursuant to paragraph (a) above.

(c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Agent to an Obligor.

32.12 Resignation of the Agent

(a) The Agent may resign and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving not less than five Business Days’ notice to the Lenders and the Obligors’ Agent.

(b) Alternatively the Agent may resign by giving 30 days’ notice to the Lenders and the Obligors’ Agent, in which case the Majority Lenders (after consultation with the Obligors’ Agent) may appoint a successor Agent.

(c) If the relevant Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Agent (after consultation with the Obligors’ Agent) may appoint a successor Agent (acting through an office in the United Kingdom).

(d) If the Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Agent is entitled to appoint
a successor Agent under paragraph (c) above, the Agent may, after consultation with the Obligors’ Agent and the Lenders, (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent to become a party to this Agreement as Agent) agree with the proposed successor Agent amendments to this Clause 32 and any other provision of this Agreement dealing with the rights or obligations of the Agent consistent with then current market practice for the appointment and protection of corporate trustees (provided such changes are not adverse to the interests of the other Finance Parties) and those amendments will bind the Parties, provided that no such amendments shall require any additional payment by any member of the Group or otherwise increase the liability of any Obligor in any material respect without the prior consent of the Obligors’ Agent.

(e) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.

(f) The Agent’s resignation notice shall only take effect upon the appointment of a successor.

(g) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (except in respect of the distribution of any money held by it in its capacity as Agent) but shall remain entitled to the benefit of this Clause 32. Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

(h) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (c) above) if on or after the date which is three Months after the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:

(i) the Agent fails to respond to a request under Clause 18.8 (FATCA Information) and the Obligors’ Agent or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

(ii) the information supplied by the Agent pursuant to Clause 18.8 (FATCA Information) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or

(iii) the Agent notifies the Obligors’ Agent 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 Obligors’ Agent 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 Obligors’ Agent or that Lender, by notice to the Agent, requires it to resign.

32.13 Replacement of the Agent

(a) After consultation with the Obligors’ Agent, the Majority Lenders may, by giving 30 days’ notice to the Agent (or, at any time the Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Lenders) replace the Agent by appointing a successor Agent (acting through an office in the United Kingdom).

(b) The retiring Agent shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Lenders) make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.

(c) The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Lenders to the retiring Agent. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) above) but shall remain entitled to the benefit of 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 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.

32.15 Relationship with the Lenders

(a) Subject to Clause 29.11 (Pro rata interest settlement), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent’s principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:

(i) entitled to or liable for any payment due under any Finance Document on that day; and
(ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days’ prior notice from that Lender to the contrary in accordance with 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 dispatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 37.6 (Electronic communication)) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 37.2 (Addresses) and paragraph (a)(iii) 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.

32.16 Credit appraisal by the Lenders, Issuing Banks and Ancillary Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender, Issuing Bank and Ancillary Lender confirms to the Agent, the Arrangers, the Issuing Banks and each Ancillary Lender that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document, including, but not limited to:

(a) the financial condition, status and nature of each member of the Group;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

(c) whether that Lender, Issuing Bank or Ancillary Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

(d) the adequacy, accuracy and/or completeness of any information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other
agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

(e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

32.17 Deduction from amounts payable by the 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.

32.18 Reliance and engagement letters

Each Finance Party and Secured Party confirms that each of the Arrangers and the Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Arrangers or Agent) the terms of any reliance letter or engagement letters relating to any reports (including, without limitation, the Reports) or letters provided by accountants or other advisers in connection with the Finance Documents or the transactions contemplated in the Finance Documents and to bind it in respect of 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) Subject to paragraph (b) below, if a Finance Party (a “Recovering Finance Party”) receives or recovers any amount from an Obligor, other than in accordance with Clause 35 (Payment Mechanics) (a “Recovered Amount”), and applies that amount to a payment due under the Finance Documents, then:

(i) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the 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.

34.2 Redistribution of payments

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) (the “Sharing Finance Parties”) in accordance with Clause 35.6 (Partial payments) towards the obligations of that Obligor to the Sharing Finance Parties.

34.3 Recovering Finance Party’s rights

On a distribution by the Agent under Clause 34.2 (Redistribution of payments) of a payment received by a Recovering Finance Party from an Obligor, as between the relevant Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Obligor.

34.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

(a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the “Redistributed Amount”); and

(b) as between the relevant Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.

34.5 Exceptions
(a) This Clause 34 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause 34, have a valid and enforceable claim against the relevant Obligor.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified the other Finance Party of the legal or arbitration proceedings; and

(ii) the other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

34.6 Ancillary Lenders

(a) This Clause 34 shall not apply to any receipt or recovery by a Lender in its capacity as an Ancillary Lender at any time prior to service of notice under Clause 28.14 (Acceleration).

(b) Following service of notice under Clause 28.14 (Acceleration), this Clause 34 shall apply to all receipts or recoveries by Ancillary Lenders, except to the extent that the receipt or recovery represents a reduction from the Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Net Outstandings.
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35 Payment Mechanics

35.1 Payments to the Agent

(a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document (excluding a payment under an Ancillary Document), that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Agent) 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 an Obligor) 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.

35.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with Clause 36 (Set-Off)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

35.4 Clawback

(a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) If the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall, on demand, refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.
35.5 Impaired Agent

(a) If, at any time, the Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Agent in accordance with Clause 35.1 (Payments to the Agent) may instead either:

(i) pay that amount direct to the required recipient(s); or

(ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank within the meaning of paragraph (a) of the definition of “Acceptable Bank” and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Obligor or the Lender making the payment (the “Paying Party”) and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the “Recipient Party” or “Recipient Parties”).

In each case, such payments must be made on the due date for payment under the Finance Documents.

(b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties pro rata to their respective entitlements.

(c) A Party which has made a payment in accordance with this Clause 35.5 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.

(d) Promptly upon the appointment of a successor Agent in accordance with Clause 32.13 (Replacement of the Agent), each Paying 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 an Obligor under those Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under those Finance Documents in the following order:

(i) first, in or towards payment pro rata of any unpaid fees, costs and expenses of the Agent, the Issuing Banks and the Security Agent under those Finance Documents;
(ii) **secondly**, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under those Finance Documents;

(iii) **thirdly**, in or towards payment *pro rata* of any principal due but unpaid under those Finance Documents and any amount due but unpaid under Clause 7.2 (**Claims under a Letter of Credit**) and Clause 7.3 (**Indemnities**); and

(iv) **fourthly**, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.

(b) Paragraph (a) above will override any appropriation made by an Obligor.

35.7 **Set-off by Obligors**

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

35.8 **Business Days**

(a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar Month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement, interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

35.9 **Currency of account**

(a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.

(b) A repayment of a Utilisation or Unpaid Sum or a part of a Utilisation or Unpaid Sum shall be made in the currency in which that Utilisation or Unpaid Sum is denominated on its due date.

(c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

(d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

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 Obligors’ Agent); 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 Obligors’ Agent) 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 acting reasonably) that a Disruption Event has occurred or the Agent is notified by the Obligors’ Agent that a Disruption Event has occurred:

(a) the Agent may, and shall if requested to do so by the Obligors’ Agent, consult with the Obligors’ Agent with a view to agreeing with the Obligors’ Agent such changes to the operation or administration of the Facilities as the Agent, acting reasonably, may deem necessary in the circumstances;

(b) the Agent shall not be obliged to consult with the Obligors’ Agent in relation to any changes mentioned in paragraph (a) above if, in its opinion acting reasonably, 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 Obligors’ Agent 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 provisions 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 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

(a) Subject to Clause 4.4 (Utilisations during the Certain Funds Period), a Finance Party may, at any time after an Event of Default has occurred and for so long as it is continuing, set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

(b) Any credit balances taken into account by an Ancillary Lender when operating a net limit in respect of any overdraft under an Ancillary Facility shall, on enforcement of the Finance Documents, be applied first in reduction of the overdraft provided under that Ancillary Facility in accordance with its terms.

37 Notices

37.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

37.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Parent and the Company, that identified with its name below;

(b) in the case of each Lender, each Issuing Bank, each Ancillary Lender or any other Obligor, that identified with its name below or 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 with its name below, or any substitute address, fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days’ notice.

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 an Obligor shall be sent through the Agent.

(d) Any communication or document made or delivered to the Obligors’ Agent in accordance with this Clause 37.3 will be deemed to have been made or delivered to each of the Obligors.

(e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5 p.m. (London time) in the place of receipt shall be deemed only to become effective on the following day

37.4 Notification of address and fax number

Promptly upon changing its own 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 to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
(i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(iii) notify each other of any change to their address or any other such information supplied by them.

(b) Any electronic communication made in accordance with paragraph (a) above will be effective only when actually received in readable form and in the case of any electronic communication made by a Lender to the Agent or the Security Agent only if it is addressed in such a manner as the Agent or Security Agent shall specify for this purpose.

37.7 Use of websites

(a) The Obligors’ Agent and/or the Company may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the “Website Lenders”) who accept this method of communication by posting that information (or having the Agent post that information) onto an electronic website designated by the Obligors’ Agent and/or the Company and the Agent (the “Designated Website”) if:

(i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;

(ii) the Obligors’ Agent and/or the Company and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and

(iii) the information is in a format previously agreed between the Obligors’ Agent and the Agent.

If any Lender (a “Paper Form Lender”) does not agree to the delivery of information electronically, then the Agent shall notify the Obligors’ Agent accordingly and the Obligors’ Agent shall at its own cost supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event, the Obligors’ Agent shall, if requested by the Agent, at its own cost supply the Agent with at least one copy in paper form of any information required to be provided by it.

(b) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Obligors’ Agent and the Agent.

(c) The Obligors’ Agent shall promptly upon becoming aware of its occurrence notify the Agent if:
(i) the Designated Website cannot be accessed due to technical failure;

(ii) the password specifications for the Designated Website change;

(iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;

(iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

(v) the Obligors’ Agent becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Obligors’ Agent notifies the Agent under paragraph (c)(i) or (c)(v) above, all information to be provided by the Obligors’ Agent and/or the Company under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent is satisfied that the circumstances giving rise to the notification are no longer continuing.

(d) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Obligors’ Agent shall, at its own cost, comply with any such request within 10 Business Days.

37.8 English language

(a) Any notice given under or in connection with any Finance Document must be in English.

(b) All other documents (other than the constitutional documents of any Obligor) provided under or in connection with any Finance Document must be:

(i) in English; or

(ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

38 Calculations and Certificates

38.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are prima facie evidence of the matters to which they relate.

38.2 Certificates and determinations
Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, prima facie evidence of the matters to which it relates.

38.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 or 365 days or otherwise, depending on and in accordance with market practice in the Relevant Market.

39 Partial Invalidity

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

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 the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

41 Amendments and Waivers

41.1 Required consents

(a) Subject to Clause 41.2 (Exceptions), any provision of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Obligors’ Agent and any such amendment or waiver will be binding on all Parties.

(b) The Agent (or in relation to a Transaction Security Document, the Security Agent) may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 41.

(c) Each Obligor agrees to any such amendment or waiver permitted by this Clause 41 which is agreed to by the Obligors’ Agent. This includes any amendment or waiver which would, but for this paragraph (c), require the consent of all of the Guarantors.

41.2 Exceptions

(a) An amendment or waiver of the following:

   (i) the definition of “Majority Lenders” or “Super Majority Lenders” in Clause 1.1 (Definitions) or “Facility Change” in this Clause 41;

   (ii) the definition of “Change of Control” in Clause 1.1 (Definitions);
(iii) any provision which expressly requires the consent of all the Lenders;

(iv) Clause 2.3 (Finance Parties’ rights and obligations) subject to paragraph (g) below, Clause 29 (Changes to the Lenders), Clause 34 (Sharing among the Finance Parties), this Clause 41, Clause 47 (Governing Law) or Clause 48.1 (Jurisdiction of English courts); or

(v) any material provision of Clause 2 (Ranking and Priority), Clause 9 (Effect of Insolvency Event), Clause 12 (Enforcement of Transaction Security), Clause 13 (Proceeds of disposals and adjustment of mandatory prepayments), Clause 14.1 (Order of Application), Clause 17.4 (Instructions to Security Agent and exercise of discretion) or Clause 29 (Governing law) of or the definition of “Instructing Group” in the Intercreditor Agreement (in each case to the extent relating to the rights and/or obligations of the Lenders (in such capacity) under any such clause),

(except in any such case amendments or waivers consequential on, incidental to or required to implement or reflect a Facility Change, an Incremental Facility or a Permitted Refinancing where, in each such case, no Lender consent shall be required) shall not be made without the prior consent of all the Lenders.

(b) A change to the Borrowers or Guarantors other than in accordance with Clause 31 (Changes to the Obligors) shall require the consent of each Lender under each Facility in respect of which such entity is a Borrower or Guarantor.

(c) An amendment or waiver which relates to the rights or obligations of the Agent, the Arrangers, the Issuing Banks, the Security Agent or any Ancillary Lender (each in their capacity as such) may not be effected without the consent of the Agent, the Arrangers, the Issuing Banks, the Security Agent or, as the case may be, that Ancillary Lender. No amendment or waiver of a provision of any Fee Letter or any other side letter relating to the Finance Documents shall require the consent of any Finance Party other than a Finance Party which is a party to such Fee Letter or any other side letter relating to the Finance Documents.

(d) Each Party hereby irrevocably authorises the Agent to execute on its behalf any amendment required to be made to the Agreement by a Lender who has agreed to become an additional Issuing Bank pursuant to Clause 6.10 (Appointment of additional Issuing Banks) provided that such amendment does not prejudice the rights of any other Party under this Agreement.

(e) An amendment or waiver that has the effect of changing the definition of “Change of Control” in Clause 1.1 (Definitions) shall not be made without the prior consent of all Lenders.

(f) Other than:

(i) pursuant to Clause 31.6 (Release of Security);
(ii) on repayment and cancellation in full of the Facilities;

(iii) in connection with incurring Indebtedness to refinance the Facility or to implement a Facility Change or an Incremental Facility;

(iv) in the case of a disposal not prohibited under this Agreement or Permitted Transaction; or

(v) where otherwise expressly provided for in the Finance Documents,

where, in each case, approval will be automatic and the Finance Parties shall (on the request and at the cost of the Obligors’ Agent) execute any required release documents, any release of any guarantee and indemnity granted under Clause 23 (Guarantee and Indemnity) or of any Transaction Security created by any of the Transaction Security Documents, any release of all or substantially all of the Transaction Security and/or the release of any Guarantor shall not be made without the prior consent of the Super Majority Lenders. Any amendment, change or waiver of this paragraph (f) shall also require the prior consent of the Super Majority Lenders.

(g) Any amendment or waiver which relates to the rights or obligations applicable to a particular Utilisation, Facility or class of Lenders and which does not materially and adversely affect the rights or interests of Lenders in respect of other Utilisations, Facilities or another class of Lender shall only require the consent of the Majority Lenders or the Lenders (as applicable) as if references in this paragraph (g) to “Majority Lenders” or “Lenders” were only to Lenders participating in that Utilisation, Facility or forming part of that affected class.

(h) For the avoidance of doubt, subject to paragraph (i) below, any amendment (including a waiver of a right of prepayment) under Clause 12 (Mandatory Prepayment) may be approved with the consent of the Majority Lenders.

(i) A Facility Change may be approved with the consent of the Majority Lenders and each Lender that is assuming a Commitment or an increased Commitment in the relevant Loan or Facility or whose Commitment is being extended or redenominated or to whom any amount is due and payable which is being reduced deferred or redenominated (as the case may be).

(j) For the purposes of this Agreement “Facility Change” means an amendment, waiver or variation of the provisions of some or all of the Finance Documents that results or is intended to result in:

(i) the introduction of an additional loan, commitment or facility into the Finance Documents (provided that any such additional loan, commitment or facility does not rank on an enforcement or in an insolvency situation ahead of other utilisations by virtue of this Agreement, in each case subject to customary exceptions for fees, costs, expenses and other similar amounts, including as contemplated by the provisions of the Intercreditor Agreement);
(ii) an increase in or addition of a Commitment;

(iii) any extension of the Availability Period in respect of any Commitment of any Lender;

(iv) any redenomination into another currency of any Commitment;

(v) a reduction in any Margin or a reduction in any payment of principal, interest, fees, commission or other amount payable under the Finance Documents;

(vi) an extension to the date of payment of any principal, interest, fees, commission or other amount payable under the Finance Documents (including, for the avoidance of doubt, any amendment to the entitlement to require repayment and cancellation upon the occurrence of a Change of Control or a Sale pursuant to Clause 12.1 (Exit));

(vii) a change in currency of payment of any principal, interest, fees, commission or other amount payable under the Finance Documents; and

(viii) any change (including changes to, the taking of or the release coupled with the retaking of Security and/or guarantees and changes to and/or additional intercreditor arrangements), waiver or amendment to the Finance Documents consequential on or required to implement or reflect anything described above in paragraphs (i) to (vii).

(k) Subject to compliance with paragraph (b) of Clause 9.3 (Terms of Ancillary Facilities), no amendment or waiver of a provision of any Ancillary Document shall require the consent of any Finance Party other than the relevant Ancillary Lender.

(l) Any Default, Event of Default, Acceleration Event or notice, demand, declaration or other step or action taken under or pursuant to Clause 28.14 (Acceleration) (including any event constituting a Declared Default) may be revoked or, as the case may be, waived:

(i) in the case of any notice, demand, declaration or other step or action taken under or pursuant to paragraph (b) of Clause 28.14 (Acceleration) (including a Declared Default) or a Default or Event of Default continuing under or pursuant to Clause 28.2 (Financial covenant), with the consent of the Majority Revolving Facility Lenders; and

(ii) in all other cases, with the consent of the Majority Lenders. with the consent of the Majority Lenders.

(m) Any amendment or waiver of Clause 26.1 (Financial condition) or Clause 26.2 (Equity Cure) may be approved with only the consent of the Majority Revolving Facility Lenders. Any amendment of this paragraph (m) shall also require the prior consent of the Majority Revolving Facility Lenders.
Without prejudice to Clause 31.6 (Release of Security) and subject to paragraph (o) below, unless the provisions of any Finance Document expressly provide otherwise, the Security Agent may, if authorised by the Majority Lenders, amend the provisions of, waive any of the requirements of, or grant consents under, any of the Security Documents (and any such amendment, waiver or consent shall be binding on all Finance Parties).

Any provision of the Finance Documents (other than any Ancillary Document) may be amended or waived by the Obligors’ Agent and the Agent (or, if applicable, the Security Agent) without the consent of any other Party if that amendment or waiver is:

(i) to cure defects or omissions, resolve ambiguities or inconsistencies or reflect changes of a minor, technical or administrative nature; or

(ii) otherwise for the benefit of all or (to the extent not materially prejudicial to the interests of any other Lender under the Finance Documents) any of the Lenders.

Notwithstanding anything to the contrary in the Finance Documents, any redesignation 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 Incremental Facility or pursuant to a Facility Change or any other provision 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 Obligors' Agent (without any requirement for any consent or approval from any other person).

Notwithstanding anything to the contrary in the Finance Documents:

(i) a Finance Party may unilaterally waive, relinquish or otherwise irrevocably surrender or give up all or any of its rights under any Finance Document (including any right to any payment) with the consent of the Obligors’ Agent; and

(ii) any amendment or waiver of a Finance Document made or effected in accordance with any paragraph of this Clause 41.2, Clause 2.2 (Increase - general), Clause 2.5 (Incremental Facilities), Clause 25.3 (Requirements as to financial statements) or any other provision of any of the Finance Documents shall be binding on all Parties.

Each Finance Party irrevocably and unconditionally authorises and instructs the Agent (for the benefit of the Agent and the Obligors’ Agent) to execute any documentation relating to a proposed amendment or waiver as soon as the requisite Lender consent is received (or on such later date as may be agreed by the Agent and the Obligors’ Agent).
(s) If a Lender does not accept or reject a request from any member of the Group (or the Obligors’ Agent or the Agent on behalf of any member of the Group) for any consent, amendment, release or waiver under the Finance Documents, and/or a request from the Agent for any instructions or directions under or in connection with the Finance Documents, in each case before 5.00 p.m. (London time) on the date falling 10 Business Days from the date of such request being made (or such longer period of time specified by the relevant member of the Group in that request), that Lender’s participations and Commitment shall not be included when considering whether the approval of the Majority Lenders, the Super Majority Lenders, all Lenders or any class of Lenders (as applicable) has been obtained in respect of the relevant request.

41.3 Replacement of Lender

(a) If, at any time:

(i) any Lender becomes a Non-Consenting Lender (as defined in paragraph (c) below);

(ii) an Obligor becomes obliged to repay any amount in accordance with Clause 11.1 (Illegality) or to pay additional amounts pursuant to Clause 19.1 (Increased Costs) or Clause 18.2 (Tax Gross-Up) or 18.3 (Tax Indemnity) to any Lender (an “Increased Costs Lender”);

(iii) any Lender fails to promptly enter into any document (including an amendment to this Agreement or any other Finance Document to which that Lender is a Party) after being requested to do so by the Obligors’ Agent, Agent or the Security Agent in connection with a Permitted Refinancing;

(iv) any Lender is a Defaulting Lender,

then the Obligors’ Agent may, on not less than three Business Days’ prior written notice to the Agent and such Lender,

(A) replace such Lender by requiring such Lender to (and such Lender shall) transfer, in accordance with Clause 29 (Changes to the Lenders), all (and not part only) of its rights and obligations under this Agreement to a Lender or other bank, financial institution, trust, fund or other entity (a “Replacement Lender”) selected by the Obligors’ Agent (not being a member of the Group or Sponsor Affiliate), and which, in the case of any transfer of a Revolving Facility Commitment, is acceptable to the Issuing Banks (unless the transferred liability in respect of a Letter of Credit has been cash collateralised or otherwise repaid or the transfer is to a bank, fund or financial institution with a long term credit rating of at least A-/A3), which confirms its willingness to assume and does assume all the obligations of the transferring Lender (including the assumption
of the transferring Lender’s participations on the same basis as the transferring Lender), and/or

(B) prepay that Lender (provided it is not a member of the Group or Sponsor Affiliate); and/or

(C) cancel all Commitments of that Lender,

for a purchase price in cash payable at the time of transfer equal to the outstanding principal amount of such Lender’s participation in the outstanding Utilisations and all accrued interest and/or Letter of Credit fees, Break Costs and other amounts payable in relation thereto under the Finance Documents. If a Lender does not execute and return to the Agent any Transfer Certificate required to effect any such replacement within three Business Days of being requested to do so the Obligors’ Agent shall execute (and is irrevocably authorised by each party to this Agreement to execute) any required Transfer Certificate on behalf of that Lender.

(b) The replacement of a Lender pursuant to this Clause 41.3 shall be subject to the following conditions:

(i) the Obligors’ Agent shall have no right to replace the Agent or Security Agent (in each case in such capacity);

(ii) neither the Agent nor the Lender shall have any obligation to the Obligors’ Agent to find a Replacement Lender;

(iii) in the event of a replacement of a Non-Consenting Lender, such replacement must take place no later than 60 days after the date the Non-Consenting Lender notifies the Obligors’ Agent and the Agent of its failure or refusal to give a consent in relation to, or agree to any waiver or amendment to the Finance Documents requested by the Obligors’ Agent; and

(iv) in no event shall the Lender replaced under this Clause 41.3 be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents.

(c) In the event that:

(i) the Obligors’ Agent or the Agent (at the request of the Obligors’ Agent) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents;

(ii) the consent, waiver or amendment in question requires the approval of more than the Majority Lenders; and

(iii) the Majority Lenders (or the Majority Lenders under the relevant Facility as the case may be) have consented or agreed to such waiver or amendment,
then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a “Non-Consenting Lender”.

41.4 Disenfranchisement of Defaulting Lenders

(a) Unless otherwise agreed by the Obligors’ Agent, for so long as a Lender is a Defaulting Lender that Lender’s participations and Commitments shall not be included when considering whether the approval of the Majority Lenders, the Super Majority Lenders, all Lenders or any class of Lenders (as applicable) has been obtained in respect of any request from any member of the Group (or the Obligors’ Agent or the Agent on behalf of any member of the Group) for any consent, amendment, release or waiver under the Finance Documents.

(b) For the purposes of this Clause 41.4, the Agent may assume that the following Lenders are Defaulting Lenders:

(i) any Lender which has notified the Agent that it has become a Defaulting Lender; and

(ii) any Lender in relation to which it is aware that any of the events or circumstances referred to in the definition of “Defaulting Lender” has occurred,

unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

41.5 Replacement of Screen Rate

If a Screen Rate Replacement Event has occurred in relation to any Screen Rate for a currency which can be selected for a Loan, any amendment or waiver which relates to:

(a) providing for the use of a Replacement Benchmark in relation to that currency in place of that Screen Rate; and

(b)

(i) aligning any provision of any Finance Document to the use of that Replacement Benchmark;

(ii) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);

(iii) implementing market conventions applicable to that Replacement Benchmark;
(iv) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or

(v) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Parent.

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 42.2 (Disclosure of Confidential Information) and Clause 42.3 (Disclosure to numbering service providers), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

42.2 Disclosure of Confidential Information

Any Finance Party may disclose:

(a) (on a need to know basis) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives who are involved in managing or advising it in respect of its participation in the Finance Documents or have oversight over it or otherwise require access to such information in performance of their employment or, as the case may be, professional duties, 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 and agrees to keep that information confidential in accordance with this Clause 42, except that there shall be no such requirement to so inform or obtain such agreement 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 potentially succeeds) it as Agent
or Security Agent and to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;

(ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;

(iii) appointed by any Finance Party or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of Clause 32.15 (Relationship with the Lenders));

(iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above,

(v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;

(vi) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 29.10 (Security over Lenders’ rights);

(vii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;

(viii) who is a Party;

(ix) (in the case of the Security Agent) who is a Receiver; or

(x) with the consent of the Obligors’ Agent,

in each case, such Confidential Information as that Finance Party (acting reasonably) shall consider appropriate if:

(A) in relation to paragraphs (b)(i), (b)(ii) and (b)(iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
(B) in relation to paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information; or

(C) in relation to paragraphs (b)(v), (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party (acting reasonably), it is not practicable so to do in the circumstances;

(c) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents, including, without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form agreed between the Obligors’ Agent and the relevant Finance Party; and

(d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price sensitive information.

42.3 Disclosure to numbering service providers

(a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facilities and/or one or more Obligors the following information:

(i) names of Obligors;

(ii) country of domicile of Obligors;

(iii) place of incorporation of Obligors;

(iv) date of this Agreement;

(v) Clause 47 (Governing law);
(vi) the names of the Agent and the Arrangers;
(vii) date of each amendment and restatement of this Agreement;
(viii) amounts and names of the Facilities (and tranches);
(ix) amount of Total Commitments;
(x) currencies of the Facilities;
(xi) type of Facilities;
(xii) ranking of Facilities;
(xiii) the applicable Maturity Date for Facilities;
(xiv) changes to any of the information previously supplied pursuant to paragraphs (i) to (xiii) above; and
(xv) such other information agreed between such Finance Party and the Obligors’ Agent,
to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

(b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

(c) The Agent shall notify the Obligors’ Agent and the other Finance Parties of:

(i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facilities and/or one or more Obligors; and
(ii) the number or, as the case may be, numbers assigned to this Agreement, the Facilities and/or one or more Obligors by such numbering service provider.

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 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 and copies of Confidentiality Undertakings

(a) Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Obligors’ Agent:

(i) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 42.2 (Disclosure of Confidential Information) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(ii) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 42.

(b) Each Finance Party that has entered into a Confidentiality Undertaking with a recipient of Confidential Information pursuant to paragraph (b)(x)(A) of Clause 42.2 (Disclosure of Confidential Information), shall promptly provide the Obligors’ Agent with a copy of such Confidentiality Undertaking.

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 Obligors under or in connection with the Finance Documents have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and

(b) the date on which such Finance Party otherwise ceases to be a Finance Party.

43 Confidentiality of Funding Rates

43.1 Confidentiality and disclosure

(a) The Agent and each Obligor agree to keep each Funding Rate confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b) and (c) below.

(b) The Agent may disclose:

(i) any Funding Rate to the relevant Borrower pursuant to Clause 14.4 (Notification of rates of interest); and
any Funding Rate to any person appointed by it to provide administration
services in respect of one or more of the Finance Documents to the extent
necessary to enable such service provider to provide those services if the
service provider to whom that information is to be given has entered into a
confidentiality agreement substantially in the form of the LMA Master
Confidentiality Undertaking for use with Administration/Settlement
Service Providers or such other form of confidentiality undertaking agreed
between the Agent and the relevant Lender.

(c) The Agent may disclose any Funding Rate, and each Obligor may disclose any
Funding Rate, to:

(i) any of its Affiliates and any of its or their officers, directors, employees,
professional advisers, auditors, partners and Representatives if any person
to whom that Funding Rate is to be given pursuant to this paragraph (i) is
informed in writing of its confidential nature and that it may be price-
sensitive information except that there shall be no such requirement to so
inform if the recipient is subject to professional obligations to maintain the
confidentiality of that Funding Rate or is otherwise bound by requirements
of confidentiality in relation to it;

(ii) any person to whom information is required or requested to be disclosed by
any court of competent jurisdiction or any governmental, banking, taxation
or other regulatory authority or similar body, the rules of any relevant stock
exchange or pursuant to any applicable law regulation if the person to whom
that Funding Rate is to be given is informed in writing of its confidential
nature that it may be price-sensitive information except that there shall be
no requirement to so inform if, in the opinion of the Agent or the relevant
Obligor, as the case may be, it is not practicable to do so in the
circumstances;

(iii) any person to whom information is required to be disclosed in connection
with, and for the purposes of, any litigation, arbitration, administrative or
other investigations, proceedings or disputes if the person to whom that
Funding Rate is to be given is informed in writing of its confidential
nature and that it may be price-sensitive information except that there shall be
no requirement to so inform if, in the opinion of the Agent or the relevant
Obligor, as the case may be, it is not practicable to do so in the
circumstances; and

(iv) any person with the consent of the relevant Lender.

43.2 Related obligations

(a) The Agent and each Obligor acknowledge that each Funding Rate is or may be
price-sensitive information and that its use may be regulated or prohibited by
applicable legislation including securities law relating to insider dealing and market
abuse and the Agent and each Obligor undertake not to use any Funding Rate for any unlawful purpose.

(b) The Agent and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender:

(i) of the circumstances of any disclosure made pursuant to paragraph (c)(i) of Clause 43.1 (Confidentiality and disclosure) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(ii) upon becoming aware that any information has been disclosed in breach of this Clause 43.

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 Entire Agreement

This Agreement and the other Finance Documents supersede all previous agreements in relation to the Facilities between the Parties.

46 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.
Section 12.

Governing Law and Enforcement

47 Governing Law

(a) Subject to paragraph (b) below, this Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

(b) Notwithstanding paragraph (a) above, Schedule 16 (*Restrictive Covenants*) shall be interpreted in accordance with New York law.

48 Enforcement

48.1 Jurisdiction of English courts

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a “Dispute”).

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and, accordingly, no Party will argue to the contrary.

(c) This Clause 48.1 is for the benefit of the Finance Parties and Secured Parties only. As a result, no Finance Party or Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties and Secured Parties may take concurrent proceedings in any number of jurisdictions.

48.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law each Obligor (other than an Obligor incorporated in England and Wales):

(a) irrevocably appoints TDR Nominees Limited of 20 Bentinck Street, London W1U 2EU as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and

(b) agrees that failure by a process agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

An Obligor may irrevocably appoint another person as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document, subject to notifying the Agent accordingly. In the case of any replacement of an existing agent for service of process, following the new process agent's appointment and notification to the Agent of such new appointment, the existing process agent may resign.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.
## SCHEDULE 1

### THE ORIGINAL PARTIES

#### Part 1

**The Original Obligors**

<table>
<thead>
<tr>
<th>Name of Original Borrower</th>
<th>Jurisdiction of incorporation</th>
<th>Registration number (or equivalent, if any)</th>
</tr>
</thead>
<tbody>
<tr>
<td>BBD Bidco Limited</td>
<td>England and Wales</td>
<td>12042258</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Original Guarantor</th>
<th>Jurisdiction of incorporation</th>
<th>Registration number (or equivalent, if any)</th>
</tr>
</thead>
<tbody>
<tr>
<td>BBD Parentco Limited</td>
<td>England and Wales</td>
<td>12042162</td>
</tr>
<tr>
<td>BBD Bidco Limited</td>
<td>England and Wales</td>
<td>12042258</td>
</tr>
</tbody>
</table>
### Part 2

#### The Original Lenders

<table>
<thead>
<tr>
<th>Name of Original Lender</th>
<th>Facility B1 Commitment</th>
<th>Facility B2 Commitment</th>
<th>Revolving Facility Commitment</th>
<th>UK Non-Bank Lender (Yes/No)</th>
<th>Treaty passport scheme reference number and jurisdiction of tax residence (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banco Santander S.A., London Branch</td>
<td>£25,720,165</td>
<td>€27,494,485</td>
<td>Nil</td>
<td>No</td>
<td>N/A</td>
</tr>
<tr>
<td>Bank of America Merrill Lynch International Designated Activity Company</td>
<td>£146,646,090</td>
<td>€146,072,704</td>
<td>£16,000,000</td>
<td>No</td>
<td>12/B/374541/DTTP Ireland</td>
</tr>
<tr>
<td>HSBC Bank plc</td>
<td>£173,909,465</td>
<td>€175,216,858</td>
<td>£40,000,000</td>
<td>No</td>
<td>N/A</td>
</tr>
<tr>
<td>KKR Corporate Lending (UK) LLC</td>
<td>£37,500,000</td>
<td>€40,086,960</td>
<td>£11,250,000</td>
<td>No</td>
<td>N/A</td>
</tr>
<tr>
<td>Royal Bank of Canada (lending through its London branch)</td>
<td>£97,500,000</td>
<td>€98,881,168</td>
<td>£27,750,000</td>
<td>No</td>
<td>N/A</td>
</tr>
<tr>
<td>Santander UK plc</td>
<td>Nil</td>
<td>Nil</td>
<td>£25,000,000</td>
<td>No</td>
<td>N/A</td>
</tr>
<tr>
<td>Sumitomo Mitsui</td>
<td>£43,724,280</td>
<td>€46,740,625</td>
<td>£35,000,000</td>
<td>No</td>
<td>N/A</td>
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<td>Banking Corporation Europe Limited</td>
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<tr>
<td><strong>Total</strong></td>
<td>£525,000,000</td>
<td>€534,492,800</td>
<td>£155,000,000</td>
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SCHEDULE 2

CONDITIONS PRECEDENT

Part 1

Conditions Precedent to signing of this Agreement

1. Corporate documentation

A certificate from each of the Parent and the Company, executed by an authorised signatory:

(a) attaching copies of its constitutional documents;

(b) attaching a copy of the resolutions of its board of directors authorising the execution, delivery and performance of those Finance Documents to which it is a party;

(c) confirming that the borrowing, guaranteeing or securing (as applicable) of the aggregate amount of the Commitments by it does not, if the Facilities were fully drawn, exceed any borrowing, guarantee, security or similar limit contained in its constitutional documents, or in any trust deed or other agreement or instrument to which it is a party, subject to any limitations set out in the Finance Documents;

(d) (in the case of the Company) confirming authority of the Parent to act as its agent in connection with the Finance Documents;

(e) setting out a specimen signature of each person authorised on behalf of it to sign the Finance Documents to which it is, or is to be, a party and give instructions in connection therewith; and

(f) certifying that each copy document relating to it specified in this Part 1 of Schedule 2 and delivered by it to the Agent is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

2. Finance Documents

A copy of:

(a) this Agreement executed by the Parent and the Company;

(b) the Intercreditor Agreement executed by the Parent and the Company;

(c) the Senior Syndication and Fee Letter executed by the Company; and

(d) the agency Fee Letter executed by the Parent;

3. Transaction Security Documents

(a) A copy of the English law debenture executed by the Parent and the Company.

(b) To the extent they are required to be (and are capable of being) delivered on the date of execution of the debenture referred to in paragraph (a) above, a copy of all notices and
other documents (executed where required by the Parent and the Company only) thereunder.

4. **PSC Register**

A copy of the PSC Register (within the meaning of section 790C(10) of the United Kingdom Companies Act 2006) of the Company.

5. **Financial Model**

A financial model relating to the Group.

6. **Legal opinion**

A legal opinion of Clifford Chance LLP, legal advisers to the Agent and the Arrangers as to English law, substantially in the form distributed to the Agent and the Arrangers prior to the date of this Agreement.

7. **KYC**

Copies of any information and evidence reasonably requested by a Finance Party in relation to the Parent and the Company no later than five Business Days prior to the date of this Agreement and required in order to comply with “know your client”/anti-money laundering requirements under applicable laws.

8. **Group Structure Chart**

A structure chart of the Group (assuming that the Acquisition Completion Date has occurred and provided that such structure chart shall not be required to be in form and substance satisfactory to the Facility Agent) (the “**Group Structure Chart**”).

9. **Approved List**

A copy of the Approved List.

10. **Financial Statements**

A copy of the most recently issued annual audited consolidated financial statements of the Target Group for information purposes only and not required to be in form and substance satisfactory to the Agent.

11. **Reports**

A copy of each of the following reports addressed to, or capable of being relied upon by, the Finance Parties (together, the “**Reports**”):

(a) legal due diligence report prepared by Linklaters LLP and Simpson Thacher & Bartlett LLP;

(b) financial due diligence report prepared by PricewaterhouseCoopers LLP; and

(c) the Structure Memorandum,
provided that, in the case of the Structure Memorandum, it is in the form of the draft most recently delivered to the Arrangers prior to the date of this Agreement, or with any amendments or modifications which do not materially and adversely affect the interests of the Original Lenders (taken as a whole) under the Finance Documents or with such amendments or modifications which have been approved by the Majority Lenders (acting reasonably) (such approval not to be unreasonably withheld or delayed).

12. **Second Lien Facility Agreement**

A copy of the executed Second Lien Facility Agreement.
Part 2

Conditions Precedent to first Utilisation

1. Announcement

A copy of the Announcement.

2. Acquisition Documents

(a) If the Acquisition is to be effected by means of a Scheme:

(i) a copy of the Scheme Court Order;

(ii) a copy of the Scheme Circular; and

(iii) the Scheme Resolution passed at each Court Meeting and the Target General Meeting,

in each case for information purposes only and not required to be in form and substance satisfactory to the Finance Parties if where relevant consistent with the Announcement in all material respects.

(b) If following an Election in accordance with the terms of this Agreement the Acquisition is to be effected by means of an Offer:

(i) a copy of the Offer Press Release; and

(ii) a copy of the Offer Documents,

in each case for information purposes only and not required to be in form and substance satisfactory to the Finance Parties if where relevant consistent with the Announcement in all material respects.

3. Funds Flow

A statement showing the anticipated flow of funds to effect the Acquisition (for information purposes only and not required to be in form and substance satisfactory to the Agent provided that it reflects the use of proceeds of the Facilities on the Closing Date) (the “Funds Flow Statement”).

4. Availability of funds

A certificate from the Company confirming that:

(a) the equity investment in an amount of not less than 30 per cent. of the aggregate funded capital structure of the Acquisition as at the Closing Date (the “Minimum Equity Condition”) and for these purposes equity investment includes any contribution of Target Shares by or to the Company; and

(b) the proceeds of utilisation under the Second Lien Facility Agreement,
has been or will be advanced directly or indirectly to the Company (including a copy of any subscription or shareholder loan agreement to which any Original Obligor is party in order invest or loan the equity proceeds referred to in paragraph (a) above to the Company).

5. Closing certificate

(a) If the Acquisition is to be effected by means of Scheme, a certificate from the Company, executed by an authorised signatory of the Company, confirming that:
   
   (i) no Certain Funds Default has occurred and is continuing; and
   
   (ii) the Scheme Court Order has been delivered to the Registrar of Companies.

(b) If the Acquisition is to be effected by means of an Offer, a certificate from the Company, executed by an authorised signatory of the Company, confirming that:
   
   (i) the Offer has been declared unconditional in all respects; and
   
   (ii) no Certain Funds Default has occurred and is continuing.

6. Payment of fees

Evidence that the fees then due from the Company pursuant to Clause 17.2 (Arrangement Fees) have been or will be paid (and this condition shall be satisfied by inclusion of such payment in the Funds Flow Statement and/or as a deduction from the proceeds of first Utilisation of the Facilities).
**Part 3**

**Conditions Precedent required to be delivered by an Additional Obligor**

1. An Accession Deed executed by the Additional Obligor and the Obligors’ Agent.

2. An accession deed or agreement relating to the Intercreditor Agreement executed by the Additional Obligor (the “Intercreditor Accession Deed”).

3. A certificate from the Additional Obligor, executed by its authorised signatory:
   
   (a) attaching copies of its constitutional documents (or, in the case of an Additional Obligor that will, on accession, be a Dutch Obligor (a “Dutch Additional Obligor”), the documents referred to in paragraph 8(a) below);
   
   (b) (except for an Additional Obligor incorporated in Germany) attaching a copy of the resolutions of its board of directors or managers (or local equivalent body):
      
      (i) approving the terms of, and the transactions contemplated by, the Accession Deed and the Finance Documents to which it is a party and resolving that it execute the Accession Deed, the Intercreditor Accession Deed and any other Finance Document to which it is a party;
      
      (ii) authorising a specified person or persons to execute the Accession Deed, the Intercreditor Accession Deed and any other Finance Documents to which it is a party on its behalf; and
      
      (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices (including, in relation to an Additional Borrower, any Utilisation Request or Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party and authorising the execution, delivery and performance of those Finance Documents to which it is a party,
   
   or, in the case of a Dutch Additional Obligor, a copy of the resolutions referred to in paragraph 8(b) below;
   
   (c) attaching, if required by the laws of the jurisdiction of the Additional Obligor, a copy of a resolution signed by all the holders of the issued shares in the Additional Obligor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Obligor is a party (or, in the case of a Dutch Additional Obligor, a copy of the resolution referred to in paragraph 8(d) below);
   
   (d) (except for an Additional Obligor incorporated in Germany) confirming that the borrowing, guaranteeing or securing (as appropriate) of the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on it to be exceeded, subject to any limitations set out in the Finance Documents;
   
   (e) confirming authority of the Obligors’ Agent to act as its agent in connection with the Finance Documents;
(f) setting out a specimen signature of each person authorised on behalf of it to sign the Finance Documents and related documents to which it is, or is to be, a party and give instructions in connection therewith; and

(g) certifying that each copy document relating to it specified in this Part 3 of Schedule 2 and delivered by it to the Agent is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

4. If available, the latest audited financial statements of the Additional Obligor *(provided that such financial statements shall not be required to be in form and substance satisfactory to the Agent)*.

5. 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 substantially in the form distributed to the Agent prior to signing the Accession Deed;

(b) if the Additional Obligor is incorporated in a jurisdiction other than England and Wales or 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 incorporation of that Additional Obligor or, as the case may be, the jurisdiction of the governing law of that Finance Document as to the law of the Relevant Jurisdiction and substantially in the form distributed to the Agent prior to signing the Accession Deed; and

(c) if the Additional Obligor is incorporated in a jurisdiction other than England and Wales, if in accordance with market conventions in the Relevant Jurisdiction, a legal opinion of the legal advisers to the Obligors in the jurisdiction of incorporation of that Additional Obligor as to the capacity of that Additional Obligor to enter into the relevant Finance Documents to which it is a party.

6. A copy of each Transaction Security Document which, subject to the Agreed Security Principles, is required to be entered into by the Additional Obligor *(provided that the Agent may agree, and shall agree where it is reasonable to do so, that any such Transaction Security Document may be delivered on a date later than the date on which the relevant entity becomes an Additional Obligor)*, and to the extent they are required to be delivered on the date of execution of such Transaction Security Document, a copy of all notices, certificates and documents (executed where required) under those Transaction Security Documents.

7. Evidence that the agent for service of process referred to in Clause 48.2 *(Service of process)* has accepted its appointment in respect of the Additional Obligor.

8. In relation to a Dutch Additional Obligor:

(a) a copy of the articles of association *(statuten)* and deed of incorporation *(oprichtingsakte)*, as well as an extract *(uittrekkel)* from the Dutch Commercial Register *(Handelsregister)* of such Dutch Additional Obligor;

(b) a copy of a resolution of the board of managing directors of such Dutch Additional Obligor:

   (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;
(ii) if applicable, authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and

(iii) if applicable, authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

(c) if applicable, a copy of the resolution of the board of supervisory directors of such Dutch Additional Obligor approving the resolutions of the board of managing directors referred to under paragraph 8(b) above.

(d) if applicable, a copy of the resolution of the shareholder(s) of such Dutch Additional Obligor approving the resolutions of the board of managing directors referred to under paragraph 8(b) above.

(e) a copy of (i) the request for advice from each works council, or central or European works council with jurisdiction over the transactions contemplated by this Agreement and (ii) the applicable advice providing evidence of the necessary action to authorise the relevant Dutch Additional Obligor in respect of the Finance Documents.
SCHEDULE 3
REQUEST AND NOTICES

Part 1A
Utilisation Request Loans

From: [Borrower] [Parent]*
To: [Agent]
Dated: [ ]

Dear Sirs

Facilities Agreement dated [● ] 2019 (the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2. We wish to borrow a Loan on the following terms:

   (a) Borrower: [●]
   (b) Proposed Utilisation Date: [●] (or, if that is not a Business Day, the next Business Day)
   (c) Facility to be utilised: [●]**
   (d) Amount: £[●] or, if less, the Available Facility
   (e) Interest Period: [●]

3. We confirm that each condition specified in Clause 4.2 (Further conditions precedent) [or, to the extent applicable, Clause 4.4(a)(i), (ii) and (iii) (Utilisations during the Certain Funds Period)] is satisfied on the date of this Utilisation Request.

4. [The proceeds of this Loan should be credited to [account]].

5. This Utilisation Request is irrevocable.

Yours faithfully

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1 WARNING IN RELATION TO DUTCH BORROWERS: Please seek Dutch legal advice (i) until the interpretation of the term “public” (as referred to in Article 4.1(1) of the Capital Requirements Regulation (EU/575/2013) has been published by the competent authority, if the share of a Lender in any utilisation requested by a Borrower incorporated in the Netherlands is less than EUR 100,000 (or the foreign currency equivalent thereof) and (ii) as soon as the interpretation of the term “public” has been published by the competent authority, if the Lender is considered to be part of the public on the basis of such interpretation.
…………………
authorised signatory for
[the Parent on behalf of [insert name of relevant Borrower]]/[insert name of Borrower]*

NOTES:

* Amend as appropriate. The Utilisation Request can be given by the Borrower or by the Parent.

** Select the Facility to be utilised and delete references to the other Facility.
Part 1B

UTILISATION REQUEST

Letters of Credit

From: [Borrower] [Parent]* (the “Instructing Party”)

To: [•] (the “Issuing Bank”)

Copy: [•] (the “Agent”)

Dated: [                    ]

Dear Sirs

Facilities Agreement dated [• ] 2019 (the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2. We wish to arrange for a Letter of Credit to be issued by the Issuing Bank (which has agreed to do so) on the following terms:

(a) Borrower: [●]

(b) Instructing Party: [●]

(c) Proposed Utilisation Date: [●] (or, if that is not a Business Day, the next Business Day)

(d) Amount: £[●] or, if less, the Available Facility in relation to the Revolving Facility

(e) Expiry Date: [●]

(f) Delivery instructions: [●]

(g) Beneficiary: [●]

(h) Facility: Revolving Facility

(i) Currency: [●]

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2 WARNING IN RELATION TO DUTCH BORROWERS: Please seek Dutch legal advice (i) until the interpretation of the term “public (as referred to in Article 4.1(1) of the Capital Requirements Regulation (EU/575/2013) has been published by the competent authority, if the share of a Lender in any utilisation requested by a Borrower incorporated in the Netherlands is less than EUR 100,000 (or the foreign currency equivalent thereof) and (ii) as soon as the interpretation of the term “public” has been published by the competent authority, if the Lender is considered to be part of the public on the basis of such interpretation.
(j) Beneficiary: [●]

(k) Full address of Beneficiary: [●]

3. We confirm that each condition specified in paragraph (b) of Clause 6.5 *(Issue of Letters of Credit)* is satisfied on the date of this Utilisation Request.

4. We attach a copy of the proposed Letter of Credit the initial form of which has been approved by the Issuing Bank (Wording reference Number: [●]).

5. This Utilisation Request is irrevocable.

Yours faithfully

........................................
authorised signatory for
[the Parent on behalf of [insert name of relevant Borrower]]*

NOTES:

* Amend as appropriate. The Utilisation Request can be given by the Borrower or by the Parent.
Part 2

Selection Notice

Applicable to a Facility B Loan

From: [Borrower] [Parent]*

To: [Agent]

Dated: [ ]

Dear Sirs

Facilities Agreement dated [●] 2019 (the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is a Selection Notice. Terms defined in the Facilities Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.

2. We refer to the following [Facility B1 Loan[s]] [Facility B2 Loan[s]] with an Interest Period ending on [●]**.

3. [We request that the above [Facility B1 Loan[s]] [Facility B2 Loan[s]] be divided into [●] [Facility B1 Loans] [Facility B2 Loan[s]] with the following Interest Periods:]***

or

[We request that the next Interest Period for the above [Facility B1 Loan[s]] [Facility B2 Loan[s]] is [●]].****

4. This Selection Notice is irrevocable.

Yours faithfully

…………………………………….
authorised signatory for
[the Parent on behalf of] [insert name of relevant Borrower]*

NOTES:

* Amend as appropriate. The Selection Notice can be given by the Borrower or the Parent.

** Insert details of all Facility B Loans for the relevant Facility which have an Interest Period ending on the same date.

*** Use this option if division of Facility B Loans is requested.

**** Use this option if sub-division is not required.
SCHEDULE 4

FORM OF TRANSFER CERTIFICATE

To: [ ] as Agent and [ ] as Security Agent

From: [The Existing Lender] (the “Existing Lender”) and [The New Lender] (the “New Lender”)

Dated: [ ]

Facilities Agreement dated [●] 2019 (the “Facilities Agreement”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This agreement (the “Agreement”) shall take effect as a Transfer Certificate for the purpose of the Facilities Agreement and as a Creditor/Agent Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2. We refer to Clause 29.5 (Procedure for transfer) of the Facilities Agreement:

   (a) Subject to paragraph (m) of Clause 29.2 (Conditions of assignment or transfer), the Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all or part of the Existing Lender’s Commitment, rights and obligations referred to in Schedule 1 to this Transfer Certificate in accordance with Clause 29.5 (Procedure for transfer).

   (b) The proposed Transfer Date is [ ].

   (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 37.2 (Addresses) are set out in Schedule 1 to this Transfer Certificate.

3. 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).

4. The benefit of each Transaction Security Document shall be maintained in favour of the New Lender, without prejudice to paragraph (a) of Clause 29.4 (Limitation of responsibility of Existing Lenders).

5. The New Lender confirms that it is:

   (a) in respect of an advance under a Finance Document to a UK Obligor:

      (i) [not a UK Qualifying Lender;]

      (ii) [a UK Qualifying Lender (other than a UK Treaty Lender, an Exempt Lender or a Tax Transparent Lender);]

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3 Delete as applicable.
(iii) [a UK Treaty Lender;]
(iv) [an Exempt Lender;] or
(v) [a Tax Transparent Lender;] and

(b) in respect of an advance under a Finance Document to a Danish Obligor:
(i) [not a Danish Qualifying Lender;]
(ii) [a Danish Qualifying Lender (other than a Danish Treaty Lender);] or
(iii) [a Danish Treaty Lender;] and

(c) in respect of an advance under a Finance Document to a Dutch Obligor:
(i) [not a Dutch Qualifying Lender;]
(ii) [a Dutch Qualifying Lender (other than a Dutch Treaty Lender);] or
(iii) [a Dutch Treaty Lender;] and

(d) in respect of an advance under a Finance Document to a German Obligor:
(i) [not a German Qualifying Lender;]
(ii) [a German Qualifying Lender (other than a German Treaty Lender);] or
(iii) [a German Treaty Lender]⁴

6. 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

⁴ Delete as applicable – each New Lender which is to be a Lender under a Facility is required to confirm which of these categories it falls within.
a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]³

7. [The New Lender provides a QPP Certificate in the form set out in Schedule 2 to this Transfer Certificate]⁶

8. [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [ ] ) and is tax resident in [ ], so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify the Borrower that it wishes that scheme to apply to the Facilities Agreement.]**

[8/9] The New Lender confirms that it [is]/[is not]*** a Sponsor Affiliate.

[9/10] [The New Lender confirms that it [is]/[is not]**** a Non-Acceptable L/C Lender.]****

[10/11] The New Lender confirms that it is not a Defaulting Lender.

[11/12] We refer to Clause 19.7 (Creditor/Agent Accession Undertaking) of the Intercreditor Agreement.

In consideration of the New Lender being accepted as a [Senior Lender] for the purposes of the Intercreditor Agreement (and as defined therein), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as a [Senior Lender], and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a [Senior Lender] and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

[12/13] The New Lender expressly confirms that it [can/cannot] exempt the Agent from the restrictions applicable to it pursuant to section 181 of the German Civil Code and similar restrictions to it pursuant to any other applicable law as provided for in paragraph (c) of Clause 32.1 (Appointment of the Agent).

[13/14] 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.

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5 Include if New Lender comes within paragraph (a)(ii) of the definition of UK Qualifying Lender in Clause 18.1 (Definitions).

* Insert jurisdiction of tax residence

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

*** Delete as applicable.

**** Delete as applicable.

***** Include only if the assignment includes the assignment of a Revolving Facility Commitment / a participation in the Revolving Facility.

6 Statement to be included and separate QPP Certificate in the form of Schedule 2 to this Transfer Certificate to be executed alongside the Transfer Certificate if the New Lender is a person eligible for the UK withholding tax exemption for qualifying private placements.
This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

Notes: 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.

WARNING IN RELATION TO DUTCH BORROWERS:

Please seek Dutch legal advice (i) until the interpretation of the term “public (as referred to in Article 4.1(1) of the Capital Requirements Regulation (EU/575/2013) has been published by the competent authority, if the share of a Lender in any utilisation requested by a Borrower incorporated in the Netherlands is less than EUR 100,000 (or the foreign currency equivalent thereof) and (ii) as soon as the interpretation of the term “public” has been published by the competent authority, if the Lender is considered to be part of the public on the basis of such interpretation.
SCHEDULE 1

Commitment/rights and obligations to be transferred

[insert relevant details]

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

[Existing Lender]  [New Lender]

By: ………………………………  By: ………………………………

This Agreement is accepted as a Transfer Certificate for the purposes of the Facilities Agreement by the Agent, and as a [Creditor/Agent Accession Undertaking] for the purposes of the Intercreditor Agreement by the Security Agent, and the Transfer Date is confirmed as [●].

[Agent]

By: ………………………………

[Security Agent]

By: ………………………………
To: [             ] as the Company

From: [Name of creditor]

Dated:

Facilities Agreement dated [●] (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a QPP Certificate. Terms defined in the Facilities Agreement have the same meaning in this QPP Certificate unless given a different meaning in this QPP Certificate.

2. We confirm that:
   (a) we are beneficially entitled to all interest payable to us as a Lender in respect of an advance under a Finance Document;
   (b) we are a resident of a qualifying territory; and
   (c) we are beneficially entitled to the interest which is payable to us in respect of an advance under a Finance Document for genuine commercial reasons, and not as part of a tax advantage scheme.

   These confirmations together form a creditor certificate.

3. In this QPP Certificate the terms "resident", "qualifying territory", "scheme", "tax advantage scheme" and "creditor certificate" have the meaning given to them in the Qualifying Private Placement Regulations 2015 (2015 No. 2002).

[Name of creditor]

By:

[This QPP Certificate is required where a lender is a person eligible for the UK withholding tax exemption for qualifying private placements; a separate QPP Certificate should be provided by each such lender.]
SCHEDULE 5

FORM OF ASSIGNMENT AGREEMENT

To: [ ] as Agent and [ ] as Security Agent,

[ ] as Parent, for and on behalf of each Obligor

From: [the Existing Lender] (the “Existing Lender”) and [the New Lender] (the “New Lender”)

Dated: [ ]

Facilities Agreement dated [●] 2019 (the “Facilities Agreement”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This is an Assignment Agreement. This agreement (the “Agreement”) shall take effect as an Assignment Agreement for the purpose of the Facilities Agreement and as a Creditor/Agent Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2. We refer to Clause 29.6 (Procedure for assignment) of the Facilities Agreement:

(a) Subject to paragraph (m) of Clause 29.2 (Conditions of assignment or transfer), 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 Schedule 1 to this Assignment Agreement.

(b) Subject to paragraph (m) of Clause 29.2 (Conditions of assignment or transfer), 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 Schedule 1 to this Assignment Agreement.

(c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.

3. The proposed Transfer Date is [●].

4. On the Transfer Date, the New Lender becomes:

(a) Party to the relevant Finance Documents (other than the Intercreditor Agreement) as a Lender; and

(b) Party to the Intercreditor Agreement as a Senior Lender (as defined in the Intercreditor Agreement).
5. The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 37.2 (Addresses) are set out in Schedule 1 to this Assignment Agreement.

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).

7. The New Lender confirms that it is:

(a) in respect of an advance under a Finance Document to a UK Obligor:
   (i) [not a UK Qualifying Lender;]
   (ii) [a UK Qualifying Lender (other than a UK Treaty Lender, an Exempt Lender or a Tax Transparent Lender);]
   (iii) [a UK Treaty Lender;]
   (iv) [an Exempt Lender;] or
   (v) [a Tax Transparent Lender.]

(b) in respect of an advance under a Finance Document to a Danish Obligor:
   (i) [not a Danish Qualifying Lender;]
   (ii) [a Danish Qualifying Lender (other than a Danish Treaty Lender);] or
   (iii) [a Danish Treaty Lender;] and

(c) in respect of an advance under a Finance Document to a Dutch Obligor:
   (i) [not a Dutch Qualifying Lender;]
   (ii) [a Dutch Qualifying Lender (other than a Dutch Treaty Lender);] or
   (iii) [a Dutch Treaty Lender;] and

(d) in respect of an advance under a Finance Document to a German Obligor:
   (i) [not a German Qualifying Lender;]
   (ii) [a German Qualifying Lender (other than a German Treaty Lender);] or
   (iii) [a German Treaty 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:

7 Delete as applicable.
(a) a company resident in the United Kingdom for United Kingdom tax purposes;

(b) a partnership each member of which is:

(i) a company so resident in the United Kingdom; or

(ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.

9. [The New Lender provides a QPP Certificate in the form set out in Schedule 2 to this Assignment Agreement.]^6

[9/10] [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [   ]) and is tax resident in [   ]^8, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify the Borrower that it wishes that scheme to apply to the Facilities Agreement.]**

[10/11] The New Lender confirms that it [is]/[is not]**^7 a Sponsor Affiliate.

[11/12] [The New Lender confirms that it [is]/[is not]*** a Non-Acceptable L/C Lender.]****

[12/13] The New Lender confirms that it is not a Defaulting Lender.

[13/14] We refer to Clause 19.7 (Creditor/Agent Accession Undertaking) of the Intercreditor Agreement:

In consideration of the New Lender being accepted as a [Senior Lender] for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as a [Senior Lender], and undertakes to perform all the obligations expressed in the Intercreditor Agreement to

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^5 Include if New Lender comes within paragraph (a)(ii) of the definition of UK Qualifying Lender in Clause 18.1 (Definitions).

^6 Statement to be included and separate QPP Certificate in the form of Schedule 2 to this Assignment Agreement to be executed alongside the Assignment Agreement if the New Lender is a person eligible for the UK withholding tax exemption for qualifying private placements.

^8 Insert jurisdiction of tax residence

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

*** Delete as applicable.

**** Delete as applicable.

***** Include only if the assignment includes the assignment of a Revolving Facility Commitment / a participation in the Revolving Facility.
be assumed by a [Senior Lender] and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

[14/15] The New Lender expressly confirms that it [can/cannot] exempt the Agent from the restrictions applicable to it pursuant to section 181 of the German Civil Code and similar restrictions to it pursuant to any other applicable law as provided for in paragraph (c) of Clause 32.1 (Appointment of the Agent).

[15/16] This Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 29.8 (Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Obligors’ Agent), to the Parent (on behalf of each Obligor) of the assignment referred to in this Agreement.

[16/17] This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

[17/18] This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

[18/19] This Agreement has been entered into on the date stated at the beginning of this Agreement.

Notes: 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.
SCHEDULE 1

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/Agent Accession Undertaking] for the purposes of the Intercreditor Agreement by the Security Agent, and the Transfer Date is confirmed as [●].

Signature of this Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to in this Agreement, which notice the Agent receives on behalf of each Finance Party.

[Agent]
By: _________________________

[Security Agent]
By: _________________________
SCHEDULE 2

Form of New Lender QPP Certificate

To: [ ] as the Company

From: [Name of creditor]

Dated:

Facilities Agreement dated [●] (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a QPP Certificate. Terms defined in the Facilities Agreement have the same meaning in this QPP Certificate unless given a different meaning in this QPP Certificate.

2. We confirm that:
   
   (a) we are beneficially entitled to all interest payable to us as a Lender in respect of an advance under a Finance Document;
   
   (b) we are a resident of a qualifying territory; and
   
   (c) we are beneficially entitled to the interest which is payable to us in respect of an advance under a Finance Document for genuine commercial reasons, and not as part of a tax advantage scheme.

These confirmations together form a creditor certificate.

3. In this QPP Certificate the terms "resident", "qualifying territory", "scheme", "tax advantage scheme" and "creditor certificate" have the meaning given to them in the Qualifying Private Placement Regulations 2015 (2015 No. 2002).

[Name of creditor]

By:

[This QPP Certificate is required where a lender is a person eligible for the UK withholding tax exemption for qualifying private placements; a separate QPP Certificate should be provided by each such lender.]
To: [                      ] as Agent and [                      ] as Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below.

From: [Subsidiary] and [Parent]

Dated: [                     ]

Dear Sirs

Facilities Agreement dated [●] 2019 (the “Facilities Agreement”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement. This deed (the “Accession Deed”) shall take effect as an Accession Deed for the purposes of the Facilities Agreement and as a Debtor Accession Deed for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in paragraphs 1-3 of this Accession Deed unless given a different meaning in this Accession Deed.

2. [Subsidiary] agrees to become an Additional [Borrower]/[Guarantor] and to be bound by the terms of the Facilities Agreement and the other Finance Documents (other than the Intercreditor Agreement) as an Additional [Borrower]/[Guarantor] pursuant to Clause [31.2 (Additional Borrowers)]/[Clause 31.4 (Additional Guarantors and Transaction Security)] of the Facilities Agreement.

3. [Subsidiary’s] administrative details for the purposes of the Facilities Agreement and the Intercreditor Agreement are as follows:

   Address: [●]

   Fax No.: [●]

   Attention: [●]

4. [Subsidiary] (for the purposes of this paragraph 4, the “Acceding Debtor”) intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:

   [Insert details (date, parties and description) of relevant documents]

   the “Relevant Documents”.

   IT IS AGREED as follows:

   (a) Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Accession Deed, bear the same meaning when used in this paragraph 4.

   (b) The Acceding Debtor and the Security Agent agree that the Security Agent shall hold:
(i) the Security or guarantee, indemnity or other assurance against loss in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;

(ii) all moneys from time to time received or recovered by the Security Agent in connection with the realisation or enforcement of that Security or guarantee, indemnity or other assurance against loss in respect of Liabilities; and

(iii) all obligations expressed to be undertaken by the Acceding Debtor to pay amounts in respect of the Liabilities to the Security Agent,

for the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.

(c) The Acceding Debtor confirms that it intends to be party to the Intercreditor Agreement as a Debtor, undertakes to perform all the obligations expressed to be assumed by a Debtor under the Intercreditor Agreement and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement.

(d) [In consideration of the Acceding Debtor being accepted as an Intra-Group Lender for the purposes of the Intercreditor Agreement, the Acceding Debtor also confirms that it intends to be party to the Intercreditor Agreement as an Intra-Group Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Intra Group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement].

[4][5] This Accession Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS ACCESSION DEED has been signed on behalf of the Security Agent (for the purposes of paragraph 4 above only), signed on behalf of the Parent and executed as a deed by [Subsidiary] and is delivered on the date stated above.

---

10 Include this paragraph in this Accession Deed if the Subsidiary is also to accede as an Intra-Group Lender to the Intercreditor Agreement.
[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 Parent

[Parent]

By: ______________________________

The Security Agent

[Full name of current Security Agent]

By: ______________________________

Date: [ ]
SCHEDULE 7

FORM OF RESIGNATION LETTER

To: [ ] as Agent

From: [resigning Obligor] and [Parent]

Dated: [ ]

Dear Sirs

Facilities Agreement dated [●] 2019 (the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is a Resignation Letter. Terms defined in the Facilities Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.

2. Pursuant to Clause 31.3 (Resignation of an Obligor), we request that [resigning Obligor] be released from its obligations as a [Borrower]/[Guarantor] under the Facilities Agreement and the Finance Documents (other than the Intercreditor Agreement).

3. We confirm that:
   
   (a) no Event of Default is continuing or would result from the acceptance of this request; and
   
   (b) [[this request is given in relation to a Third Party Disposal of [resigning Obligor]*;

   (c) [the [Net Available Cash] have been or will be applied in accordance with Clause 12.3 (Asset Dispositions);]**

   (d) [●]**

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

[Parent] [resigning Obligor]

By: _____________________________  By: _____________________________

NOTES:

* Insert where resignation only permitted in case of a Third Party Disposal. (* doesn’t appear this page)

** Amend as appropriate, e.g. to reflect agreed procedure for payment of proceeds into a specified account.
*** Insert any other conditions required by the Facilities Agreement.
FORM OF COMPLIANCE CERTIFICATE

To: [ ] as Agent

From: [Parent]

Dated: [ ]

Dear Sirs

Facilities Agreement dated [●] 2019 (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 refer to Clause 26.1 (Financial condition) and confirm that:
   (a) Consolidated EBITDA is £[●];
   (b) Total Senior Secured Net Debt is £[●]

and therefore the Consolidated Senior Secured Leverage Ratio is [●]:1.]*

3. [We confirm that no Default is continuing.]**

4. [We confirm that the following companies constitute Material Companies for the purposes of the Facilities Agreement: [●].]***

5. [We confirm that the Guarantor Coverage Threshold is satisfied.]***

Signed ____________________________________

on behalf of [Parent]

NOTES:

* Only applicable when financial covenant/Margin ratchet is required to be tested/confirmed

** If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

*** Only applicable if the Compliance Certificate accompanies the Annual Financial Statements and in the case of paragraph 5 if this statement cannot be made, the certificate should specify when the Guarantor Coverage Threshold will be satisfied.
SCHEDULE 9

FORM OF CONFIDENTIALITY UNDERTAKING

To: [Potential Lender]

Re: The Facilities (together the “Facilities”)

The Parent: [●]

Agent: [●] as Agent

Transaction: [●] (the “Transaction”)

Dear Sirs

We understand that you are considering participating in the Facilities in respect of the Transaction. In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

1. **Confidentiality Undertaking**

   You undertake:

   (a) to keep the Confidential Information confidential and not to disclose it to anyone except as provided for by paragraph 2 below and to ensure that the Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information;

   (b) to keep confidential and not disclose to anyone the fact that the Confidential Information has been made available or that discussions or negotiations are taking place or have taken place between us in connection with the Facilities and/or the Transaction except as provided for by paragraph 2 below;

   (c) to use the Confidential Information only for the Permitted Purpose;

   (d) to use all reasonable endeavours to ensure that any person to whom you pass any Confidential Information (unless disclosed under paragraph 2(b) below) acknowledges and complies with the provisions of this letter as if that person were also a party to it and you undertake to be responsible for any breach of this agreement by such person; and

   (e) not to make enquiries of any member of the Group or any of their officers, directors, employees or professional advisers relating directly or indirectly to the Facilities and/or the Transaction.

2. **Permitted Disclosure**

   We agree that you may disclose Confidential Information:
(a) to members of the Participant Group and their officers, directors, employees and professional advisers to the extent necessary for the Permitted Purpose and to any auditors of members of the Participant Group; and

(b) (i) where requested or required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body, (ii) where required by the rules of any stock exchange on which the shares or other securities of any member of the Participant Group are listed or (iii) where required by the laws or regulations of any country with jurisdiction over the affairs of any member of the Participant Group that has received Confidential Information under the terms of this letter.

3. **Notification of Required or Unauthorised Disclosure**

You agree (to the extent permitted by law and except where disclosure is to be made to any supervisory or regulatory body during the normal course of its supervisory function over you) to inform us and the Parent of the full circumstances of any disclosure under paragraph 2(b) upon or as soon as reasonably practicable after becoming aware that Confidential Information has been disclosed in breach of this letter.

4. **Return of Copies**

If we so request in writing, you shall return all Confidential Information supplied to you by us and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made by you and use all reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy or where the Confidential Information has been disclosed under paragraph 2(b) above.

5. **Continuing Obligations**

The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us. Notwithstanding the previous sentence, the obligations in this letter shall cease on the earlier of (a) the date you become a party to the Facilities and (b) 12 Months after you have returned all Confidential Information supplied to you by us and destroyed or permanently erased (to the extent technically practicable) all copies of Confidential Information made by you (other than any such Confidential Information or copies which have been disclosed under paragraph 2(b) above (other than paragraph 2(a)) or which, pursuant to paragraph 4 above, are not required to be returned or destroyed).

6. **No Representation; Consequences of Breach, etc.**

You acknowledge and agree that:

(a) neither we nor any member of the Group nor any of our or their respective officers, employees or advisers (each a “Relevant Person”) (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or any member of the Group or the assumptions on which it is based or (ii)
shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or any member of the Group or be otherwise liable to you or any other person in respect to the Confidential Information or any such information; and

(b) any of the Relevant Persons may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

7. **No Waiver; Amendments, etc.**

Except as set out in paragraph 13, this letter sets out the full extent of your obligations of confidentiality owed to us in relation to the information the subject of this letter and supersedes any prior agreement or understanding (oral or in writing) relating to the information the subject of this letter. No failure or delay in exercising any right, power or privilege under this letter will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privileges under this letter. The terms of this letter and your obligations under this letter may only be amended or modified by written agreement between us.

8. **Inside Information**

You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation relating to insider dealing and you undertake not to use any Confidential Information for any unlawful purpose.

9. **Nature of Undertakings**

The undertakings given by you under this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of the Parent and each other member of the Group.

10. **No Front Running**

For this purpose, **Front Running** means undertaking any of the following activities which is intended to or is reasonably likely to encourage any person to take an interest in the Facilities (other than as a lender pursuant to syndication), or to discourage that person from taking an interest in the Facilities as a lender of record in primary syndication:

(a) communicating with or disclosing any information to any person in relation to an interest in the Facilities; and/or

(b) offering any compensation of any kind or making a price (whether firm or indicative) with a view to buying or selling an interest in the Facilities; and/or

(c) entering into (or agreeing to enter into) any agreement, option or other arrangement, whether legally binding or not giving rise to the assumption of any risk or participation in any exposure in relation to an interest in the Facilities (whether on an indicative basis, a “when and if issued” basis, or otherwise).
You acknowledge and agree that:

(i) you will not, and you will procure that no other member of the Participant Group will engage in any Front Running;

(ii) if you or any other member of the Participant Group engages in any Front Running we may suffer loss or damage and your position in future financings with us and the Parent may be prejudiced;

(iii) if you or any other member of the Participant Group engages in any Front Running we retain the right not to allocate to you a participation under the Facilities; and

(iv) you confirm that neither you nor any other member of the Participant Group has engaged in any Front Running.

11. Third party rights

(a) Subject to this paragraph 11 and to paragraphs 3, 6, 9 and 13, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 (the “Third Parties Act”) to enforce or enjoy the benefit of any term of this letter.

(b) The Relevant Persons may enjoy the benefit of the terms of paragraphs 3, 6, 9 and 12 subject to and in accordance with this paragraph 11 and the provisions of the Third Parties Act.

(c) Subject to paragraph (d) below, the parties to this letter do not require the consent of any Relevant Person to rescind or vary this letter at any time.

(d) The parties to this letter acknowledge and agree that the consent of the Parent is required for any material amendment, waiver, variation, restatement or supplement of this letter.

12. Governing Law and Jurisdiction

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

13. Confidentiality Obligations

The terms of this letter shall apply without prejudice to the terms of any other confidentiality agreement (and, for the avoidance of doubt, shall not supersede any term of such other confidentiality agreement) among any of the parties hereto and any provider of information regarding the Transaction or any party with a business relationship with the Group.

14. Definitions

In this letter (including the acknowledgement set out below):

Confidential Information means any information relating to any member of the Group (or any of their respective assets and investments), the Facilities, the Finance Documents and/or the Transaction including, without limitation, any information memorandum, provided to you by us or
any member of the Group (or otherwise in your possession), in whatever form, and includes
information given orally and any document, electronic file or any other way of representing or
recording information which contains or is derived or copied from such information but excludes
information that (a) is or becomes public knowledge other than as a direct or indirect result of any
breach of this letter or (b) is known by you before the date the information is disclosed to you by
us or any of our affiliates or advisers or is lawfully obtained by you thereafter, other than from a
source which is connected with the Group and which, in either case, as far as you are aware, has
not been obtained in violation of, and is not otherwise subject to, any obligation of confidentiality
owed to any member of the Group;

**Group** means the Parent and each of its holding companies and subsidiaries and each subsidiary
of each of its holding companies (as each such term is defined in the Companies Act 2006);

**Participant Group** means you, each of your holding companies and subsidiaries and each
subsidiary of each of your holding companies (as each such term is defined in the Companies Act
2006); and

**Permitted Purpose** means considering and evaluating whether to enter into the Facilities.

Please acknowledge your agreement to the above (and your confirmation that the above is also for the
benefit of the Parent) by signing and returning the enclosed copy.

Yours faithfully

For and on behalf of [●]

To: The Parent and each other member of the Group

We acknowledge and agree to the above and confirm by our signature below that the above is also for the
benefit of the Parent:

For and on behalf of
[Potential Lender]
### SCHEDULE 10

#### TIMETABLES

**Part 1**

**Loans**

<table>
<thead>
<tr>
<th>Event Description</th>
<th>Loans in sterling</th>
<th>Loans in euro</th>
<th>Loans in other currencies</th>
</tr>
</thead>
</table>
| Delivery of a duly completed Utilisation Request (Clause 5.1  
  *(Delivery of a Utilisation Request)*) or a Selection Notice (Clause 15.1  
  *(Selection of Interest Periods and Terms)*) | U-1 11.00 a.m.   | U-3 11.00 a.m. | U-3 11.00 a.m.            |
| Agent notifies (in relation a Utilisation) each Lender of the amount and currency of the Loan and the amount of the Lender's participation in the Loan in accordance with Clause 5.4  
  *(Lenders' participation)* | U-1 3.00 p.m.    | U-3 3.00 p.m. | U-3 3.00 p.m.            |
| Agent determines (in relation to a Utilisation) the Base Currency Amount of the Loan if required under Clause 5.4  
  *(Lenders’ participation)* and notifies the Lenders of the Base Currency Amount of the Loan in accordance with Clause 5.4  
  *(Lenders’ participation)* | Quotation Day 11.00am | Quotation Day 11.00am | Quotation Day 11.00am |
| Agent receives a notification from a Lender under Clause 8.2  
  *(Unavailability of a currency)* | Quotation Day 9:30am | Quotation Day 9:30am | Quotation Day 9:30am |
| Agent gives notice in accordance with Clause 8.2  
  *(Unavailability of a currency)* | Quotation Day 5:30pm | Quotation Day 5:30pm | Quotation Day 5:30pm |
| EURIBOR or LIBOR is fixed                                                        | Quotation Day as of 11:00 a.m | Quotation Day as of 11:00 a.m (Brussels time) in respect of EURIBOR | Quotation Day as of 11:00 a.m. |
“U” = date of utilisation or, if applicable, in the case of a Facility B Loan that has already been borrowed, the first day of the relevant Interest Period for that Facility B Loan.

“U - X” = X Business Days prior to date of utilisation
Part 2

Letters of Credit

Delivery of a duly completed Utilisation Request (Clause 6.2 (Delivery of a Utilisation Request for Letters of Credit))

Delivery of duly completed Renewal Request (Clause 6.6 (Renewal of a Letter of Credit))

“U” = date of utilisation, or, if applicable, in the case of a Letter of Credit to be renewed in accordance with Clause 6.6 (Renewal of a Letter of Credit), the first day of the proposed term of the renewed Letter of Credit

“U - X” = Business Days prior to date of utilisation
SCHEDULE 11

FORM OF LETTER OF CREDIT

To: [Beneficiary](the “Beneficiary”)

Date [ ]

Irrevocable Standby Letter of Credit no. [ ]

At the request of [ ], [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 L/C 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 no later than [ ] p.m. ([London] time) on the Expiry Date.

(b) Subject to the terms of this Letter of Credit, the Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that, within [ten] Business Days of receipt by it of a Demand, it must pay to the Beneficiary the amount demanded in that Demand.

(c) The Issuing Bank will not be obliged to make a payment under this Letter of Credit if, as a result, the aggregate of all payments made by it under this Letter of Credit would exceed the Total L/C Amount.

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, fax or telex and must be received in legible form by the Issuing Bank at its address and by the particular department or office (if any) as follows:

[●]

6. Assignment

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

7. ISP

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

8. Governing Law

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

9. Jurisdiction

The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Letter of Credit (including a dispute relating to any non-contractual obligation arising out of or in connection with this Letter of Credit).

Yours faithfully

[Issuing Bank]

By: _________________________

NOTES:

* This may need to be amended depending on the currency of payment under the Letter of Credit.
SCHEDULE

Form of Demand

To: [ISSUING BANK]

[Date] [ ]

Dears Sirs

Standby Letter of Credit no. [ ] issued in favour of [BENEFICIARY]
(the “Letter of Credit”)

We refer to the Letter of Credit. Terms defined in the Letter of Credit have the same meaning when used in this Demand.

1. We certify that the sum of [ ] is due [and has remained unpaid for at least [ ] Business Days] [under [set out underlying 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 12

AGREED SECURITY PRINCIPLES

1. Agreed Security Principles

(a) The guarantees and security to be provided will be given in accordance with certain agreed
security principles (the “Agreed Security Principles”). This Schedule addresses the
manner in which the Agreed Security Principles will impact on the guarantees and security
proposed to be taken in relation to this transaction.

(b) The Agreed Security Principles embody a recognition by all parties that there may be
certain legal and practical difficulties in obtaining effective guarantees and security from
members of the Group in jurisdictions in which it has been agreed that guarantees and
security will be granted. In particular:

(i) general statutory limitations, financial assistance, corporate benefit, fraudulent
preference, thin capitalisation rules, retention of title claims and similar principles
may limit the ability of a member of the Group to provide a guarantee or security
or may require that the guarantee be limited by an amount or otherwise. Each
member of the Group will use reasonable endeavours to assist in demonstrating
that adequate corporate benefit accrues to it in overcoming such limitations;

(ii) the security and extent of its perfection will be agreed taking into account the cost
(including adverse effects on interest deductibility and stamp duty, notarisation
and registration fees) to the Group and the proportionate benefit to the Lenders;

(iii) where there is material incremental cost involved in creating security over all
assets owned by an Obligor in a particular category (e.g. real estate) the principle
stated at paragraph (b) above shall apply and, subject to the Agreed Security
Principles, only the material assets in that category (e.g. material real estate) shall
be subject to security;

(iv) 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;

(v) any assets subject to third party arrangements and which prevent those assets from
being charged will be excluded from any relevant security document provided that
reasonable endeavours to obtain consent to charging any such assets shall be used
by the Group if the Security Agent determines the relevant asset to be material;

(vi) members of the Group will not be required to give guarantees or enter into security
documents if it is not within the legal capacity of the relevant members of the
Group or if the same would conflict with the fiduciary duties of those directors or
contravene any legal prohibition or result in (or in a risk of) personal or criminal
liability on the part of any officer provided that the relevant member of the Group
shall use reasonable endeavours to overcome any such obstacle;

(vii) the granting of security or the perfection of the security granted will not be required
if it would have a material adverse effect on the ability of the relevant Obligor to
conduct its operations and business in the ordinary course as otherwise permitted by the Finance Documents;

(viii) the maximum granted or secured amount may be limited to minimise stamp duty, notarisation, registration or other applicable fees, taxes and duties where the benefit of increasing the granted or secured amount is disproportionate to the level of such fee, taxes and duties;

(ix) where a class of assets to be secured includes material and immaterial assets, if the cost of granting security over the immaterial assets is disproportionate to the benefit of such security, security will be granted over the material assets only;

(x) guarantee limitations may mean that access to the assets of a Guarantor is limited, in which case any asset security granted by that Guarantor shall be proportionate to the value of the guarantee;

(xi) no perfection action will be required in jurisdictions where a Guarantor is not located but perfection action may be required in the jurisdiction of one Guarantor in relation to security granted by another Guarantor located in a different jurisdiction;

(xii) local law restrictions may mean that the Lenders may not be able to benefit from the same guarantees and security; and

(xiii) the Security Agent will hold one set of security for the Lenders unless separate security is required by local law.

2. Guarantees and Security

(a) Each guarantee and security will be for all liabilities of the Obligors under the Debt Documents (as defined in the Intercreditor Agreement) in accordance with, and subject to, the Agreed Security Principles in each Relevant Jurisdiction.

(b) To the extent possible, all security shall be given in favour of the Security Agent and not the Finance Parties individually. Parallel debt provisions will be used where necessary and contained in the Intercreditor Agreement and not the individual security documents unless required by applicable law.

(c) To the extent possible, there should be no action required to be taken in relation to the guarantees or security when any Lender transfers any of its participations in the Facilities to a new Lender.

(d) Any member of the Group that is a Controlled Foreign Corporation (as defined in the United States Internal Revenue Code) may not give a guarantee or pledge any of its assets (including shares in a Subsidiary) as security for an obligation of a United States Person (as defined in the United States Internal Revenue Code). Furthermore, not more than 65 per cent. of the total combined voting power of all classes of shares entitled to vote of any such Subsidiary may be pledged directly or indirectly as security for an obligation of a United States Person. These principles also apply with respect to any entity that becomes a United States Person and/or a Controlled Foreign Corporation following any guarantee or pledge of assets or shares.
(e) No guarantees or security will be required from or over, or over the assets of, any joint venture or similar arrangement.

3. **Terms of security documents**

The following principles will be reflected in the terms of any security taken as part of this transaction:

(a) security shall be first ranking, to the extent possible;

(b) security will not be enforceable until an Event of Default has occurred and notice of acceleration has been served under this Agreement (a “Declared Default”);

(c) representations and undertakings shall only be included in each security document to confirm ownership and any registration or perfection of the security unless otherwise agreed or expressly required by local law and are no more onerous than any equivalent representation or undertaking in this Agreement;

(d) prior to a Declared Default the provisions of the security documents will not be unduly burdensome on the Guarantor or interfere materially with the operation of its business and will be limited to those required to create or maintain effective security and not impose commercial obligations;

(e) information, such as lists of assets, will be provided if (and only to the extent) required by local law to be provided to perfect or register security and, unless required to be provided by local law more frequently, be provided annually or, following an Event of Default that is outstanding, on the Security Agent’s reasonable request; and

(f) the Secured Parties shall only be able to exercise a power of attorney following the occurrence of a Declared Default or if the relevant Guarantor has failed to comply with a further assurance or perfection obligation within 10 business days of being notified of that failure and being requested to comply.

4. **Conduct in respect of assets that are or may be the subject to security**

(a) **Bank Accounts**

(i) If an Obligor has granted security over its material bank accounts it shall be free to deal with those accounts in the course of its business until a Declared Default, unless such Obligor agrees otherwise in respect of cash collateral.

(ii) If required by local law to perfect the security, notice of the security will be served on the account bank within 5 business days of the security being granted and the relevant Obligor shall use its reasonable endeavours to obtain an acknowledgement of that notice within 30 days of service. If such Obligor has used its reasonable endeavours but has been unable to obtain acknowledgement its obligation to obtain acknowledgement shall cease on expiry of such 30 day period. Irrespective of whether notice of the security is required for perfection, if the service of notice would prevent the Obligor from using a bank account in the course of its business no notice of security shall be served until the occurrence of a Declared Default.
(iii) Any security over bank accounts shall be subject to any prior security interests in favour of the account bank which are created either by law or in the standard terms and conditions of the account bank. The notice of security may request these are waived by the account bank but the Obligor shall not be required to change its banking arrangements if these security interests are not waived or only partially waived.

(iv) If required by local law security over bank accounts will be registered subject to the general principles set out in these Agreed Security Principles.

(b) Fixed Assets

(i) If an Obligor grants security over its material fixed assets it shall be free to deal with those assets in the course of its business until the occurrence of a Declared Default.

(ii) No notice will be prepared or given until the occurrence of a Declared Default (whether to third parties or by attaching a notice to the fixed assets).

(iii) If required by local law security over fixed assets will be registered subject to the general principles set out in these Agreed Security Principles.

(c) Insurance Policies

(i) An Obligor will only grant security over its insurance policies if claims under such policies may trigger a mandatory prepayment of the Facilities.

(ii) If required by local law to perfect the security, notice of assignment or charge will be served on the insurance provider within 5 business days of the security being granted and the relevant Obligor shall use its reasonable endeavours to obtain an acknowledgement of that notice within 30 days of service. If such Obligor has used its reasonable endeavours but has been unable to obtain acknowledgement its obligation to obtain acknowledgement shall cease on expiry of such 30 day period.

(iii) No loss payee or other endorsement shall be made on the insurance policy.

(d) Intellectual Property

(i) If an Obligor grants security over its material intellectual property it shall be free to deal with those assets in the course of its day to day business (including, without limitation, allowing its intellectual property to lapse if no longer material to its business) until the occurrence of a Declared Default.

(ii) No security shall be granted over any intellectual property which cannot be secured under the terms of an applicable licensing agreement.

(iii) No notice shall be prepared or given to any third party from whom intellectual property is licensed until the occurrence of a Declared Default.

(iv) If required by local law security over intellectual property will be registered subject to the general principles set out in these Agreed Security Principles.
(e) **Receivables**

(i) If an Obligor grants security over its material intercompany receivables and/or material trade receivables, it shall be free to deal with those receivables in the course of its business until a Declared Default.

(ii) No notice of security may be served in respect of trade receivables until the occurrence of a Declared Default.

(iii) If required by local law to perfect the security in respect of intercompany receivables, notice of assignment or charge will be served on the relevant lender within 5 business days of the security being granted and the relevant Obligor shall use its reasonable endeavours to obtain an acknowledgement of that notice within 30 days of service. If such Obligor has used its reasonable endeavours but has been unable to obtain acknowledgement its obligation to obtain acknowledgement shall cease on expiry of such 30 day period. Irrespective of whether notice of the security is required for perfection, if the service of notice would prevent the Obligor from dealing with an intercompany receivable in the course of its business no notice of security shall be served until the occurrence of a Declared Default.

(iv) No security shall be granted over any trade receivables which cannot be secured under the terms of the relevant contract.

(v) If required by local law security over intercompany and/or trade receivables will be registered subject to the general principles set out in these Agreed Security Principles.

(f) **Shares**

(i) A Guarantor may grant a charge over shares in other Guarantors and/or Material Companies.

(ii) Share security will be governed by the laws of the company whose shares are being secured and not by the law of the country of the Guarantor granting the security.

(iii) Until the occurrence of a Declared Default, the charging Guarantor will be permitted to retain and to exercise voting rights to any shares charged by it in a manner which does not adversely affect the validity or enforceability of the security or cause an Event of Default to occur and the company whose shares have been charged will be permitted to pay dividends subject to the provisions of the Finance Documents.

(iv) Where customary on, or as soon as reasonably practicable after, the date of execution of share security, the share certificates and a stock transfer form executed in blank will be provided to the Security Agent and where required by law the share certificate or shareholders register will be endorsed or written up and the endorsed share certificate or a copy of the written up register provided to the Security Agent.

(v) Unless the restriction is required by law, the constitutional documents of the company whose shares have been charged will be amended to remove any
restriction on the transfer or the registration of the transfer of the shares on enforcement of the security granted over them.

(g) **Real Estate**

(i) If an Obligor grants security over its real property there will be no obligation to investigate title, provide surveys or other insurance or environmental due diligence.

(ii) An Obligor will be under no obligation to obtain landlord consent required to grant security over real property, but will apply to the relevant landlord or other relevant third party for consent to charge in accordance with the requirements of this Agreement.

(iii) Costs of granting security over real estate must be within the agreed costs cap and the amount secured by each security over material real estate may be restricted to an agreed level.
SCHEDULE 13
FORM OF INCREASE CONFIRMATION

To: [ ] as Agent, [ ] as Security Agent, [ ] as Issuing Bank and [ ] as Parent, for and on behalf of each Obligor

From: [the Increase Lender] (the “Increase Lender”)

Dated: [ ]

Facilities Agreement dated [●] 2019 (the “Facilities Agreement”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This agreement (the “Agreement”) shall take effect as an Increase Confirmation for the purpose of the Facilities Agreement and as a Creditor/Agent Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2. We refer to Clause 2.2 (Increase – general) of the Facilities Agreement.

3. The Increase Lender agrees to assume and will assume all of the obligations corresponding to the Commitment specified in Schedule 1 to this Increase Confirmation (the “Relevant Commitment”) as if it was an Original Lender under the Facilities Agreement.

4. The proposed date on which the increase in relation to the Increase Lender and the Relevant Commitment is to take effect (the “Increase Date”) is [ ].

5. On the Increase Date, the Increase Lender becomes:

(a) party to the relevant Finance Documents (other than the Intercreditor Agreement) as a Lender; and

(b) party to the Intercreditor Agreement as a Senior Lender.

6. The Facility Office and address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 37.2 (Addresses) are set out in Schedule 1 to this Increase Confirmation.

7. The Increase Lender expressly acknowledges the limitations on the Lenders’ obligations referred to in paragraph (f) of Clause 2.2 (Increase – general).

8. The Increase Lender confirms that it is:

(a) in respect of an advance under a Finance Document to a UK Obligor:

(i) [not a UK Qualifying Lender;]

11 Only if increase in the Total Revolving Facility Commitments.

12 Delete as applicable.
(ii) [a UK Qualifying Lender (other than a UK Treaty Lender, an Exempt Lender or a Tax Transparent Lender);]  

(iii) [a UK Treaty Lender;]  

(iv) [an Exempt Lender;] or  

(v) [a Tax Transparent Lender;] and  

(b) in respect of an advance under a Finance Document to a Danish Obligor:  

(i) [not a Danish Qualifying Lender;]  

(ii) [a Danish Qualifying Lender (other than a Danish Treaty Lender);] or  

(iii) [a Danish Treaty Lender;] and  

(c) in respect of an advance under a Finance Document to a Dutch Obligor:  

(i) [not a Dutch Qualifying Lender;]  

(ii) [a Dutch Qualifying Lender (other than a Dutch Treaty Lender);] or  

(iii) [a Dutch Treaty Lender;] and  

(d) in respect of an advance under a Finance Document to a German Obligor:  

(i) [not a German Qualifying Lender;]  

(ii) [a German Qualifying Lender (other than a German Treaty Lender);] or  

(iii) [a German Treaty Lender.]  

9. The Increase Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:  

(a) a company resident in the United Kingdom for United Kingdom tax purposes;  

(b) a partnership each member of which is:  

(i) a company so resident in the United Kingdom; or  

(ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or  

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest
payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]

10. [The Increase Lender provides a QPP Certificate in the form set out in Schedule 2 to this Increase Confirmation.]

11. [The Increase Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [     ]) and is tax resident in [     ]*, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify the Borrower that it wishes that scheme to apply to the Facilities Agreement.]**

[11/12] The Increase Lender confirms that it [is/is not] not a Sponsor Affiliate.

[12/13] The Increase Lender confirms that it is not a Defaulting Lender.

[13/14] [The Increase Lender confirms that it [is/is not]*** a Non-Acceptable L/C Lender.]****

[14/15] We refer to Clause 22.9 (Creditor/Agent Accession Undertaking) of the Intercreditor Agreement:

In consideration of the Increase Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), the Increase Lender confirms that, as from the Increase Date, it intends to be party to the Intercreditor Agreement as a Senior Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Senior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

[15/16] This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

[16/17] This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

[17/18] This Agreement has been entered into on the date stated at the beginning of this Agreement.

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13 Include if Increase Lender comes within paragraph (a)(ii) of the definition of UK Qualifying Lender in Clause 18.1 (Definitions).

* Insert jurisdiction of tax residence

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

*** Delete as applicable.

**** Delete as applicable.

***** Include only if the assignment includes the assignment of a Revolving Facility Commitment / a participation in the Revolving Facility.

14 Statement to be included and separate QPP Certificate in the form of Schedule 2 to be executed alongside the Increase Confirmation if the Increase Lender is a person eligible for the UK withholding tax exemption for qualifying private placements.
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.

WARNING IN RELATION TO DUTCH BORROWERS:

Please seek Dutch legal advice (i) until the interpretation of the term “public (as referred to in Article 4.1(1) of the Capital Requirements Regulation (EU/575/2013) has been published by the competent authority, if the share of a Lender in any utilisation requested by a Borrower incorporated in the Netherlands is less than EUR 100,000 (or the foreign currency equivalent thereof) and (ii) as soon as the interpretation of the term “public” has been published by the competent authority, if the Lender is considered to be part of the public on the basis of such interpretation.
SCHEDULE 1

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

[insert relevant details]

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

[Increase Lender]

By: ________________________________

This Agreement is accepted as an Increase Confirmation for the purposes of the Facilities Agreement by the Agent [and the Issuing Bank]*, and as a Creditor/Agent Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent, and the Increase Date is confirmed as [                   ].

Agent [Issuing Bank]

By: ________________________________ By:]* ________________________________

[Security Agent]

By: ________________________________

NOTE:

* Only if increase in the Total Revolving Facility Commitments.
SCHEDULE 2

Form of Increase Lender QPP Certificate

To: [             ] as the Company

From: [Name of creditor]

Dated:

Facilities Agreement dated [●] (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a QPP Certificate. Terms defined in the Facilities Agreement have the same meaning in this QPP Certificate unless given a different meaning in this QPP Certificate.

2. We confirm that:
   
   (a) we are beneficially entitled to all interest payable to us as a Lender in respect of an advance under a Finance Document;
   
   (b) we are a resident of a qualifying territory; and
   
   (c) we are beneficially entitled to the interest which is payable to us in respect of an advance under a Finance Document for genuine commercial reasons, and not as part of a tax advantage scheme.

These confirmations together form a creditor certificate.

3. In this QPP Certificate the terms "resident", "qualifying territory", "scheme", "tax advantage scheme" and "creditor certificate" have the meaning given to them in the Qualifying Private Placement Regulations 2015 (2015 No. 2002).

[Name of creditor]

By:

[This QPP Certificate is required where a lender is a person eligible for the UK withholding tax exemption for qualifying private placements; a separate QPP Certificate should be provided by each such lender.]
SCHEDULE 14

FORM OF INCREMENTAL FACILITY ACCESSION NOTICE

To: [Agent]; and
[Security Agent]

From: [Proposed Additional Facility Lender]

Dated: [ ]

Dear Sirs

Facilities Agreement dated [●] 2019 (the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is an Incremental Facility Accession Notice.

2. [Name of Incremental Facility Lender] of [address/registered office] agrees to become an Incremental Facility Lender and to be bound by the terms of the Facilities Agreement as a Lender under [details of relevant Incremental Facility].

3. [Name of Incremental Facility Lender] acknowledges and agrees each of the matters set out in Clause 2.5 (Incremental Facilities) of the Facilities Agreement.

4. It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

5. This Incremental Facility Accession Notice has been executed and delivered as a deed on the date stated at the beginning of this Incremental Facility Accession Notice and is governed by English law.

6. Terms which are used in this Incremental Facility Accession Notice which are not defined in this Incremental Facility Accession Notice but are defined in the Facilities Agreement shall have the meaning given to those terms in the Facilities Agreement.

[Proposed Incremental Facility Lender]

By:

This agreement is accepted as an Incremental Facility Accession Notice for the purposes of the Facilities Agreement by the Agent and the Security Agent.

Agent

By:
WARNING IN RELATION TO DUTCH BORROWERS:

Please seek Dutch legal advice (i) until the interpretation of the term “public (as referred to in Article 4.1(1) of the Capital Requirements Regulation (EU/575/2013) has been published by the competent authority, if the share of a Lender in any utilisation requested by a Borrower incorporated in the Netherlands is less than EUR 100,000 (or the foreign currency equivalent thereof) and (ii) as soon as the interpretation of the term “public” has been published by the competent authority, if the Lender is considered to be part of the public on the basis of such interpretation.
To: [Agent] as Agent

From: [Obligors’ Agent] as Obligors’ Agent

Dated: [ ]

Dear Sirs

Facilities Agreement dated [●] 2019 (the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is an Incremental Facility Notice.

2. We wish to establish an Incremental Facility on the following terms:

   (a) Borrower(s): [●]

   (b) Amount: [●]

   (c) Lender(s): [●]

   (d) Lender Commitment(s): [●]

   (e) Currency/Currencies: [●]

   (f) Repayment Dates: [●]

   (g) Availability Period: [●]

   (h) Maturity Date: [●]

   (i) Interest Rate/Margin: [●]

   (j) Commencement Date: [●]

   [Details of Incremental Facility as required by paragraph (c) of Clause 2.5 (Incremental Facilities) together with any other information, requests or directions included at the option of the Obligors’ Agent]

3. By signing this Incremental Facility Notice each Incremental Facility Lender in respect of the abovementioned Incremental Facility agrees to make available its commitment in that Incremental Facility in the aggregate amount set out above.
4. Each person executing this Incremental Facility Notice acknowledges and agrees each of the matters set out in paragraph (d) of Clause 2.5 (Incremental Facilities) of the Facilities Agreement.

5. This Incremental Facility Notice and any non-contractual obligations arising out of or in connection with it are governed by English law.

6. Terms which are used in this Incremental Facility Notice which are not defined in this Incremental Facility Notice but are defined in the Facilities Agreement shall have the meaning given to those terms in the Facilities Agreement.

7. This Incremental Facility Notice has been entered into on the date stated above and is executed as a deed by each person to become an Incremental Facility Lender in respect of the abovementioned Incremental Facility.

8. It is intended that this Incremental Facility Notice takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

EXECUTED AS A DEED

[Incremental Facility Lender]

acting by ........................................

........................................
For and on behalf of [Obligors' Agent]

This Incremental Facility Notice is accepted for all purposes under the Finance Documents.

Acknowledged by the Agent

[Agent]

By:

Acknowledged by the Security Agent

[Security Agent]

By:
SCHEDULE 16

RESTRICTIVE COVENANTS

Part 1

Covenants

The capitalized words and expressions used in this Part 1 of Schedule 16 shall, if not otherwise defined in this Schedule 16, have the meaning given to them in Clause 1.1 (Definitions) of this Agreement or elsewhere in this Agreement. Unless otherwise expressly stated herein, references to a “Section” are to sections of this Part 1 of Schedule 16.

1. Limitation on Indebtedness

1.1 The Parent will not, and will not permit any of its Restricted Subsidiaries to, Incur any Indebtedness (including Acquired Indebtedness); provided, however, that, the Parent and any Restricted Subsidiary may Incur Indebtedness if on the date of such Incurrence and after giving pro forma effect thereto (including pro forma application of the proceeds thereof), the Fixed Charge Coverage Ratio for the Parent and its Restricted Subsidiaries for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is Incurred would have been at least 2.0 to 1.0.

1.2 Section 1.1 will not prohibit the Incurrence of the following Indebtedness:

(a) Any Indebtedness Incurred under this Agreement not exceeding £1,152.0 million plus the Accordion Amounts, and any Refinancing Indebtedness in respect thereof and Guarantees in respect of such Indebtedness, plus in the case of any refinancing of any Indebtedness permitted under this paragraph (a) or any portion thereof, the aggregate amount of fees, underwriting discounts, premia and other costs and expenses Incurred in connection with such refinancing;

(b) Guarantees by the Parent or any Restricted Subsidiary of Indebtedness of the Parent or any Restricted Subsidiary, in each case, so long as the Incurrence of such Indebtedness being guaranteed is permitted under the terms of this Agreement (other than pursuant to this paragraph (b)); provided that, if Indebtedness being guaranteed is subordinated to or pari passu with the Facilities, then the guarantee must be subordinated to or pari passu with the Facilities to the same extent as the Indebtedness guaranteed; or

(ii) without limiting Section 3 (Limitation on Liens), Indebtedness arising by reason of any Lien granted by or applicable to such Person securing Indebtedness of the Parent or any Restricted Subsidiary, in each case, so
long as the Incurrence of such Indebtedness is permitted under the terms of this Agreement;

(c) Indebtedness of the Parent owing to and held by any Restricted Subsidiary or Indebtedness of a Restricted Subsidiary owing to and held by the Parent or any Restricted Subsidiary; provided, however, that:

(i) other than in respect of intercompany current liabilities Incurred in connection with credit management, cash management, cash pooling, netting, setting off or similar arrangements in the ordinary course of business of the Parent and its Restricted Subsidiaries, if the Parent, the Borrower or any Guarantor is the obligor on such Indebtedness and the payee is not the Parent, the Borrower or a Guarantor, such Indebtedness must be unsecured and expressly subordinated to the prior payment in full in cash of all obligations then due (x) in the case of the Parent, with respect to the Facilities, or (y) in the case of a Guarantor, with respect to its Guarantee under Clause 23 (Guarantee and Indemnity), in each case in the manner and to the extent provided for in the Intercreditor Agreement; and

(ii) (x) any subsequent issuance or transfer of Capital Stock or any other event which results in any such Indebtedness being beneficially held by a Person other than the Parent or a Restricted Subsidiary; and (y) any sale or other transfer of any such Indebtedness to a Person other than the Parent or a Restricted Subsidiary, shall be deemed, in each case, to constitute an Incurrence of such Indebtedness not permitted by this paragraph (c) by the Parent or such Restricted Subsidiary, as the case may be;

(d) Indebtedness represented by (i) any Indebtedness (other than Indebtedness described in paragraphs (a), (c) and (g) of this Section 1.2) of the Parent or any Restricted Subsidiary entered into or outstanding on the Closing Date after giving effect to the Transactions; (ii) any Indebtedness Incurred under the Second Lien Facility Agreement not exceeding £265.0 million; (iii) Refinancing Indebtedness that is Incurred in respect of any Indebtedness described in this paragraph (d)(i) – (iv) or paragraph (e) or Incurred pursuant to Section 1.1; and (iv) Management Advances;

(e) Indebtedness (i) of any Person Incurred and outstanding on the date on which such Person becomes a Restricted Subsidiary or is merged, consolidated, amalgamated or otherwise combined with (including pursuant to any acquisition of assets and assumption of related liabilities) the Parent or any Restricted Subsidiary, or (ii) Incurred to provide or refinance all or any portion of the funds utilized to consummate a transaction or series of related transactions pursuant to which a Person became a Restricted Subsidiary or was otherwise acquired by the Parent or a Restricted Subsidiary or otherwise in connection with or contemplation of such acquisition; provided, however, with respect to this paragraph (e)(i) and (e)(ii), that at the time of such acquisition or other transaction (x) the Parent and its Restricted Subsidiaries would have been permitted to Incure £1.00 of additional Indebtedness
pursuant to Section 1.1 after giving pro forma effect to the relevant acquisition and Incurrence of such Indebtedness pursuant to this paragraph (e) or (y) the Fixed Charge Coverage Ratio for the Parent and its Restricted Subsidiaries for the most recently ended four fiscal quarters for which internal financial statements are available immediately preceding the date on which such Indebtedness is Incurred would not be lower than it was immediately prior to giving effect to such acquisition or other transaction;

(f) Indebtedness under Hedging Agreements entered into for bona fide hedging purposes of the Parent or its Restricted Subsidiaries and not for speculative purposes (as determined in good faith by the Board of Directors or an Officer of the Parent);

(g) Indebtedness consisting of (i) Capitalized Lease Obligations, mortgage financings, Purchase Money Obligations or other financings, in each case Incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvement of property, plant or equipment used in a Similar Business, or (ii) Indebtedness otherwise Incurred to finance the purchase, lease, rental or cost of design, construction, installation or improvement of property (real or personal) or equipment that is used or useful in a Similar Business, whether through the direct purchase of assets or the Capital Stock of any Person owning such assets, and (iii) any Refinancing Indebtedness and Guarantees in respect of sub-paragraphs (i) or (ii), in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness Incurred pursuant to this paragraph (g) then outstanding, will not exceed the greater of (x) £55.0 million and (y) 30% of Consolidated EBITDA;

(h) Indebtedness in respect of (i) workers’ compensation claims, self-insurance obligations, performance, indemnity, surety, judgment, appeal, advance payment, customs, VAT or other tax or other guarantees or other similar bonds, instruments or obligations and completion guarantees and warranties provided by the Parent or a Restricted Subsidiary or relating to liabilities, obligations, indemnities or guarantees Incurred in the ordinary course of business or for governmental or regulatory requirements, (ii) letters of credit, bankers’ acceptances, guarantees or other similar instruments or obligations issued or relating to liabilities or obligations Incurred in the ordinary course of business, provided, however, that upon the drawing of such letters of credit or other instrument, such obligations are reimbursed within 30 days following such drawing, (iii) the financing of insurance premia in the ordinary course of business, and (iv) any credit management, cash management, cash pooling, netting, setting off or similar arrangements in the ordinary course of business of the Parent and the Restricted Subsidiaries;

(i) Indebtedness arising from agreements providing for customary guarantees, indemnification, obligations in respect of earn-outs or other adjustments of purchase price or, in each case, similar obligations, in each case, Incurred or assumed in connection with the acquisition or disposition of any business or assets or Person or any Capital Stock of a Subsidiary (other than Guarantees of
Indebtedness Incurred by any Person acquiring or disposing of such business or assets or such Subsidiary for the purpose of financing such acquisition or disposition; provided that, in the case of a disposition, the maximum liability of the Parent and its Restricted Subsidiaries in respect of all such Indebtedness shall at no time exceed the gross proceeds, including the fair market value of non-cash proceeds (measured at the time received and without giving effect to any subsequent changes in value), actually received by the Parent and its Restricted Subsidiaries in connection with any such disposition;

(j)

(i) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided, however, that such Indebtedness is extinguished within 60 Business Days of Incurrence;

(ii) Indebtedness owed on a short-term basis of no longer than 60 days to banks and other financial institutions Incurred in the ordinary course of business of the Parent and its Restricted Subsidiaries with such banks or financial institutions that arises in connection with ordinary banking arrangements to manage cash balances of the Parent and its Restricted Subsidiaries; and

(iii) Indebtedness Incurred by a Restricted Subsidiary in connection with bankers’ acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case, Incurred or undertaken in the ordinary course of business;

(k) Indebtedness in an aggregate outstanding principal amount which, when taken together with any Refinancing Indebtedness and Guarantees in respect thereof and the aggregate principal amount of all other Indebtedness Incurred pursuant to this paragraph (k) then outstanding, will not exceed the greater of (x) £60.0 million and (y) 34% of Consolidated EBITDA;

(l) Indebtedness (including any Refinancing Indebtedness and Guarantees in respect thereof) in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness Incurred pursuant to this paragraph (l) and then outstanding, will not exceed 100% of the Net Cash Proceeds received by the Parent from the issuance or sale (other than to a Restricted Subsidiary) of its Subordinated Shareholder Funding or its Capital Stock (other than Disqualified Stock, Designated Preference Shares or an Excluded Contribution) or otherwise contributed to the equity (other than through the Equity Contribution, issuance of Disqualified Stock, Designated Preference Shares or an Excluded Contribution) of the Parent, in each case, subsequent to the Closing Date; provided, however, that (i) any such Net Cash Proceeds that are so received or contributed shall be excluded for purposes of making Restricted Payments under Section 2.1 and paragraphs (a), (f), (j) and (n) of Section 2.3 to the extent the Parent and its Restricted Subsidiaries Incur Indebtedness in reliance thereon and (ii) any Net Cash
Proceeds that are so received or contributed shall be excluded for purposes of Incurring Indebtedness pursuant to this paragraph (l) to the extent the Parent or any of its Restricted Subsidiaries makes a Restricted Payment under Section 2.1 or paragraphs (a), (f), (j) or (n) of Section 2.3 in reliance thereon;

(m) Indebtedness Incurred by a Receivables Subsidiary in a Qualified Receivables Financing; and

(n) Indebtedness in connection with any joint and several liability (hoofdelijke aansprakelijkheid) under any fiscal unity (fiscale eenheid) for Dutch corporate income tax purposes and Dutch value added tax purposes.

1.3 For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness Incurred pursuant to and in compliance with this Section 1:

(a) in the event that Indebtedness meets the criteria of more than one of the types of Indebtedness described in Sections 1.1 and 1.2, the Parent, in its sole discretion, will classify, and may from time to time reclassify, such item of Indebtedness and only be required to include the amount and type of such Indebtedness in one of the paragraphs of Sections 1.1 or 1.2; provided that (i) Indebtedness Incurred pursuant to paragraphs (a) and (d)(ii) of Section 1.2 and Refinancing Indebtedness in respect of Indebtedness Incurred under the Second Lien Facility Agreement pursuant to paragraph (d)(iii) of Section 1.2 may not be reclassified, and (ii) Indebtedness under this Agreement or the Second Lien Facility Agreement Incurred or outstanding on the Closing Date will be deemed to have been Incurred on such date in reliance on the exception provided in paragraph (a) of Section 1.2 (in the case of Indebtedness under this Agreement) and paragraph (d)(ii) of Section 1.2 (in the case of Indebtedness under the Second Lien Facility Agreement) and not in reliance on clause (d)(i) of Section 1.2;

(b) Guarantees of, or obligations in respect of, letters of credit, bankers’ acceptances or other similar instruments relating to, or Liens securing, Indebtedness that is otherwise included in the determination of a particular amount of Indebtedness shall not be included;

(c) if obligations in respect of letters of credit, bankers’ acceptances or other similar instruments are Incurred pursuant to any Credit Facility and are being treated as Incurred pursuant to paragraphs (a), (g) or (k) of Section 1.2 or pursuant to Section 1.1 and the letters of credit, bankers’ acceptances or other similar instruments relate to other Indebtedness, then such other Indebtedness shall not be included;

(d) the principal amount of any Disqualified Stock of the Parent or a Restricted Subsidiary, or Preferred Stock of a Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;
Indebtedness permitted by this Section 1 need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this Section 1 permitting such Indebtedness; and

the amount of any Indebtedness outstanding as of any date shall be calculated as described under the definition of “Indebtedness”; provided that the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined on the basis of IFRS.

1.4 Accrual of interest, accrual of dividends, the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest in the form of additional Indebtedness, the payment of dividends in the form of additional shares of Preferred Stock or Disqualified Stock or the reclassification of commitments or obligations not treated as Indebtedness due to a change in IFRS, including a change in IFRS itself or a change from IFRS to a different set of accounting principles, will not be deemed to be an Incurrence of Indebtedness for purposes of this Section 1.

1.5 If at any time an Unrestricted Subsidiary becomes a Restricted Subsidiary, any Indebtedness of such Subsidiary shall be deemed to be Incurred by a Restricted Subsidiary as of such date.

1.6 For purposes of determining compliance with any pound sterling-denominated restriction on the Incurrence of Indebtedness, the Sterling Equivalent of the aggregate principal amount of Indebtedness denominated in another currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness (other than any such Indebtedness under this Agreement or the Second Lien Facility Agreement), or, at the option of the Parent, first committed, in the case of Indebtedness Incurred under a revolving credit facility or term Indebtedness under this Agreement or the Second Lien Facility Agreement; provided that (a) if such Indebtedness is Incurred to refinance other Indebtedness denominated in a currency other than pounds sterling, and such refinancing would cause the applicable pound sterling-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date such refinancing, such pound sterling-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed the aggregate principal amount of such Indebtedness being refinanced, plus any amount to pay premium (including tender premium), accrued and unpaid interest, expenses, defeasance costs and fees in connection therewith; (b) the Sterling Equivalent of the aggregate principal amount of any such Indebtedness outstanding on the Closing Date shall be calculated based on the relevant currency exchange rate in effect on the Closing Date; and (c) if and for so long as any such Indebtedness is subject to a Currency Agreement with respect to the currency in which such Indebtedness is denominated covering principal and interest amounts payable on such Indebtedness, the amount of such Indebtedness, if denominated in pounds sterling, will be the amount of the principal payment required to be made under such Currency Agreement and, otherwise, the Sterling Equivalent of such amount plus the Sterling Equivalent of any
premium which is at such time due and payable but is not covered by such Currency Agreement.

1.7 Notwithstanding any other provision of this Section 1, the maximum amount of Indebtedness that the Parent or a Restricted Subsidiary may Incurred pursuant to this Section 1 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

2. Limitation on Restricted Payments

2.1 The Parent will not, and will not permit any of its Restricted Subsidiaries, directly or indirectly, to:

(a) declare or pay any dividend or make any other distribution on or in respect of the Parent’s or any Restricted Subsidiary’s Capital Stock (including any payment in connection with any merger or consolidation involving the Parent or any of its Restricted Subsidiaries) except:

(i) dividends or distributions payable in Capital Stock of the Parent (other than Disqualified Stock) or in options, warrants or other rights to purchase such Capital Stock of the Parent or in Subordinated Shareholder Funding; and

(ii) dividends or distributions payable to the Parent or a Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to holders of its Capital Stock other than the Parent or a Restricted Subsidiary on no more than a pro rata basis, measured by value);

(b) purchase, redeem, retire or otherwise acquire for value any Capital Stock of the Parent or any direct or indirect Holding Company held by Persons other than the Parent or a Restricted Subsidiary (other than in exchange for Capital Stock of the Parent (other than Disqualified Stock));

(c) make any principal payment on, or purchase, repurchase, redeem, defease or otherwise acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Indebtedness (other than (i) any such payment, purchase, repurchase, redemption, defeasance or other acquisition or retirement in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case, due within twelve months of the date of payment, purchase, repurchase, redemption, defeasance or other acquisition or retirement, (ii) any Indebtedness Incurred pursuant to paragraph (c) of Section 1.2 (Limitation on Indebtedness) and (iii) any such payment, purchase, repurchase, redemption, defeasance or other acquisition or retirement that is a Permitted Investment (other than Permitted Investments in connection with
Subordinated Indebtedness pursuant to paragraph (a) of the definition of Permitted Investments);

(d) make any payment (other than by capitalization of interest) on or with respect to, or purchase, repurchase, redeem, defease or otherwise acquire or retire for value any Subordinated Shareholder Funding; or

(e) make any Restricted Investment in any Person;

(any such dividend, distribution, payment, purchase, redemption, repurchase, defeasance, other acquisition, retirement or Restricted Investment referred to in paragraphs (a) to (e) above are referred to herein as a “Restricted Payment”), if at the time the Parent or such Restricted Subsidiary makes such Restricted Payment:

(x) a Default shall have occurred and be continuing (or would result immediately thereafter therefrom) (subject to Clause 28.15 (Clean-up period));

(y) the Parent and its Restricted Subsidiaries are not permitted to Incur an additional £1.00 of Indebtedness pursuant to Section 1.1 (Limitation on Indebtedness) after giving effect, on a pro forma basis, to such Restricted Payment; or

(z) the aggregate amount of such Restricted Payment and all other Restricted Payments made subsequent to the Closing Date (and not returned or rescinded) (including Permitted Payments permitted below by paragraphs (e)(i) (without duplication of amounts paid pursuant to any other paragraph of Section 2.3), (f), (j), (k) and (l) of Section 2.3, but excluding all other Restricted Payments permitted by Section 2.3) would exceed the sum of (without duplication):

(i) 50% of Consolidated Net Income for the period (treated as one accounting period) from the first day of the first fiscal quarter commencing after the Closing Date to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which internal consolidated financial statements of the Parent are available (or, in the case such Consolidated Net Income is a deficit, minus 100% of such deficit);

(ii) 100% of the aggregate Net Cash Proceeds, and the fair market value of property or assets or marketable securities, received by the Parent from the issue or sale of its Capital Stock (other than Disqualified Stock or Designated Preference Shares) or Subordinated Shareholder Funding subsequent to the Closing Date or otherwise contributed to the equity (other than through the Equity Contribution, the issuance of Disqualified Stock or Designated Preference Shares) of the Parent subsequent to the Closing Date (other than (x) Net Cash Proceeds or property or assets or marketable securities received from an issuance or sale of such Capital Stock to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Parent or any Subsidiary of the Parent for the benefit of its employees to the extent funded by the Parent or any Restricted Subsidiary, (y) Net Cash Proceeds or property or assets or marketable
securities to the extent that any Restricted Payment has been made from such proceeds in reliance on paragraph (f) of Section 2.3 and (z) Excluded Contributions since the Closing Date);

(iii) 100% of the aggregate Net Cash Proceeds, and the fair market value of property or assets or marketable securities, received by the Parent or any Restricted Subsidiary from the issuance or sale (other than to the Parent or a Restricted Subsidiary or an employee stock ownership plan or trust established by the Parent or any Subsidiary of the Parent for the benefit of its employees to the extent funded by the Parent or any Restricted Subsidiary) by the Parent or any Restricted Subsidiary subsequent to the Closing Date of any Indebtedness that has been converted into or exchanged for Capital Stock of the Parent (other than Disqualified Stock or Designated Preference Shares) or Subordinated Shareholder Funding (plus the amount of any cash, and the fair market value of property or assets or marketable securities, received by the Parent or any Restricted Subsidiary upon such conversion or exchange) but excluding (x) Net Cash Proceeds to the extent that any Restricted Payment has been made from such proceeds in reliance on paragraph (f) of Section 2.3 and (y) Excluded Contributions;

(iv) the amount equal to the net reduction in Restricted Investments made by the Parent or any of its Restricted Subsidiaries resulting from:

(A) repurchases, redemptions or other acquisitions or retirements of any such Restricted Investment, proceeds realized upon the sale or other disposition to a Person other than the Parent or a Restricted Subsidiary of any such Restricted Investment, repayments of loans or advances or other transfers of assets (including by way of dividend, distribution, interest payments or returns of capital) to the Parent or any Restricted Subsidiary; or

(B) the redesignation of Unrestricted Subsidiaries as Restricted Subsidiaries (valued, in each case, as provided in the definition of “Investment”) not to exceed, in the case of any Unrestricted Subsidiary, the amount of Investments previously made by the Parent or any Restricted Subsidiary in such Unrestricted Subsidiary, which amount, in each case under this paragraph (iv), was included in the calculation of the amount of Restricted Payments referred to in the first sentence of this paragraph (z),

provided, however, that no amount will be included in Consolidated Net Income for purposes of the preceding paragraph (i) to the extent that it is (at the Parent’s option) included under this paragraph (iv); and

(v) the amount of the cash and the fair market value of property or assets or of marketable securities received by the Parent or any of its Restricted Subsidiaries in connection with:
(A) the sale or other disposition (other than to the Parent or a Restricted Subsidiary or an employee stock ownership plan or trust established by the Parent or any Subsidiary of the Parent for the benefit of its employees to the extent funded by the Parent or any Restricted Subsidiary) of Capital Stock of an Unrestricted Subsidiary; and

(B) any dividend or distribution made by an Unrestricted Subsidiary or Affiliate to the Parent or a Restricted Subsidiary;

provided, however, that no amount will be included in Consolidated Net Income for purposes of the preceding subparagraph (i) to the extent that it is (at the Parent’s option) included under this subparagraph (v); provided further, however, that such amount under this subparagraph (v) shall not exceed the amount included in the calculation of the amount of Restricted Payments referred to in the first sentence of this paragraph (z).

2.2 The fair market value of property or assets other than cash covered by Section 2.1 shall be the fair market value thereof as determined in good faith by the Board of Directors or an Officer of the Parent. The fair market value of any cash Restricted Payment shall be its face amount.

2.3 The foregoing provisions will not prohibit any of the following (collectively, “Permitted Payments”):

(a) any Restricted Payment made in exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the substantially concurrent sale of, Capital Stock of the Parent (other than Disqualified Stock or Designated Preference Shares), Subordinated Shareholder Funding or a substantially concurrent contribution to the equity (other than through the Equity Contribution, the issuance of Disqualified Stock or Designated Preference Shares, or through an Excluded Contribution) of the Parent made subsequent to the Closing Date; provided, however, that to the extent so applied, the Net Cash Proceeds, or fair market value (as determined in accordance with Sections 2.2 and 2.4) of property or assets or of marketable securities, from such sale of Capital Stock, Subordinated Shareholder Funding or such contribution will be excluded from paragraph (z)(ii) of Section 2.1;

(b) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Indebtedness made in exchange for, or out of the proceeds of the substantially concurrent Incurrence of Refinancing Indebtedness permitted to be Incurred pursuant to Section 1 (Limitation on Indebtedness);

(c) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Preferred Stock of the Parent or a Restricted Subsidiary made in exchange for or out of the proceeds of the substantially concurrent sale of Preferred Stock of the Parent or a Restricted Subsidiary, as the case may be, that, in each case, is permitted
to be Incurred pursuant to Section 1 (*Limitation on Indebtedness*), and that in each case, constitutes Refinancing Indebtedness;

(d) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Indebtedness:

(i) from Net Available Cash to the extent permitted under Section 5 (*Limitation on Sales of Assets and Subsidiary Stock*), but only if the Parent shall have first complied with the terms described under Section 5 (*Limitation on Sales of Assets and Subsidiary Stock*) and repaid all Utilisations required to be repaid thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness; or

(ii) to the extent required by the agreement governing such Subordinated Indebtedness, following the occurrence of a Change of Control or Sale (each as defined in this Agreement) (or other similar event described therein as a “change of control” or “sale”), but only (A) if the Parent shall have first complied with the terms of Clause 12.1 (*Exit*) of this Agreement, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness and (B) at a purchase price not greater than 101% of the principal amount of such Subordinated Indebtedness plus accrued and unpaid interest (together with any applicable prepayment or redemption premium); or

(iii) (A) consisting of Acquired Indebtedness and (B) at a purchase price not greater than 100% of the principal amount of such Subordinated Indebtedness plus accrued and unpaid interest (together with any applicable prepayment or redemption premium);

(e) any dividends paid within 60 days after the date of declaration if at such date of declaration such dividend would have complied with this Section 2;

(f) the purchase, repurchase, redemption, defeasance or other acquisition, cancellation or retirement for value of Capital Stock of the Parent, any Restricted Subsidiary or any Holding Company (including any options, warrants or other rights in respect thereof) and loans, advances, dividends or distributions by the Parent to any Holding Company or any entity formed for the purpose of investing in Capital Stock of the Parent or any Holding Company to permit any Holding Company or such entity to purchase, repurchase, redeem, defease or otherwise acquire, cancel or retire for value Capital Stock of the Parent, any Restricted Subsidiary or any Holding Company (including any options, warrants or other rights in respect thereof), or payments to purchase, repurchase, redeem, defease or otherwise acquire, cancel or retire for value Capital Stock of the Parent, any Restricted Subsidiary or any Holding Company (including any options, warrants or other rights in respect thereof), in each case from Management Investors; *provided that* such payments, loans, advances, dividends or distributions do not exceed an amount (net of repayments of any such loans or advances) equal to (A) £4.0 million plus (B) £2.0
million multiplied by the number of calendar years that have commenced since the
Closing Date plus (C) the Net Cash Proceeds received by the Parent or its Restricted
Subsidiaries subsequent to the Closing Date (including through receipt of proceeds
from the issuance or sale of its Capital Stock or Subordinated Shareholder Funding
to a Holding Company) from, or as a contribution to the equity (in each case under
this paragraph (C), other than through the issuance of Disqualified Stock or
Designated Preference Shares) of the Parent from, the issuance or sale to
Management Investors of Capital Stock (including any options, warrants or other
rights in respect thereof), to the extent such Net Cash Proceeds are not included in
any calculation under paragraph (z)(ii) of Section 2.1;

(g) the declaration and payment of dividends to holders of any class or series of
Disqualified Stock, or of any Preferred Stock of a Restricted Subsidiary, Incurred
in accordance with Section 1 (Limitation on Indebtedness);

(h) purchases, repurchases, redemptions, defeasances or other acquisitions or
retirements of Capital Stock deemed to occur upon the exercise of stock options,
warrants or other rights in respect thereof if such Capital Stock represents a portion
of the exercise price thereof;

(i) dividends, loans, advances or distributions to any Holding Company or any
Affiliates or other payments by the Parent or any Restricted Subsidiary in amounts
equal to (without duplication):

(x) the amounts required for any Holding Company to pay any Parent Expenses
or any Related Taxes; or

(y) amounts constituting or to be used for purposes of making payments (A) in
relation to the Transactions (including without limitation, any fees or
expenses), or (B) to the extent specified in paragraphs (b), (c), (e), (g), (k),
(l) and (m) of Section 6.2 (Limitation on Affiliate Transactions).

(j) so long as no Default or Event of Default has occurred and is continuing (or would
result therefrom), the declaration and payment by the Parent of, or loans, advances,
dividends or distributions to any Holding Company to pay, dividends on the
common stock or common equity interests of the Parent or any Holding Company
following a Public Offering of such common stock or common equity interests, in
an amount not to exceed in any fiscal year the greater of (i) 6% of the Net Cash
Proceeds received by the Parent from such Public Offering or contributed to the
equity (other than through the Equity Contribution, the issuance of Disqualified
Stock or Designated Preference Shares or through an Excluded Contribution) of the
Parent or loaned or contributed as Subordinated Shareholder Funding to the Parent,
and (ii) following the Initial Public Offering, an amount equal to the greater of (x)
6% of the Market Capitalization and (y) 6% of the IPO Market Capitalization;
provided that in the case of this sub-paragraph (ii), after giving pro forma effect to
such loans, advances, dividends or distributions, the Consolidated Net Leverage
Ratio for the Parent and its Restricted Subsidiaries shall be equal to or less than 6.0 to 1.0;

(k) so long as no Default or Event of Default has occurred and is continuing (or would result therefrom) (i) Restricted Payments (including loans or advances) in an aggregate amount outstanding at any time not to exceed the greater of (x) £45.0 million and (y) 25% of Consolidated EBITDA, and (ii) any Restricted Payment provided that the Consolidated Net Leverage Ratio on a pro forma basis after giving effect to any such Restricted Payment does not exceed 5.75 to 1.0;

(l) payments by the Parent, or loans, advances, dividends or distributions to any Holding Company to make payments, to holders of Capital Stock of the Parent or any Holding Company in lieu of the issuance of fractional shares of such Capital Stock; provided, however, that any such payment, loan, advance, dividend or distribution shall not be for the purpose of evading any limitation of this Section 2 or otherwise to facilitate any dividend or other return of capital to the holders of such Capital Stock (as determined in good faith by the Board of Directors or an Officer of the Parent);

(m) Restricted Payments in an aggregate amount outstanding at any time not to exceed the aggregate cash amount of Excluded Contributions, or consisting of non-cash Excluded Contributions, or Investments to the extent made in exchange for or using as consideration Investments previously made under this paragraph (m);

(n) (i) the declaration and payment of dividends to holders of any class or series of Designated Preference Shares of the Parent issued after the Closing Date; and (ii) the declaration and payment of dividends to any Holding Company or any Affiliate thereof, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preference Shares of such Holding Company or Affiliate issued after the Closing Date; provided, however, that, in the case of paragraphs (i) and (ii) above, the amount of all dividends declared or paid pursuant to this paragraph (n) shall not exceed the Net Cash Proceeds received by the Parent or the aggregate amount contributed in cash to the equity (other than through the Equity Contribution, the issuance of Disqualified Stock or an Excluded Contribution or, in the case of Designated Preference Shares by a Holding Company or an Affiliate the issuance of Designated Preference Shares) of the Parent or loaned or contributed as Subordinated Shareholder Funding to the Parent, from the issuance or sale of such Designated Preference Shares;

(o) dividends or other distributions of Capital Stock, Indebtedness or other securities of Unrestricted Subsidiaries; and

(p) payment of any Receivables Fees and purchases of Receivables Assets pursuant to a Receivables Repurchase Obligation in connection with a Qualified Receivables Financing.
2.4 The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Parent or such Restricted Subsidiary, as the case may be, pursuant to such Restricted Payment.

3. **Limitation on Liens**

3.1 The Parent will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create, Incur or suffer to exist any Lien upon any of its property or assets (including Capital Stock of a Restricted Subsidiary), whether owned on the Closing Date or acquired after that date, or any interest therein or any income or profits therefrom, which Lien is securing any Indebtedness (such Lien, the “Initial Lien”), except (a) in the case of any property or asset that does not constitute Collateral, (i) Permitted Liens or (ii) Liens on property or assets that are not Permitted Liens if the Loans, the Facilities and the Guarantees granted under this Agreement are secured equally and rateably with, or prior to, in the case of Liens with respect to Subordinated Indebtedness, the Indebtedness secured by such Initial Lien for so long as such Indebtedness is so secured and (b) in the case of any property or assets that constitute Collateral, Permitted Collateral Liens.

3.2 Any such Lien created in favor of the Loans pursuant to clause (a)(ii) of Section 3.1 will be automatically and unconditionally released and discharged upon the release and discharge of the Initial Lien to which it relates.

3.3 With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the Incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The “Increased Amount” of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness.

4. **Limitation on Restrictions on Distributions from Restricted Subsidiaries**

4.1 The Parent will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distributions in cash or otherwise on its Capital Stock to the Parent, or pay any Indebtedness or other obligations owed to the Parent;

(b) make any loans or advances to the Parent; or

(c) sell, lease or transfer any of its property or assets to the Parent;

provided that (x) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock
and (y) the subordination of (including the application of any standstill requirements to) loans or advances made to the Parent or any Restricted Subsidiary to other Indebtedness Incurred by the Parent or any Restricted Subsidiary shall not be deemed to constitute such an encumbrance or restriction.

4.2 Section 4.1 will not prohibit:

(a) any encumbrance or restriction pursuant to (i) this Agreement or the Second Lien Facility Agreement, (ii) the Intercreditor Agreement, any Additional Intercreditor Agreement and the Transaction Security Documents or (iii) any other agreement or instrument in effect at or entered into on the Closing Date, including, in each case, any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings; provided that the amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements referred to in subparagraphs (i), (ii) and (iii) above, as applicable (as determined in good faith by the Board of Directors or an Officer of the Parent);

(b) any encumbrance or restriction pursuant to an agreement or instrument of a Person or relating to any Capital Stock or Indebtedness of a Person, entered into on or before the date on which such Person was acquired by or merged, consolidated or otherwise combined with or into the Parent or any Restricted Subsidiary, or was designated as a Restricted Subsidiary, or on which such agreement or instrument is assumed by the Parent or any Restricted Subsidiary in connection with an acquisition of assets (other than Capital Stock or Indebtedness Incurred as consideration in, or to provide all or any portion of the funds utilized to consummate, the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was acquired by the Parent or was merged, consolidated or otherwise combined with or into the Parent or any Restricted Subsidiary entered into or in connection with such transaction) and outstanding on such date; provided that, for the purposes of this paragraph (b), if another Person is the Successor Company, any Subsidiary thereof or agreement or instrument of such Person or any such Subsidiary shall be deemed acquired or assumed by the Parent or any Restricted Subsidiary when such Person becomes the Successor Company;

(c) any encumbrance or restriction pursuant to an agreement or instrument effecting a refinancing of Indebtedness Incurred pursuant to, or that otherwise refinances, an agreement or instrument referred to in paragraphs (a) or (b) of this Section 4.2 or this paragraph (c) (an “Initial Agreement”) or contained in any amendment, supplement or other modification to an agreement referred to in paragraphs (a) or (b) of this Section 4.2 or this paragraph (c); provided, however, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such agreement or instrument are no less favorable in any material respect to the Lenders than the encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such refinancing or amendment, supplement or other modification relates (as determined in good faith by the Board
of Directors or an Officer of the Parent) or that the Board of Directors or an Officer of the Parent determines when such Indebtedness is Incurred that such encumbrances or restrictions will not adversely affect, in any material respect, the Company’s ability to make principal or interest payments on the Utilisations;

(d) any encumbrance or restriction:

(i) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract, or the assignment or transfer of any lease, license or other contract;

(ii) contained in mortgages, pledges, charges or other security agreements permitted under this Agreement or securing Indebtedness of the Parent or a Restricted Subsidiary permitted under this Agreement to the extent such encumbrances or restrictions restrict the transfer of the property or assets subject to such mortgages, pledges, charges or other security agreements; or

(iii) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Parent or any Restricted Subsidiary;

(e) any encumbrance or restriction pursuant to Purchase Money Obligations and Capitalized Lease Obligations permitted under this Agreement, in each case, that impose encumbrances or restrictions on the property so acquired or any encumbrance or restriction pursuant to a joint venture agreement that imposes restrictions on the transfer of the assets of the joint venture;

(f) any encumbrance or restriction with respect to a Restricted Subsidiary (or any of its property or assets) imposed pursuant to an agreement entered into for the direct or indirect sale or disposition to a Person of all or substantially all the Capital Stock or assets of such Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(g) customary provisions in leases, licenses, joint venture agreements, and other similar agreements and instruments entered into in the ordinary course of business or consistent with industry practices;

(h) encumbrances or restrictions arising or existing by reason of applicable law or any applicable rule, regulation or order (including encumbrances or restrictions on making distributions in cash or Cash Equivalents as a dividend or otherwise that arise or exist by reason of applicable law or any applicable rule, regulation or order) or encumbrances or restrictions required by any regulatory authority;

(i) any encumbrance or restriction on cash or other deposits or net worth imposed by customers, suppliers or landlords under agreements entered into in the ordinary course of business;
(j) any encumbrance or restriction pursuant to Hedging Agreements;

(k) any encumbrance or restriction arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be Incurred subsequent to the Closing Date pursuant to Section 1 (Limitation on Indebtedness) if the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favorable to the Lenders than (i) the encumbrances and restrictions contained in this Agreement, together with the security documents associated therewith as in effect on the Closing Date or (ii) in comparable financings (as determined in good faith by the Board of Directors or an Officer of the Parent) and where, in the case of paragraph (ii), the Parent determines at the time such Indebtedness is Incurred that such encumbrances or restrictions will not adversely affect, in any material respect, the Parent’s ability to make principal or interest payments on the Utilisations;

(l) any encumbrance or restriction existing by reason of any Lien permitted under Section 3 (Limitation on Liens) above; or

(m) restrictions effected in connection with a Qualified Receivables Financing that, in the good faith determination of the Board of Directors or an Officer of the Parent, are necessary or advisable to effect such Qualified Receivables Financing.

5. **Limitation on Sales of Assets and Subsidiary Stock**

5.1 The Parent will not, and will not permit any of its Restricted Subsidiaries to, make any Asset Disposition unless:

(a) the Parent or such Restricted Subsidiary, as the case may be, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at least equal to the fair market value (such fair market value to be determined on the date of contractually agreeing to such Asset Disposition), as determined in good faith by the Board of Directors or an Officer of the Parent, of the shares and assets subject to such Asset Disposition (including, for the avoidance of doubt, if such Asset Disposition is a Permitted Asset Swap); and

(b) in any such Asset Disposition, or series of related Asset Dispositions (except to the extent the Asset Disposition is a Permitted Asset Swap), at least 75% of the consideration from such Asset Disposition (excluding any consideration by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise, other than Indebtedness) received by the Parent or such Restricted Subsidiary, as the case may be, is in the form of cash, Cash Equivalents or Temporary Cash Investments.

Within 365 days from the later of (A) the date of such Asset Disposition and (B) the receipt of such Net Available Cash from an Asset Disposition, the Parent or such Restricted Subsidiary, as the case may be, may apply an amount equal to such Net Available Cash at the option of the Parent or such Restricted Subsidiary:
(i) (A) to prepay, repay, purchase or redeem any Senior Secured Indebtedness (including Indebtedness under the Facilities); provided that in connection with any prepayment, repayment, purchase or redemption of Indebtedness pursuant to this paragraph (i) (except in the case of any revolving Indebtedness, including but not limited to this Agreement), the Parent or such Restricted Subsidiary will retire such Indebtedness and will cause the related commitment to be permanently reduced in an amount equal to the principal amount so prepaid, repaid, purchased or redeemed; provided, further, that in the case of the prepayment, repayment, purchase or redemption of Senior Secured Indebtedness other than the Facilities, the Borrower shall prepay, repay, purchase or redeem the Facilities on a pro rata basis with such other Senior Secured Indebtedness; (B) to prepay, repay, purchase or redeem any Indebtedness of a Restricted Subsidiary that is not the Borrower or a Guarantor (other than Indebtedness owed to the Parent or any Restricted Subsidiary); or (C) in the case of an Asset Disposition that does not constitute Collateral, to prepay, repay, purchase or redeem (I) Pari Passu Indebtedness (other than Indebtedness owed to the Parent or a Restricted Subsidiary) (i) at a price of no more than 100% of the principal amount of such Pari Passu Indebtedness plus accrued and unpaid interest to the date of such prepayment, repayment, purchase or redemption, (ii) through repurchase of such Pari Passu Indebtedness in the open market or (iii) pursuant to the contractual optional redemption provisions applicable thereto or (II) Senior Indebtedness (other than Indebtedness owed to the Parent or a Restricted Subsidiary) (i) at a price of no more than 100% of the principal amount of such Senior Indebtedness plus accrued and unpaid interest to the date of such prepayment, repayment, purchase or redemption, (ii) through repurchase of such Senior Indebtedness in the open market or (iii) pursuant to the contractual optional redemption provisions applicable thereto; provided that in the case of the prepayment, repayment, purchase or redemption of Pari Passu Indebtedness or Senior Indebtedness (in each case, other than the Facilities) pursuant to this sub-clause (i)(C), the Borrower shall prepay, repay, purchase or redeem the Facilities on a pro rata basis with such other Indebtedness;

(ii) to the extent the Parent or such Restricted Subsidiary elects, to invest in or commit to invest in Additional Assets (including by means of an investment in Additional Assets by a Restricted Subsidiary with Net Available Cash received by the Parent or a Restricted Subsidiary) within 365 days from the later of (A) the date of such Asset Disposition and (B) the receipt of such Net Available Cash; provided, however, that any such reinvestment in Additional Assets made pursuant to a definitive binding agreement or a commitment approved by the Board of Directors or an Officer of the Parent that is executed or approved within such time will satisfy this requirement, so long as such investment is consummated within 180 days of such 365th day;

(iii) to make a capital expenditure pursuant to a definitive binding agreement or a commitment approved by the Board of Directors or an Officer of the Parent; provided, however, that any such capital expenditure made that is executed or approved within such time will only satisfy this requirement so long as such investment is consummated within 180 days of such 365th day; or

(iv) any combination of the foregoing;
provided that, pending the final application of any such Net Available Cash in accordance with subparagraphs (i), (ii), (iii) or (iv) above, the Parent and its Restricted Subsidiaries may temporarily reduce Indebtedness or otherwise invest such Net Available Cash in any manner not prohibited by this Agreement.

5.2 For the purposes of paragraph (b) of Section 5.1, the following will be deemed to be cash:

(a) the assumption by the transferee of Indebtedness of the Parent or Indebtedness of a Restricted Subsidiary (other than Subordinated Indebtedness of the Parent, the Borrower or a Guarantor) and the release of the Parent or such Restricted Subsidiary from all liability on such Indebtedness in connection with such Asset Disposition;

(b) securities, notes or other obligations received by the Parent or any Restricted Subsidiary from the transferee that are converted by the Parent or such Restricted Subsidiary into cash or Cash Equivalents within 180 days following the closing of such Asset Disposition;

(c) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Disposition, to the extent that the Parent and each other Restricted Subsidiary are released from any Guarantee of payment of such Indebtedness in connection with such Asset Disposition;

(d) consideration consisting of Indebtedness of the Parent or any Restricted Subsidiary (other than Subordinated Indebtedness of the Parent, the Borrower or a Guarantor) received after the Closing Date from Persons who are not the Parent or any Restricted Subsidiary; and

(e) any Designated Non-Cash Consideration received by the Parent or any Restricted Subsidiary in such Asset Dispositions having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this Section 5 that is at that time outstanding, not to exceed the greater of £20 million and 11% of Consolidated EBITDA (with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value).

6. **Limitation on Affiliate Transactions**

6.1 The Parent will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into or conduct any transaction or series of related transactions (including the purchase, sale, lease or exchange of any property or the rendering of any service) with or for the benefit of any Affiliate of the Parent (such transaction or series of related transactions being an “Affiliate Transaction”) involving aggregate value in excess of £20.0 million unless:

(a) the terms of such Affiliate Transaction taken as a whole are not materially less favorable to the Parent or such Restricted Subsidiary, as the case may be, than those that could be obtained in a comparable transaction at the time of such transaction
or the execution of the agreement providing for such transaction in arm’s length dealings with a Person who is not such an Affiliate; and

(b) in the event such Affiliate Transaction involves an aggregate value in excess of £30.0 million, the terms of such transaction or series of related transactions taken as a whole have been approved by a majority of the members of the Board of Directors of the Parent resolving that such transaction or series of related transactions complies with paragraph (a) above.

6.2 The provisions of Section 6.1 will not apply to:

(a) any Restricted Payment permitted to be made pursuant to the covenant described under Section 2 (Limitation on Restricted Payments), any Permitted Payments (other than pursuant to sub-paragraph (y) of paragraph (i) of Section 2.3 (Limitation on Restricted Payments)) or any Permitted Investment (other than Permitted Investments as defined in paragraphs (a)(ii), (b) and (k) of the definition thereof);

(b) any issuance or sale of Capital Stock, options, other equity-related interests or other securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, or entering into, or maintenance of, any employment, consulting, collective bargaining or benefit plan, program, agreement or arrangement, related trust or other similar agreement and other compensation arrangements, options, warrants or other rights to purchase Capital Stock of the Parent, any Restricted Subsidiary or any Holding Company, restricted stock plans, long-term incentive plans, stock appreciation rights plans, participation plans or similar employee benefits or consultants’ plans (including valuation, health, insurance, deferred compensation, severance, retirement, savings or similar plans, programs or arrangements) or indemnities provided on behalf of officers, employees, directors or consultants approved by the Board of Directors of the Parent, in each case in the ordinary course of business;

(c) any Management Advances and any waiver or transaction with respect thereto and any transaction pursuant to or in connection with an MEP, incentive scheme, deferred compensation or similar arrangement (including any MEP Payment);

(d) any transaction between or among the Parent and any Restricted Subsidiary (or entity that becomes a Restricted Subsidiary as a result of such transaction), or between or among Restricted Subsidiaries or any Receivables Subsidiary;

(e) the payment of reasonable fees and reimbursement of expenses to, and customary indemnities (including under customary insurance policies) and employee benefit and pension expenses provided on behalf of, directors, officers, consultants or employees of the Parent, any Restricted Subsidiary or any Holding Company (whether directly or indirectly and including through any Person owned or controlled by any of such directors, officers or employees);

(f) the Transactions and the entry into and performance of obligations of the Parent or any of its Restricted Subsidiaries under the terms of any transaction arising out of,
and any payments pursuant to or for purposes of funding, any agreement or instrument in effect as of or on the Closing Date, as these agreements and instruments may be amended, modified, supplemented, extended, renewed, replaced or refinanced from time to time in accordance with the other terms of this Section 6 or to the extent not materially more disadvantageous to the Lenders taken as a whole in the good faith judgment of the Board of Directors or an Officer of the Parent and the entry into and performance of any registration rights or other listing agreement in connection with any Public Offering;

(g) the execution, delivery and performance of any Tax Sharing Agreement and the formation and maintenance of any consolidated group for tax, accounting or cash pooling or management purposes in the ordinary course of business;

(h) any payments arising on the exercise of any put or call options (or any equivalent right or obligation) in relation to any Associate or transactions with customers, clients, landlords, suppliers or purchasers or sellers of goods or services, which, in each case, are in the ordinary course of business and are either fair to the Parent or the relevant Restricted Subsidiary in the reasonable determination of the Board of Directors or an Officer of the Parent or the relevant Restricted Subsidiary or are on terms no less favorable than those that could reasonably have been obtained at such time from an unaffiliated party;

(i) any transaction in the ordinary course of business between or among the Parent or any Restricted Subsidiary and any Affiliate of the Parent or an Associate or similar entity that would constitute an Affiliate Transaction solely because the Parent or a Restricted Subsidiary or any Affiliate of the Parent or a Restricted Subsidiary or any Affiliate of any Permitted Holder owns an equity interest in or otherwise controls such Affiliate, Associate or similar entity;

(j) (i) issuances or sales of Capital Stock (other than Disqualified Stock or Designated Preference Shares) of the Parent or options, warrants or other rights to acquire such Capital Stock or Subordinated Shareholder Funding; provided that the interest rate and other financial terms of such Subordinated Shareholder Funding are approved by a majority of the members of the Board of Directors or an Officer of the Parent in their reasonable determination, (ii) any amendment, waiver or other transaction with respect to any Subordinated Shareholder Funding in compliance with the other provisions of this Agreement, the Intercreditor Agreement and any Additional Intercreditor Agreement, as applicable and (iii) directors’ qualifying shares and shares issued to foreign nationals as required by applicable law;

(k) without duplication in respect of payments made pursuant to paragraph (l) below, (i) payments by the Parent or any Restricted Subsidiary to any Permitted Holder (whether directly or indirectly, including through any Holding Company) of annual management, consulting, monitoring or advisory fees and related expenses in an aggregate amount not to exceed £5.0 million in each twelve month period commencing on the Closing Date, and (ii) customary payments by the Parent or any Restricted Subsidiary to any Permitted Holder (whether directly or indirectly,
including through any Holding Company) for financial advisory, consulting, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures, which payments in respect of this paragraph (ii) are approved by a majority of the Board of Directors or an Officer of the Parent in good faith;

(l) payment to any Permitted Holder of all reasonable out-of-pocket expenses Incurred by such Permitted Holder in connection with its direct or indirect investment in the Parent and its Subsidiaries;

(m) any transaction pursuant to or in connection with a Qualified Receivables Financing; and

(n) any transaction as to which the Parent delivers to the Agent a written opinion from an Independent Financial Advisor stating that the transaction (i) is fair to the Parent and its Restricted Subsidiaries from a financial point of view, or (ii) meets the requirements of clause (a) of Clause 6.1 (Limitation on Affiliate Transactions).

7. **Merger and Consolidation**

*The Parent*

7.1 The Parent will not consolidate with or merge with or into, or convey, transfer or lease all or substantially all its assets to, any Person, unless (and subject to the other terms of this Agreement):

(a) the resulting, surviving or transfeeree Person (if not the Parent) will be a Person organized and existing under the laws of any Permissible Jurisdiction and the Successor Company (if not the Parent) will expressly assume (subject in each case to any limitation contemplated by the Agreed Security Principles), to the extent required by applicable law to effect such assumption, all obligations of the Parent under this Agreement, the Intercreditor Agreement, any Additional Intercreditor Agreement and the Transaction Security Documents;

(b) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the Successor Company or any Subsidiary of the Successor Company as a result of such transaction as having been Incurred by the Successor Company or such Subsidiary at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(c) immediately after giving effect to such transaction, either (i) the Successor Company would be permitted to Incur at least an additional £1.00 of Indebtedness pursuant to the Section 1.1 (Limitation on Indebtedness) above or (ii) the Fixed Charge Coverage Ratio for the Parent and its Restricted Subsidiaries for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such transaction is consummated would not be lower than it was immediately prior to giving effect to such transaction; and
the Parent shall have delivered to the Agent an Officer’s Certificate and an Opinion of Counsel, each to the effect that such consolidation, merger or transfer (if any) complies with this Agreement, and that all conditions precedent provided for therein relating to such transaction have been complied with or satisfied, and that the assumption (if any) of obligations under paragraph (a) above constitutes the legal, valid and binding obligation of the Successor Company. The Agent shall be entitled to rely conclusively on such Officer’s Certificate and Opinion of Counsel without independent verification.

7.2 Any Indebtedness that becomes an obligation of the Parent or any Restricted Subsidiary (or that is deemed to be Incurred by any Restricted Subsidiary that becomes a Restricted Subsidiary) as a result of any such transaction undertaken in compliance with this Section 7, and any Refinancing Indebtedness with respect thereto, shall be deemed to have been Incurred in compliance with Section 1 (Limitation on Indebtedness).

7.3 For purposes of this Section 7 only, the sale, lease, conveyance, assignment, transfer, or other disposition of all or substantially all of the properties and assets of one or more Subsidiaries of the Parent, which properties and assets, if held by the Parent instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Parent on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Parent, as the case may be.

7.4 The Successor Company will succeed to, and be substituted for, and may exercise every right and power of, the Parent under this Agreement but in the case of a lease of all or substantially all its assets, the predecessor company will not be released from its obligations under this Agreement.

7.5 Notwithstanding paragraphs (b), (c) and (d) of Section 7.1 and Section 7.7 (which do not apply to transactions referred to in this Section 7.5), (i) any Restricted Subsidiary may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to the Parent and (ii) any Restricted Subsidiary that is not a Guarantor may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to any other Restricted Subsidiary. Notwithstanding paragraphs (b) and (c) of Section 7.1 (which do not apply to the transactions referred to in this Section 7.5), the Parent may consolidate or otherwise combine with or merge into an Affiliate incorporated or organized for the purpose of changing the legal domicile of the Parent, reincorporating the Parent in another jurisdiction, or changing the legal form of the Parent.

7.6 This Section 7 (other than the requirements of paragraph (b) of Section 7.1 above) will not apply to (a) any transactions which constitute an Asset Disposition if the Parent has complied with Section 5 (Limitation on Sales of Assets and Subsidiary Stock) above or (b) the creation of a new subsidiary as a Restricted Subsidiary.

The Subsidiary Guarantors
7.7 No Subsidiary Guarantors may (other than a Subsidiary Guarantor whose guarantee is to be released in accordance with the terms of this Agreement, the Intercreditor Agreement and any Additional Intercreditor Agreement);

(a) consolidate with or merge with or into any Person,

(b) sell, convey, transfer or dispose of, all or substantially all its assets as an entirety or substantially as an entirety, in one transaction or a series of related transactions, to any Person, or

(c) permit any Person to merge with or into such Subsidiary Guarantor,

unless

(i) the other Person is the Parent or any Restricted Subsidiary that is a Guarantor or becomes a Guarantor;

(ii) (A) either (x) a Guarantor is the continuing Person or (y) the resulting, surviving or transferee Person expressly assumes all of the obligations of the Guarantor under this Agreement, the Intercreditor Agreement, any Additional Intercreditor Agreement and the Transaction Security Documents to which it is a party, in each case subject to any limitation contemplated by the Agreed Security Principles; and

(B) immediately after giving effect to the transaction, no Default has occurred and is continuing; or

(iii) the transaction constitutes a sale or other disposition (including by way of consolidation or merger) of the Guarantor or the sale or disposition of all or substantially all the assets of the Guarantor (in each case other than to the Parent or a Restricted Subsidiary) otherwise permitted by this Agreement.

Notwithstanding the above subparagraph (ii) and the provisions of Sections 7.1 to 7.6 above (which do not apply to transactions referred to in this sentence), (x) any Restricted Subsidiary that is not a Subsidiary Guarantor may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to a Subsidiary Guarantor and (y) if there is more than one Subsidiary Guarantor, any Subsidiary Guarantor may consolidate or otherwise combine with, merge into or transfer all or part of their respective properties and assets to any other Subsidiary Guarantor, as the case may be. Notwithstanding the preceding subparagraph (ii)(B) (which do not apply to the transactions referred to in this sentence), any Subsidiary Guarantor may consolidate or otherwise combine with or merge into an Affiliate incorporated or organized for the purpose of changing the legal domicile of the Subsidiary Guarantor reincorporating such Subsidiary Guarantor in another jurisdiction, or changing the legal form of such Subsidiary Guarantor, as the case may be. Notwithstanding this paragraph and the preceding subparagraphs (i) and (ii), in the case of the Company, the resulting, surviving or transferee Person (if not the Company) will be a Person organized and existing under the laws of any Permissible Jurisdiction.
8. **Impairment of Security Interest**

8.1 The Parent shall not, and the Parent shall not permit any Restricted Subsidiary to, take any action, which action would have the result of materially impairing the security interest with respect to the Collateral (it being understood that the Incurrence of Permitted Collateral Liens, or the confirmation or affirmation of security interests in respect of the Collateral, shall under no circumstances be deemed to materially impair the security interest with respect to the Collateral) for the benefit of the Finance Parties, and the Parent shall not, and shall not permit any Restricted Subsidiary to, grant to any Person other than the Security Agent, for the benefit of the Finance Parties and the other beneficiaries described in the Transaction Security Documents, the Intercreditor Agreement and any Additional Intercreditor Agreement, any Lien over any of the Collateral that is prohibited by Section 3 (Limitation on Liens); provided that, the Parent and its Restricted Subsidiaries may Incur any Lien over any of the Collateral that is not prohibited by Section 3 (Limitation on Liens), including Permitted Collateral Liens, and the Collateral may be discharged, transferred or released in any circumstances not prohibited by this Agreement, the applicable Transaction Security Documents, the Intercreditor Agreement and any Additional Intercreditor Agreement.

8.2 Notwithstanding the above, nothing in this Section 8 shall restrict the discharge and release of any Lien in accordance with this Agreement, the applicable Transaction Security Document, the Intercreditor Agreement or any Additional Intercreditor Agreement. Subject to the foregoing, the Transaction Security Documents may be amended, extended, renewed, restated, supplemented or otherwise modified or released to (a) cure any ambiguity, omission, defect or inconsistency therein; (b) provide for Permitted Collateral Liens; (c) add to the Collateral; or (d) make any other change thereto that does not adversely affect the Finance Parties in any material respect; provided, however, that (except where permitted by this Agreement or the Intercreditor Agreement or to effect or facilitate the creation of Permitted Collateral Liens for the benefit of the Security Agent and holders of other Indebtedness Incurred in accordance with this Agreement), no Transaction Security Document may be amended, extended, renewed, restated or otherwise modified or released unless contemporaneously with such amendment, extension, renewal, restatement or modification or release (followed by an immediate retaking of a Lien of at least equivalent ranking over the same assets), the Parent delivers to the Security Agent and the Agent, either (i) a solvency opinion, in form and substance reasonably satisfactory to the Security Agent and the Agent, from an Independent Financial Advisor or appraiser or investment bank which confirms the solvency of the Parent and its Subsidiaries, taken as a whole, after giving effect to any transactions related to such amendment, extension, renewal, restatement, modification or release, (ii) a certificate from an Officer of the relevant Person which confirms the solvency of the Person granting such Lien after giving effect to any transactions related to such amendment, extension, renewal, restatement, modification or release (followed by an immediate retaking of a Lien of at least equivalent ranking over the same assets), or (iii) an Opinion of Counsel (subject to any qualifications customary for this type of opinion of counsel), in form and substance reasonably satisfactory to the Agent, confirming that, after giving effect to any transactions related to such amendment, extension, renewal, restatement, modification or release (followed by an immediate retaking of a lien of at least equivalent ranking over the same assets), the Lien or Liens
created under the Transaction Security Document, so amended, extended, renewed, restated, modified or released and replaced are valid and perfected Liens not otherwise subject to any limitation, imperfection or new hardening period, in equity or at law, that such Lien or Liens were not otherwise subject to immediately prior to such amendment, extension, renewal, restatement, modification or release and replacement and to which the new Indebtedness secured by the Permitted Collateral Lien is not subject. In the event that the Parent and its Restricted Subsidiaries comply with the requirements of this Section, the Agent and the Security Agent shall (subject to customary protections and indemnifications) consent to such actions without the need for instructions from the Finance Parties.

9. Additional Guarantees

9.1 The Parent will not cause or permit any of its Restricted Subsidiaries that is not a Guarantor, directly or indirectly, to Guarantee any Indebtedness of the Parent, the Borrower or a Guarantor unless such Restricted Subsidiary becomes a Guarantor on the date on which such other Guarantee is Incurred and, if applicable, executes and delivers to the Agent an Accession Letter pursuant to which such Restricted Subsidiary will provide a Guarantee of the Loans, which Guarantee will be senior to or pari passu with such Restricted Subsidiary’s Guarantee of such other Indebtedness; provided that if the Indebtedness guaranteed by such other Guarantee is subordinated in right of payment to the Loans or a Guarantee thereof, such other Guarantee must be subordinated to such Restricted Subsidiary’s Guarantee of the Loans to at least the same extent as such other Indebtedness is subordinated to the Loans or Guarantee thereof.

9.2 Notwithstanding the foregoing, the Parent shall not be obligated to cause any Restricted Subsidiary to Guarantee the Loans or grant security to the extent and for so long as the Incurrence of such Guarantee or the grant of such security would be inconsistent with the Agreed Security Principles.

10. Limitation on Parent activities

The Parent will not engage in any business or undertake any other activity, own any material assets or incur any material liabilities other than:

(1) the ownership of Capital Stock of the Company and the ownership of Capital Stock of any finance subsidiary issuer of Indebtedness;

(2) making an investment in the Company;

(3) (a) the provision of headquarters services, administrative services (including treasury services and cash-pooling arrangements and group financial functions), legal, accounting, marketing, procurement and management services to its Subsidiaries of a type customarily provided by a holding company to its Subsidiaries and the ownership of assets and the incurrence of liabilities necessary to provide such services (including incurring and paying professional fees and administration costs, indemnities, overhead costs or Taxes); (b) the ownership of assets and the existence of and performance under liabilities and obligations existing as of the Closing Date; and (c) the exercise of rights and performance of
obligations under agreements to which it is a party existing as of the Closing Date and future iterations or agreements substituted therefor (including substitutions of substitutions);

(4) (a) Incurring Indebtedness, Guarantees of Indebtedness and subordinated shareholder funding, in each case permitted under this Agreement (including, in each case, activities reasonably incidental thereto, including performance of the terms and conditions of such Indebtedness or subordinated shareholder funding, and entering into underwriting, purchase, placement, subscription or other agreements related thereto, to the extent such activities are otherwise permissible under this Agreement); and (b) the granting of Liens permitted under the covenant set forth under Section 3 (Limitation on Liens);

(5) the exercise of rights and performance of obligations arising under this Agreement, the Second Lien Facility Agreement, the Security Documents to which the Parent is a party and the Intercreditor Agreement and any Additional Intercreditor Agreement and any agreement pursuant to which Refinancing Indebtedness in relation to such Indebtedness is Incurred in accordance with this Agreement by the Company or a Restricted Subsidiary and other ancillary documents or instruments related thereto, including liabilities under any “parallel debt” obligations or any security document in respect of Permitted Liens or Permitted Collateral Liens, or any Liens Incurred in accordance with the covenant set forth under Section 3 (Limitation on Liens);

(6) the ownership of (a) cash and Cash Equivalents, Temporary Cash Investments or Investment Grade Securities and (b) other property, in each case to the extent contributed substantially concurrently to a Holding Company to the extent such contribution is not prohibited by the terms of this Agreement;

(7) paying dividends, making distributions and other payments, including the servicing, purchase, redemption or retirement of subordinated shareholder funding, to shareholders;

(8) directly related or reasonably incidental to the establishment or maintenance of its or its Subsidiaries’ corporate existence;

(9) pursuant to or in connection with the Transactions;

(10) (a) the listing of its Capital Stock or the Capital Stock of any Restricted Subsidiary or Holding Company or another IPO Entity, and the issuance, offering and sale of its Capital Stock or the Capital Stock of any Restricted Subsidiary or Holding Company or another IPO Entity (including in a Public Offering), including compliance with applicable regulatory and other obligations in connection therewith, (b) using the net cash proceeds of such issuance, or exchanging or converting such instruments, to fund the purchase, repurchase or redemption of, any Indebtedness or other equity or debt instrument, to the extent permitted or not prohibited by this Agreement or the Intercreditor Agreement or any Additional
Intercreditor Agreement, or to contribute the same to the common equity of any Restricted Subsidiary; any purchase, repurchase, redemption, or the performance of the terms and conditions of, and the exercise of rights in respect of, the foregoing, to the extent such activities are otherwise permitted or not prohibited by this Agreement or the Intercreditor Agreement or any Additional Intercreditor Agreement; and (c) the de-listing of its Capital Stock, or the Capital Stock of any Restricted Subsidiary or Holding Company or another IPO Entity;

(11) conducting activities directly related or reasonably incidental to any Initial Public Offering or Equity Offering, including the maintenance of any listing of equity interests issued by any IPO Entity;

(12) making investments in any Indebtedness;

(13) any liabilities or obligations in connection with any employee or participation scheme, including any management equity plan, incentive plan or other similar scheme operated by, for the benefit of, on behalf of or in respect of any Holding Company (and/or any current or past employees, directors or members of management thereof and any related corporate entity established for such purpose);

(14) the sale, conveyance, transfer, lease or disposition (a) of its Capital Stock or other equity interests; (b) of all or substantially all of its assets; (c) any resulting release and retaking of any security interest with respect to the Collateral in connection therewith that complies with Section 8 (Impairment of Security Interest), in each case, to the extent such activities described in this clause (14) are otherwise permitted or not prohibited by this Agreement or the Intercreditor Agreement or any Additional Intercreditor Agreement; and

(15) other activities not specifically enumerated above that are ancillary or related to those listed above or which are de minimis in nature.

11. **Reports**

For so long as the Loans are outstanding, the Parent will provide to the Agent the following reports:

(1) within 120 days after the end of the Parent’s fiscal year beginning with the first fiscal year ending after the Closing Date, annual reports containing, to the extent applicable the following information: (a) audited consolidated balance sheets of the Parent as of the end of the two most recent fiscal years and audited consolidated income statements and statements of cash flow of the Parent for the two most recent fiscal years, including complete footnotes to such financial statements and the report of the independent auditors on the financial statements; (b) unaudited pro forma income statement information and balance sheet information of the Parent (which, for the avoidance of doubt, shall not include the provision of a full income statement or balance sheet to the extent not reasonably available), together with explanatory footnotes, for any material acquisitions, dispositions or recapitalizations that have occurred since the beginning of the most recently
completed fiscal year (and which have not already been the subject of pro forma information provided by the Parent to the Agent); (c) an operating and financial review of the audited financial statements, including a discussion of the results of operations, financial condition and liquidity and capital resources of the Parent, and a discussion of material commitments and contingencies and critical accounting policies; (d) description of the business, management and shareholders of the Parent, all material affiliate transactions and a description of all material contractual arrangements, including material debt instruments; and (e) a description of material risk factors and material recent developments.

(2) within 60 days (or, in the case of the first such report, 75 days) following the end of the first three fiscal quarters in each fiscal year of the Parent beginning with the first fiscal quarter after the Closing Date, all quarterly reports of the Parent containing the following information: (a) an unaudited condensed consolidated balance sheet as of the end of such fiscal quarter and unaudited condensed statements of income and cash flow for the most recently completed fiscal quarter year to date period ending on the unaudited condensed balance sheet date, and the comparable prior year periods, together with condensed footnote disclosure; (b) unaudited pro forma income statement information and balance sheet information of the Parent (which, for the avoidance of doubt, shall not include the provision of a full income statement or balance sheet to the extent not reasonably available), together with explanatory footnotes, for any material acquisitions, dispositions or recapitalizations that have occurred since the beginning of the relevant fiscal quarter (and which have not already been the subject of pro forma information provided by the Parent to the Agent); (c) an operating and financial review of the unaudited financial statements, including a discussion of the results of operations, financial condition and material changes in liquidity and capital resources of the Parent, and a discussion of material changes not in the ordinary course of business in commitments and contingencies since the most recent report; and (d) material recent developments; and

(3) promptly after the occurrence of any material acquisition, disposition, restructuring, merger or similar transaction, or any senior executive officer changes at the Parent or change in auditors of the Parent or any other material event that the Parent announces publicly, a report containing a description of such event.

All financial statement information shall be prepared in accordance with IFRS as in effect on the date of such report or financial statement (or otherwise on the basis of IFRS as then in effect) and on a consistent basis for the periods presented; provided, however, that the reports set forth in clauses (1), (2) and (3) above may, in the event of a change in IFRS, present earlier periods on a basis that applied to such periods. No report needs to include separate financial statements for any Subsidiaries of the Parent. At the Parent’s election it may also include financial statements of a Holding Company in lieu of those for the Parent; provided that, if the financial statements of a Holding Company are included in such report, a reasonably detailed description of material differences between the financial statements of the Holding Company and the Parent shall be included for any period after the Closing Date. Following an Initial Public Offering of the Capital Stock of an IPO Entity and/or the
listing of such Capital Stock on a recognized stock exchange, the requirements of clauses (1) and (3) above shall be considered to have been fulfilled if the IPO Entity complies with the reporting requirements of such stock exchange.

At any time that any of the Parent’s Subsidiaries are Unrestricted Subsidiaries and any such Unrestricted Subsidiary or group of Unrestricted Subsidiaries, if taken together as one Subsidiary, constitutes a Significant Subsidiary of the Parent, then the annual and quarterly financial information required by the clauses (1) and (2) of the first paragraph of this covenant shall include either (i) a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, of the financial condition and results of operations of the Parent and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Parent or (ii) stand-alone audited or unaudited financial statements, as the case may be, of such Unrestricted Subsidiary or Unrestricted Subsidiaries (as a group or otherwise) together with an unaudited reconciliation to the financial information of the Parent and its Subsidiaries, which reconciliation shall include the following items: turnover, net income, cash, total assets, total debt, shareholders equity, capital expenditures and interest expense.

12. **Limited Condition Acquisition**

12.1 When calculating the availability under any basket or ratio under this Agreement or determining compliance with any provision of this Agreement in connection with any Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence or issuance of Indebtedness, Disqualified Stock or Preferred Stock and the use of proceeds thereof, the incurrence of Liens, repayments and Restricted Payments), in each case, at the option of the Parent (the Parent’s election to exercise such option, an “LCT Election”), the date of determination for availability under any such basket or ratio and whether any such action or transaction is permitted (or any requirement or condition therefor is complied with or satisfied (including as to the absence of any continuing Default or Event of Default)) under this Agreement shall be deemed to be the date (the “LCT Test Date”) that the definitive documentation for such Limited Condition Transaction is entered into (or, if applicable, the date of delivery of a binding offer, a “certain funds” tender offer, an irrevocable notice, a declaration of a Restricted Payment or a similar event), and if, after giving pro forma effect to the Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence or issuance of Indebtedness, Disqualified Stock or Preferred Stock and the use of proceeds thereof, the incurrence of Liens, repayments and Restricted Payments) and any related pro forma adjustments, the Parent or any of its Restricted Subsidiaries would have been permitted to take such actions or consummate such transactions on the relevant LCT Test Date in compliance with such ratio, test or basket (and any related requirements and conditions), such ratio, test or basket (and any related requirements and conditions) shall be deemed to have been complied with (or satisfied) for all purposes (in the case of Indebtedness, for example, whether such Indebtedness is committed, issued or Incurred at the LCT Test Date or at any time thereafter); provided that (a) if financial statements for one or more subsequent fiscal quarters shall have become available, the Parent may elect, in its sole discretion, to re-determine all such ratios, tests or baskets on the basis of such financial statements, in which case, such date of
redetermination shall thereafter be deemed to be the applicable LCT Test Date for purposes of such ratios, tests or baskets, and (b) except as contemplated in the foregoing clause (a), compliance with such ratios, tests or baskets (and any related requirements and conditions) shall not be determined or tested at any time after the applicable LCT Test Date for such Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence or issuance of Indebtedness, Disqualified Stock or Preferred Stock and the use of proceeds thereof, the incurrence of Liens, repayments and Restricted Payments).

12.2 For the avoidance of doubt, if the Parent has made an LCT Election, (1) if any of the ratios, tests or baskets for which compliance was determined or tested as of the LCT Test Date would at any time after the LCT Test Date have been exceeded or otherwise failed to have been complied with as a result of fluctuations in any such ratio, test or basket, including due to fluctuations in Consolidated EBITDA of the Parent or the Person subject to such Limited Condition Transaction, such baskets, tests or ratios will not be deemed to have been exceeded or failed to have been complied with as a result of such fluctuations; (2) if any related requirements and conditions (including as to the absence of any continuing Default or Event of Default) for which compliance or satisfaction was determined or tested as of the LCT Test Date would at any time after the LCT Test Date not have been complied with or satisfied (including due to the occurrence or continuation of a Default or Event of Default), such requirements and conditions will not be deemed to have been failed to be complied with or satisfied (and such Default or Event of Default shall be deemed not to have occurred or be continuing); and (3) in calculating the availability under any ratio, test or basket in connection with any action or transaction unrelated to such Limited Condition Transaction following the relevant LCT Test Date and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the date that the Definitive Agreement or date for redemption, purchase or repayment specified in an irrevocable notice for such Limited Condition Transaction is terminated, expires or passes, as applicable, without consummation of such Limited Condition Transaction, any such ratio, test or basket shall be determined or tested giving pro forma effect to such Limited Condition Transaction.
Part 2
Certain Definitions

Any capitalized terms used in this Schedule 16 that are not otherwise defined in this Part 2 of Schedule 16 shall have the respective meanings given to them in Clause 1.1 (Definitions) of this Agreement. Terms defined only in Clause 1.1 (Definitions) of this Agreement shall be construed when they are used in this Schedule 16 (and only for those purposes), in accordance with New York law, notwithstanding that this Agreement is governed by English law. Unless otherwise expressly stated herein, paragraph references in this Part 2 of Schedule 16 are to the Sections of Part 1 of this Schedule 16.

“Accordion Amounts” means the aggregate of the RCF Accordion Amount and the Term Loan Accordion Amount.

“Acquired Indebtedness” means Indebtedness (i) of a Person or any of its Subsidiaries existing at the time such Person becomes a Restricted Subsidiary, or (ii) assumed in connection with the acquisition of assets from such Person, in each case whether or not Incurred by such Person in connection with such Person becoming a Restricted Subsidiary or such acquisition or (iii) of a Person at the time such Person merges with or into or consolidates or otherwise combines with the Parent or any Restricted Subsidiary. Acquired Indebtedness shall be deemed to have been Incurred, with respect to paragraph (i) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary and, with respect to paragraph (ii) of the preceding sentence, on the date of consummation of such acquisition of assets and, with respect to paragraph (iii) of the preceding sentence, on the date of the relevant merger, consolidation or other combination.

“Additional Assets” means:

(a) any property or assets (other than Indebtedness and Capital Stock) used or to be used by the Parent, a Restricted Subsidiary or otherwise useful in a Similar Business (it being understood that capital expenditures on property or assets already used in a Similar Business or to replace any property or assets that are the subject of such Asset Disposition shall be deemed an investment in Additional Assets);

(b) the Capital Stock of a Person that is engaged in a Similar Business and becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Parent or a Restricted Subsidiary; or

(c) Capital Stock constituting a minority interest in any Person that at such time is a Restricted Subsidiary.

“Affiliate” of any specified Person means any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, “control,” when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.
“Asset Disposition” means any direct or indirect sale, lease (other than an operating lease entered into in the ordinary course of business), transfer, issuance or other disposition, or a series of related sales, leases (other than operating leases entered into in the ordinary course of business), transfers, issuances or dispositions that are part of a common plan, of shares of Capital Stock of a Subsidiary (other than directors’ qualifying shares), property or other assets (each referred to for the purposes of this definition as a “disposition”) by the Parent or any of its Restricted Subsidiaries, including any disposition by means of a merger, consolidation or similar transaction; provided that the sale, conveyance or other disposition of all or substantially all the assets of the Parent and its Restricted Subsidiaries taken as a whole will be governed by Clause 12.1 (Exit) and Section 7 (Merger and Consolidation) and not by Section 5 (Limitation on Sales of Assets and Subsidiary Stock). Notwithstanding the preceding provisions of this definition, the following items shall not be deemed to be Asset Dispositions:

(a) a disposition by a Restricted Subsidiary to the Parent or by the Parent or a Restricted Subsidiary to a Restricted Subsidiary;

(b) a disposition of cash, Cash Equivalents, Temporary Cash Investments or Investment Grade Securities;

(c) a disposition of inventory or other assets in the ordinary course of business;

(d) a disposition of obsolete, damaged, unnecessary, unsuitable, surplus or worn out equipment, inventory or other assets or equipment, inventory or other assets that are no longer useful in the conduct of the business of the Parent and its Restricted Subsidiaries (including the disposal, lapse or abandonment of intellectual property that it is no longer economically practicable to maintain or which is no longer required for the business of the Parent and its Restricted Subsidiaries);

(e) transactions permitted under Section 7 (Merger and Consolidation) or a transaction that constitutes a Change of Control or a Sale (each as defined in this Agreement);

(f) an issuance of Capital Stock by a Restricted Subsidiary to the Parent or a Restricted Subsidiary or as part of or pursuant to an equity incentive or compensation plan approved by the Board of Directors of the Parent;

(g) any dispositions of Capital Stock, properties or assets in a single transaction or series of related transactions with a fair market value of less than the greater of (i) £15.0 million and (ii) 8% of Consolidated EBITDA;

(h) any Restricted Payment that is permitted to be made, and is made, under the covenant described above under Section 2 (Limitation on Restricted Payments) and the making of any Permitted Payments or Permitted Investments or, solely for purposes of the second paragraph of Section 5.1 (Limitation on Sales of Assets and Subsidiary Stock) asset sales, in respect of which (and only to the extent that) the proceeds of which are used to make such Restricted Payments or Permitted Investments;

(i) dispositions in connection with Permitted Liens;
dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements but, for the avoidance of doubt, including dealings with trade debtors with respect to book debts;

the licensing or sub-licensing, leasing or assigning of intellectual property or other general intangibles and licenses, sub-licenses, assignment, leases, subleases or other dispositions of other property (including without limitation equipment or vehicles), in each case, in the ordinary course of business or consistent with industry practices;

foreclosure, condemnation or any similar action with respect to any property or other assets;

the sale or discount (with or without recourse, and on customary or commercially reasonable terms and for credit management purposes) of accounts receivable or notes receivable arising in the ordinary course of business, or the conversion or exchange of accounts receivable for notes receivable;

any disposition of Capital Stock, Indebtedness or other securities or assets of an Unrestricted Subsidiary;

any disposition of Capital Stock of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Parent or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

any surrender or waiver of contract rights or the settlement, release, recovery on or surrender of contract, tort or other claims of any kind (including any disposition of a loan in connection with a capitalization, forgiveness, waiver, release or other discharge of that loan);

any disposition of assets to a Person who is providing services related to such assets, the provision of which have been or are to be outsourced by the Parent or any Restricted Subsidiary to such Person; provided that the outsourcing transaction will be economically beneficial to the Company and its Restricted Subsidiaries taken as a whole in the good faith judgment of the Board of Directors or an Officer of the Parent;

any disposition with respect to assets built, owned or otherwise acquired by the Parent or any Restricted Subsidiary (together with any related rights and assets) pursuant to customary sale and lease back transactions and sale and hire purchase transactions, asset securitizations and other similar financings permitted by this Agreement;

sales or dispositions of receivables, bills of exchange and/or inventory, together with any related rights and assets, including cash collection accounts, books and records (with or without recourse, and on customary or commercially reasonable terms), or any disposition of the Capital Stock of a Subsidiary, all or substantially all of the assets of which relate to a transaction described in (i) or (ii) below:

(i) in connection with any Qualified Receivables Financing;
in connection with any factoring, sale or discounting transaction (or other receivables based financing arrangements); or

in the ordinary course of business; and

any dispositions in connection with the entry into a Capitalized Lease Obligation.

“Associate” means (i) any Person engaged in a Similar Business of which the Parent or its Restricted Subsidiaries are the legal and beneficial owners of between 20% and 50% of all outstanding Voting Stock and (ii) any joint venture entered into by the Parent or any Restricted Subsidiary.

“Board of Directors” means (i) with respect to the Parent or any corporation, the board of directors or managers, as applicable, of the corporation, or any duly authorized committee thereof; (ii) with respect to any partnership, the board of directors or other governing body of the general partner of the partnership or any duly authorized committee thereof; and (iii) with respect to any other Person, the board or any duly authorized committee of such Person serving a similar function. Whenever any provision of this Agreement requires any action or determination to be made by, or any approval of, a Board of Directors, such action, determination or approval shall be deemed to have been taken or made if approved by a majority of the directors (excluding employee representatives, if any) on any such Board of Directors (whether or not such action or approval is taken as part of a formal board meeting or as a formal board approval).

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

“Capitalized Lease Obligations” means an obligation that is required to be classified and accounted for as a finance lease for financial reporting purposes on the basis of IFRS as in effect and applied in the Original Financial Statements. The amount of Indebtedness represented by such obligation will be the capitalized amount of such obligation at the time any determination thereof is to be made as determined on the basis of IFRS, and the Stated Maturity thereof will be the date of the last payment of rent or any other amount due under such lease prior to the first date such lease may be terminated without penalty; provided that any obligations in respect of finance leases which would have been categorized as operating leases prior to the adoption of IFRS 16 shall not be categorized as Capitalized Lease Obligations for the purposes of this Agreement.

“Cash Equivalents” means:

(a) securities issued or directly and fully Guaranteed or insured by a Permissible Jurisdiction or, in each case, any agency or instrumentality thereof (provided that the full faith and credit of such country or such member state is pledged in support thereof), having maturities of not more than two years from the date of acquisition (or, if later, from the relevant date of calculation under this Agreement);
(b) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits or bankers’ acceptances (in each case, including any such deposits made pursuant to any sinking fund established by the Parent or any Restricted Subsidiary) having maturities of not more than one year from the date of acquisition thereof (or, if later, from the relevant date of calculation under this Agreement) issued by any lender to the Parent or a Restricted Subsidiary or by any bank or trust company (i) whose commercial paper is rated at least “A-1” or the equivalent thereof by S&P or at least “P-1” or the equivalent thereof by Moody’s (or if at the time neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) or (ii) (in the event that the bank or trust company does not have commercial paper which is rated) having combined capital and surplus in excess of £500 million;

(c) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in paragraphs (a) and (b) above or paragraph (e) below entered into with any bank meeting the qualifications specified in paragraph (b) above;

(d) commercial paper rated at the time of acquisition thereof at least “A-2” or the equivalent thereof by S&P or “P-2” or the equivalent thereof by Moody’s or carrying an equivalent rating by a Nationally Recognized Statistical Rating Organization, if both of the two named rating agencies cease publishing ratings of investments or, if no rating is available in respect of the commercial paper, the issuer of which has an equivalent rating in respect of its long-term debt, and in any case maturing within one year after the date of acquisition thereof (or, if later, from the relevant date of calculation under this Agreement);

(e) readily marketable direct obligations issued by a Permissible Jurisdiction or any agency or instrumentality thereof, in each case, having one of the two highest rating categories obtainable from either Moody’s or S&P (or, if at the time, neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) with maturities of not more than two years from the date of acquisition (or, if later, from the relevant date of calculation under this Agreement);

(f) Indebtedness or Preferred Stock issued by Persons with a rating of “BBB−” or higher from S&P or “Baa3” or higher from Moody’s (or, if at the time, neither is issuing comparable ratings, then a comparable rating of another Nationally Recognized Statistical Rating Organization) with maturities of 12 months or less from the date of acquisition (or, if later, from the relevant date of calculation under this Agreement);

(g) bills of exchange issued in a Permissible Jurisdiction or any agency or instrumentality thereof, in each case, eligible for rediscount at the relevant central bank and accepted by a bank or other financial institution (or any dematerialized equivalent); and

(h) interests in any investment company, money market fund or enhanced high yield fund which invests 95% or more of its assets in cash or in instruments of the type specified in paragraphs (a) through (g) above.
“Collateral” means the Charged Property.

“Commodity Hedging Agreements” means, in respect of a Person, any commodity purchase contract, commodity futures or forward contract, commodities option contract or other similar contract (including commodities derivative agreements or arrangements), to which such Person is a party or a beneficiary;

“Consolidated EBITDA” for any period means, without duplication, the Consolidated Net Income for such period, plus the following to the extent deducted in calculating such Consolidated Net Income or consisting of the release of provisions specified in paragraph (h) hereof:

(a) Consolidated Interest Expense and Receivables Fees;

(b) Consolidated Income Taxes;

(c) consolidated depreciation expense;

(d) consolidated amortization or impairment expense;

(e) any expenses, charges or other costs related to any equity offering (including any Equity Offering and IPO Event), Investment, acquisition (including amounts paid in connection with the acquisition or retention of one or more individuals comprising part of a management team retained to manage the acquired business; provided that such payments are made in connection with such acquisition and are consistent with the customary practice in the industry at the time of such acquisition), disposition, recapitalization or the Incurrence of any Indebtedness permitted by this Agreement (in each case whether or not successful) (including any such fees, expenses or charges related to the Transactions), in each case, as determined in good faith by the Board of Directors or an Officer of the Parent;

(f) any minority interest expense (whether paid or not) consisting of income attributable to minority equity interests of third parties in such period or any prior period or any net earnings, income or share of profit of any Associates, associated company or undertaking;

(g) the amount of (i) management, monitoring, consulting, employment and advisory fees and related expenses paid in such period to the Permitted Holders to the extent permitted by the covenant described under Section 6 (Limitation on Affiliate Transactions), (ii) the cost (including Taxes) of one-time bonuses to be paid to management in connection with the acquisition of the Parent by TDR Capital, not exceeding £5.0 million and (iii) any fees and other compensation paid to the members of the board of directors (or the equivalent thereof) of the Parent or any of its Holding Companies;

(h) other non-cash charges, write-downs or items reducing Consolidated Net Income (excluding any such non-cash charge, write-down or item to the extent it represents an accrual of or reserve for cash charges in any future period) or other items classified by the Parent as extraordinary, exceptional, unusual or nonrecurring items, plus the release of provisions, less other non-cash items of income increasing Consolidated Net Income (excluding any such non-cash item of income to the extent it represents a receipt of cash in any future period); and
any effects of hedging and treasury transactions in respect of actual or anticipated exposures arising in the ordinary course of business of the Group.

Wherever used in this Agreement (including this Part 2 of Schedule 16):

(i) Consolidated EBITDA shall be adjusted for pro forma and other adjustments on the same basis as for calculating the Consolidated Net Leverage Ratio for the Parent and its Restricted Subsidiaries;

(ii) Consolidated EBITDA shall be measured for the period of the most recent four consecutive fiscal quarters ending prior to the date for which such internal consolidated financial statements of the Parent are available, or in the case of the calculation of Consolidated EBITDA for the purposes of the provisions of this Agreement described under “Excess Cash” for the relevant Test Period; and

(iii) in relation to Section 1.1 Consolidated EBITDA shall be measured on the most recent date on which new commitments are obtained (in the case of revolving facilities) or the date on which new Indebtedness is Incurred (in the case of term facilities).

“Consolidated Financial Interest Expense” means, for any period (in each case, determined on the basis of IFRS), the sum of:

(a) consolidated net interest paid by the Parent and its Restricted Subsidiaries related to Indebtedness in cash or in kind (including (i) the interest component of Capitalized Lease Obligations, and (ii) net payments, if any, pursuant to interest rate Hedging Obligations with respect to Indebtedness) but not including any Pension Items, amortization of discount, debt issuance costs and premia, commissions, discounts and other fees and charges owed or paid with respect to financings, or costs associated with Hedging Obligations (other than those described in (ii)). Notwithstanding anything to the contrary stated above, but subject to clause (c) below, “Consolidated Financial Interest Expense” shall not include any interest expense relating to interest of any entity that is not the relevant Person, the Parent or a Restricted Subsidiary or any Receivables Fees;

(b) dividends on other distributions in respect of all Disqualified Stock of the Parent and all Preferred Stock of any Restricted Subsidiary, to the extent held by Persons other than the Parent or a subsidiary of the Parent; and

(c) any interest on Indebtedness of another Person that is guaranteed by the Parent or any of its Restricted Subsidiaries or secured by a Lien on assets of the Parent or any of its Restricted Subsidiaries.

Consolidated Financial Interest Expense shall be calculated net of any interest income (excluding income from leasing of, or vendor financing in connection with, vehicles or equipment to third parties).

“Consolidated Income Taxes” means Taxes or other payments, including deferred Taxes, based on income, profits or capital (including, without limitation, withholding Taxes), trade
Taxes and franchise Taxes of any of the Parent and its Restricted Subsidiaries whether or not paid, estimated, accrued or required to be remitted to any Governmental Authority.

“Consolidated Interest Expense” means, for any period (in each case, determined on the basis of IFRS), the consolidated interest income/expense of the Parent and its Restricted Subsidiaries, whether paid or accrued, plus or including (without duplication) any interest, costs and charges consisting of:

(a) interest expense attributable to Capitalized Lease Obligations or other leases where payments are classified as interest expense, any payment made to a special purpose or financing vehicle representing the interest component of rental expense for vehicles or equipment under leases, and the interest component of deferred payment obligations;

(b) amortization of debt discount, debt issuance costs, fees and premium;

(c) non-cash interest expense;

(d) commissions, discounts and other fees and charges owed with respect to financings not included in clause (b) above;

(e) the net payments (if any) of Hedging Agreements (excluding amortization of fees and discounts and unrealized gains and losses, costs associated with Hedging Obligations (including termination payments), foreign currency losses and any Receivables Fees);

(f) dividends on other distributions in respect of all Disqualified Stock of the Parent and all Preferred Stock of any Restricted Subsidiary, to the extent held by Persons other than the Parent or a subsidiary of the Parent;

(g) the consolidated interest expense that was capitalized during such period;

(h) any interest on Indebtedness of another Person that is guaranteed by the Parent or any of its Restricted Subsidiaries or secured by a Lien on assets of the Parent or any of its Restricted Subsidiaries; and

(i) Pension Items.

“Consolidated Net Income” means, for any period, the profit/(loss) for the financial period of the Parent and its Restricted Subsidiaries determined on a consolidated basis on the basis of IFRS; provided, however, that there will not be included in such Consolidated Net Income:

(a) subject to the limitations contained in paragraph (c) below, any profit/(loss) for the financial period of any Person if such Person is not a Restricted Subsidiary, except that the Parent’s equity in the profit/(loss) for the financial period of any such Person will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents (i) actually distributed by such Person during such period to the Parent or a Restricted Subsidiary as a dividend or other distribution or return on investment or (ii) only for the purpose of determining the amount available for Restricted Payments under paragraph (2)(i) of Section 2.1 (Limitation on Restricted Payments) that could have been distributed, as reasonably determined by an Officer of the Parent (subject, in the case of a
dividend or other distribution or return on investment to a Restricted Subsidiary, to the
limitations contained in paragraph (b) below);

(b) solely for the purpose of determining the amount available for Restricted Payments under
paragraph (z)(i) of Section 2.1 (Limitation on Restricted Payments), any profit/(loss) for
the financial period of any Restricted Subsidiary (other than Guarantors) if such Subsidiary
is subject to restrictions, directly or indirectly, on the payment of dividends or the making
distributions by such Restricted Subsidiary, directly or indirectly, to the Parent, the
Borrower or a Guarantor by operation of the terms of such Restricted Subsidiary’s charter
or any agreement, instrument, judgment, decree, order, statute or governmental rule or
regulation applicable to such Restricted Subsidiary or its shareholders (other than (i)
restrictions that have been waived or otherwise released, (ii) restrictions pursuant to or
permitted under this Agreement, and (iii) restrictions not prohibited by Section 4
(Limitation on Restrictions on Distributions from Restricted Subsidiaries), except that the
Parent’s equity in the net income of any such Restricted Subsidiary for such period will be
included in such Consolidated Net Income up to the aggregate amount of cash or Cash
Equivalents actually distributed or that could have been distributed by such Restricted
Subsidiary during such period to the Parent or a Restricted Subsidiary as a dividend or
other distribution (subject, in the case of a dividend to a Restricted Subsidiary, to the
limitation contained in this paragraph) even if encumbrances or restrictions to make
distributions in cash or Cash Equivalents arise or exist by reason of applicable law or
applicable rules, regulation or order;

(c) any net gain (or loss) realized upon the sale or other disposition of any asset or disposed
operations of the Parent or any Restricted Subsidiaries (including pursuant to any sale and
leaseback transaction or sale and hire purchase transactions) which is not sold or otherwise
disposed of in the ordinary course of business (as determined in good faith by the Board of
Directors or an Officer of the Parent);

(d) any extraordinary, exceptional, unusual or nonrecurring gain, loss or charge or any charges
or reserves in respect of any restructuring, redundancy or severance expense or other costs
related to the Transactions, in each case, as determined in good faith by the Board of
Directors or an Officer of the Parent;

(e) at the election of the Parent with respect to any quarterly period, the cumulative effect of a
change in accounting principles;

(f) any non-cash compensation charge or expense arising from any grant of stock, stock
options or other equity based awards and any non-cash deemed finance charges in respect
of any Pension Items or other provisions;

(g) all deferred financing costs written off and premia paid or other expenses Incurred directly
in connection with any early extinguishment of Indebtedness and any net gain (loss) from
any write-off or forgiveness of Indebtedness and any provisions in respect of working
capital;

(h) any unrealized gains or losses in respect of Hedging Obligations or any ineffectiveness
recognized in earnings related to qualifying hedge transactions or the fair value of changes
therein recognized in earnings for derivatives that do not qualify as hedge transactions, in
each case, in respect of Hedging Obligations;
any unrealized foreign currency transaction gains or losses in respect of Indebtedness of any Person denominated in a currency other than the functional currency of such Person and any unrealized foreign exchange gains or losses relating to translation of assets and liabilities denominated in foreign currencies;

any unrealized foreign currency translation or transaction gains or losses in respect of Indebtedness or other obligations of the Parent or any Restricted Subsidiary owing to the Parent or any Restricted Subsidiary;

any purchase accounting effects including, but not limited to, adjustments to inventory, property and equipment, software and other intangible assets and deferred revenue in component amounts required or permitted by IFRS and related authoritative pronouncements (including the effects of such adjustments pushed down to the Parent and the Restricted Subsidiaries), as a result of any consummated acquisition, or the amortization or write-off of any amounts thereof;

any goodwill or other intangible asset impairment, charge, amortization or write-off, including debt issuance costs;

the impact of capitalized, accrued or accreting or pay-in-kind interest or principal on Subordinated Shareholder Funding;

Consolidated Income Taxes to the extent in excess of cash payments made in respect of such Consolidated Income Taxes; and

to the extent covered by insurance and actually reimbursed, or, so long as the Parent has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (i) not denied by the applicable insurer in writing within 180 days and (ii) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), losses with respect to business interruption.

“Consolidated Net Leverage” means the sum of the aggregate outstanding Indebtedness of the Parent and its Restricted Subsidiaries (excluding Hedging Obligations except to the extent provided in clause (c) of under Section 1.6 (Limitation on Indebtedness)), less cash and Cash Equivalents held by the Parent or any of its Restricted Subsidiaries, as of the date of determination. In respect of any applicable period, the exchange rate used to calculate Consolidated Net Leverage may, at the option of the Parent, be (i) the weighted average exchange rate for that period used by the Parent to calculate Consolidated EBITDA (as determined by the Parent); or (ii) the relevant prevailing exchange rate at close of business on the last day of that period (as determined by the Parent), provided that, where applicable, any amount of Indebtedness will be stated so as to take into account the hedging effect of any currency hedging entered into in respect of or by reference to that Indebtedness.

“Consolidated Net Leverage Ratio” means, as of any date of determination, the ratio of (x)(i) the Consolidated Net Leverage at such date plus (ii) the Reserved Indebtedness Amount of the Parent and its Restricted Subsidiaries at such date to (y) the aggregate amount of Consolidated EBITDA for the period of the most recent four consecutive fiscal quarters ending prior to the date of such determination for which internal consolidated
financial statements of the Parent are available; *provided, however*, that for the purposes of calculating Consolidated EBITDA for such period, if, as of such date of determination:

(a) since the beginning of such period, the Parent or any Restricted Subsidiary has closed or disposed of any company, any business or site, or any group of assets constituting an operating unit of a business or site (any such disposition or closure, a “Sale”) or if the transaction giving rise to the need to calculate the Consolidated Net Leverage Ratio is such a Sale, Consolidated EBITDA for such period will be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets which are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period; provided that if any such Sale constitutes “discontinued operations” in accordance with IFRS, Consolidated Net Income shall be reduced by an amount equal to the Consolidated Net Income (if positive) attributable thereto for such period;

(b) since the beginning of such period, the Parent or any Restricted Subsidiary (by merger or otherwise) has made an Investment in any Person that thereby becomes a Restricted Subsidiary, or otherwise has acquired any company, any business or site, or any group of assets constituting an operating unit of a business or site, or made a capital investment for the refurbishment of a site (any such Investment or acquisition, a “Purchase”), including any such Purchase occurring in connection with a transaction causing a calculation to be made hereunder, Consolidated EBITDA for such period will be calculated after giving pro forma effect thereto, as if such Purchase occurred on the first day of such period;

(c) since the beginning of such period, the Parent or any Restricted Subsidiary has made or implemented a Specified Transaction or Group Initiative, including any such Specified Transaction or Group Initiative occurring in connection with a transaction causing a calculation to be made hereunder, Consolidated EBITDA for such period will be calculated after giving pro forma effect thereto, including anticipated synergies and expense and cost savings, as if such Specified Transaction or Group Initiative occurred on the first day of such period; and

(d) since the beginning of such period, any Person (that became a Restricted Subsidiary or was merged or otherwise combined with or into the Parent or any Restricted Subsidiary since the beginning of such period) will have made any Sale, Purchase, Specified Transaction or Group Initiative that would have required an adjustment pursuant to clause (a), (b) or (c) above if made by the Parent or a Restricted Subsidiary since the beginning of such period, Consolidated EBITDA for such period will be calculated after giving pro forma effect thereto, including anticipated synergies and expense and cost savings, as if such Sale, Purchase, Specified Transaction or Group Initiative occurred on the first day of such period, *provided further* that, any calculation of anticipated synergies and expense and cost savings pursuant to and in reliance on paragraphs (c) or (d) above shall be subject to the limitations set forth in the definition of Fixed Charge Coverage Ratio.
“**Consolidated Senior Secured Leverage Ratio**” means the Consolidated Net Leverage Ratio, but calculated by excluding all Indebtedness other than Senior Secured Indebtedness.

“**Contingent Obligations**” means, with respect to any Person, any obligation of such Person guaranteeing in any manner, whether directly or indirectly, any operating lease, dividend or other obligation that does not constitute Indebtedness (“**primary obligations**”) of any other Person (the “**primary obligor**”), including any obligation of such Person, whether or not contingent:

(a) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

(b) to advance or supply funds:

(c) for the purchase or payment of any such primary obligation;

(d) to maintain the working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(e) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“**Credit Facility**” means, with respect to the Parent or any of its Subsidiaries, one or more debt facilities, indentures or other arrangements (including this Agreement and the Facilities or commercial paper facilities and overdraft facilities) with banks, other institutions or investors providing for revolving credit loans, term loans, notes, receivables financing (including through the sale of receivables to such institutions or to special purpose entities formed to borrow from such institutions against such receivables), letters of credit or other Indebtedness, in each case, as amended, restated, supplemented, modified, renewed, refunded, replaced, restructured, refinanced, repaid, increased or extended from time to time (whether in whole or in part and whether or not with the original administrative agent and lenders or another administrative agent or agents or banks or other institutions or investors and whether provided under this Agreement or one or more other credit or other agreements, indentures, financing agreements or otherwise) and in each case including all agreements, instruments and documents executed and delivered pursuant to or in connection with the foregoing (including any notes and letters of credit issued pursuant thereto and any Guarantee or guarantee agreement and any pledge agreement, debenture and collateral agreement, patent and trademark security agreement, mortgages or letter of credit applications and other Guarantees, pledges, agreements, security agreements and collateral documents). Without limiting the generality of the foregoing, the term “**Credit Facility**” shall include any agreement or instrument (a) changing the maturity of any Indebtedness Incurred thereunder or contemplated thereby, (b) adding Subsidiaries of the Parent as additional borrowers or guarantors thereunder, (c) increasing the amount of Indebtedness Incurred thereunder or available to be borrowed thereunder or (d) otherwise altering the terms and conditions thereof.
“Currency Agreement” means, in respect of a Person, any foreign exchange contract, currency swap agreement, currency futures contract, currency option contract, currency derivative or other similar agreement to which such Person is a party or beneficiary.

“Designated Non-Cash Consideration” means the fair market value of non-cash consideration received by the Parent or one of its Restricted Subsidiaries in connection with an Asset Disposition that is so designated as Designated Non-Cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, less the amount of cash, Cash Equivalents or Temporary Cash Investments received in connection with a subsequent payment, redemption, retirement, sale or other disposition of such Designated Non-Cash Consideration. A particular item of Designated Non-Cash Consideration will no longer be considered to be outstanding when and to the extent it has been paid, redeemed or otherwise retired or sold or otherwise disposed of in compliance with the covenant described under Section 5 (Limitation on Sales of Assets and Subsidiary Stock).

“Designated Preference Shares” means, with respect to the Parent or any Holding Company, Preferred Stock (other than Disqualified Stock) (a) that is issued for cash (other than to the Parent or a Subsidiary of the Parent or an employee stock ownership plan or trust established by the Parent or any such Subsidiary for the benefit of their employees to the extent funded by the Parent or such Subsidiary) and (b) that is designated as “Designated Preference Shares” pursuant to an Officer’s Certificate of the Parent at or prior to the issuance thereof, the Net Cash Proceeds of which are excluded from the calculation set forth in paragraph (z)(ii) of Section 2.1 (Limitation on Restricted Payments).

“Disqualified Stock” means, with respect to any Person, any Capital Stock of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event:

(a) matures or is mandatorily redeemable for cash or in exchange for Indebtedness pursuant to a sinking fund obligation or otherwise;

(b) is convertible or exchangeable for Indebtedness or Disqualified Stock (excluding Capital Stock which is convertible or exchangeable solely at the option of the Parent or a Restricted Subsidiary); or

(c) is or may become (in accordance with its terms) upon the occurrence of certain events or otherwise redeemable or repurchasable for cash or in exchange for Indebtedness at the option of the holder of the Capital Stock in whole or in part,

in each case on or prior to the Stated Maturity of the Facilities; provided, however, that (x) only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Stock and (y) any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Parent to repurchase such Capital Stock upon the occurrence of a change of control or asset sale (howsoever defined or referred to) shall not constitute Disqualified Stock if any
such redemption or repurchase obligation is subject to compliance by the relevant Person with Section 2 (Limitation on Restricted Payments).

“Equity Contribution” means the contribution to the Parent of shareholder funds (including by means of Subordinated Shareholder Funding) on or about the Closing Date as part of the Transactions.

“Equity Investors” means TDR Capital, funds managed by TDR Capital or any of their respective Affiliates, or any co-investment vehicle managed by TDR Capital, funds managed by TDR Capital or any of their respective Affiliates.

“Equity Offering” means a sale by the IPO Entity of (a) Capital Stock (other than Disqualified Stock) other than offerings registered on Form S-8 (or any successor form) under the Securities Act or any similar offering in other jurisdictions, or (b) other securities, the proceeds of which are contributed to the equity (other than through the issuance of Disqualified Stock or Designated Preference Shares or through an Excluded Contribution), of, or as Subordinated Shareholder Funding to, the IPO Entity or any of its Restricted Subsidiaries.


“Excluded Contribution” means Net Cash Proceeds or property or assets received by the Parent as capital contributions to the equity (other than through the Equity Contribution, the issuance of Disqualified Stock or Designated Preference Shares) of the Parent after the Closing Date or from the issuance or sale (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Parent or any Subsidiary of the Parent for the benefit of its employees to the extent funded by the Parent or any Restricted Subsidiary) of Capital Stock (other than Disqualified Stock or Designated Preference Shares) of the Parent, in each case, to the extent designated as an Excluded Contribution pursuant to an Officer’s Certificate of the Parent.

“fair market value” shall be conclusively established by means of an Officer’s Certificate or a resolution of the Board of Directors of the Parent setting out such fair market value as determined by such Officer or such Board of Directors in good faith.

“Fixed Charge Coverage Ratio” means, for any period, the ratio of:

(1) Consolidated EBITDA; to

(2) Consolidated Financial Interest Expense;

provided that in calculating the Fixed Charge Coverage Ratio or any element thereof for any period, calculations will be made in good faith by the Board of Directors or an Officer of the Parent (including in the case of Purchases, Specified Transactions or Group Initiatives, any pro forma synergies and expense and cost savings that have occurred or are reasonably expected to occur within the next eighteen months following the date of such calculation, including, without limitation, as a result of, or that would result from any such
Purchase, Specified Transaction or Group Initiative, in the good faith judgment of the Board of Directors or an Officer of the Parent (regardless of whether these synergies and expense and cost savings could then be reflected in pro forma financial statements to the extent prepared); provided, further, without limiting the application of the previous proviso, that for the purposes of calculating Consolidated EBITDA or Consolidated Financial Interest Expense for such period, if, as of such date of determination:

(a) since the beginning of such period, the Parent or any Restricted Subsidiary has made a Sale or if the transaction giving rise to the need to calculate the Fixed Charge Coverage Ratio is such a Sale, (i) Consolidated EBITDA for such period will be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the assets which are the subject of such Sale for such period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such period; provided that if any such Sale constitutes “discontinued operations” in accordance with IFRS, Consolidated Net Income shall be reduced by an amount equal to the Consolidated Net Income (if positive) attributable to such operations for such period or increased by an amount equal to the Consolidated Net Income (if negative) attributable thereto for such period; and (ii) the Consolidated Financial Interest Expense for such period shall be reduced by an amount equal to the Consolidated Financial Interest Expense directly attributable to any Indebtedness of the Parent or of any Restricted Subsidiary repaid, repurchased, defeased or otherwise discharged with respect to the Parent and the continuing Restricted Subsidiaries in connection with such Sale for such same period (or, if the Capital Stock of any Restricted Subsidiary is sold, the Consolidated Financial Interest Expense for such period directly attributable to the Indebtedness of such Restricted Subsidiary to the extent the Parent and the continuing Restricted Subsidiaries are no longer liable for such Indebtedness after such Sale);

(b) since the beginning of such period, the Parent or any Restricted Subsidiary (by merger or otherwise) has made a Purchase, including any such Purchase occurring in connection with a transaction causing a calculation to be made hereunder, Consolidated EBITDA and Consolidated Financial Interest Expense for such period will be calculated after giving pro forma effect thereto, as if such Purchase occurred on the first day of such period;

(c) since the beginning of such period, any Person (that became a Restricted Subsidiary or was merged or otherwise combined with or into the Parent or any Restricted Subsidiary since the beginning of such period) will have made any Sale, Purchase or Group Initiative that would have required an adjustment pursuant to clause (a) or (b) above if made by the Parent or a Restricted Subsidiary since the beginning of such period, Consolidated EBITDA and Consolidated Financial Interest Expense for such period will be calculated after giving pro forma effect thereto as if such Sale, Purchase or Group Initiative occurred on the first day of such period; and
(d) If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest expense on such Indebtedness will be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Hedging Obligation applicable to such Indebtedness for a period equal to the remaining term of such Indebtedness).

For the purposes of this definition and the definitions of Consolidated EBITDA, Consolidated Financial Interest Expense, Consolidated Income Taxes, Consolidated Interest Expense, Consolidated Net Income and Consolidated Net Leverage Ratio, to the extent applicable and without duplication, (i) calculations will be as determined in good faith by a responsible financial or accounting officer of the Parent (including in respect of anticipated synergies and expense and cost savings that are reasonably expected to occur within the next eighteen months following the date of such calculation, and as though the full effect of such synergies and expense and cost savings were realized on the first day of the relevant period and shall also include the reasonably anticipated full run rate cost savings effect (as calculated in good faith by a responsible financial or chief accounting officer of the Parent) of any Group Initiatives that have been initiated or implemented by the Parent or its Restricted Subsidiaries during the relevant period or in connection with an event specified in clauses (a), (b) or (c) above as though such Group Initiatives had been fully implemented on the first day of the relevant period), provided that at any time the aggregate amount of anticipated synergies and expense and cost savings for any period taken into account for any calculation in connection with any Sale, Purchase, Specified Transaction or Group Initiative (to the extent otherwise permitted herein) shall not exceed in the aggregate 25% of Consolidated EBITDA for such period (calculated on a pro forma basis taking into account any adjustments to be made to Consolidated EBITDA), (ii) in determining the amount of Indebtedness outstanding on any date of determination, pro forma effect shall be given to any Incurrence, repayment, repurchase, defeasance or other acquisition, retirement or discharge of Indebtedness as if such transaction had occurred on the first day of the relevant period, (iii) pro forma effect shall be given to anticipated acquisitions which have become subject to Definitive Agreements, (iv) calculations shall also give pro forma effect to any Specified Transaction that has occurred since the beginning of such period but which has not yet been fully reflected in the relevant period (as determined and calculated by a responsible financial or accounting officer of the Parent), (v) calculations shall exclude any non-recurring costs and other expenses arising directly or indirectly as a consequence of any Sale or Purchase or Specified Transaction and/or the implementation of any Group Initiative, (vi) “determined on a consolidated basis on the basis of IFRS,” “determined on the basis of IFRS” and similar provisions shall at the election of the Parent allow for calculation to be made on the basis of presentation of the financial statements provided pursuant to the terms of Section 11 (Reports), and (vii) in the event that the Parent or a Restricted Subsidiary enters into or increases commitments under a revolving credit facility or letter of credit facility, the Fixed Charge Coverage Ratio, Consolidated Net Leverage or Consolidated EBITDA-based permission, as applicable, for borrowings and
reborrowing thereunder (and including issuance and creation of letters of credit and bankers’ acceptances thereunder) will, at the Parent’s option as elected on the date the Parent or a Restricted Subsidiary, as the case may be, enters into or increases such commitments, either (x) be determined on the date of such revolving credit facility, such letter of credit facility or such increase in commitments (assuming that the full amount thereof has been borrowed as of such date), and, if such Fixed Charge Coverage Ratio, Consolidated Net Leverage or Consolidated EBITDA-based permission, as applicable, test is satisfied with respect thereto at such time, any borrowing or reborrowing thereunder (and the issuance and creation of letters of credit and bankers' acceptances thereunder) will be permitted under Section 1 (Limitation on Indebtedness) irrespective of the Fixed Charge Coverage Ratio, Consolidated Net Leverage or Consolidated EBITDA, as applicable, at the time of any borrowing or reborrowing (or issuance or creation of letters of credit or bankers' acceptances thereunder) (the committed amount permitted to be borrowed or reborrowed (and the issuance and creation of letters of credit and bankers' acceptances) on a date pursuant to the operation of this clause (x) shall be the “Reserved Indebtedness Amount” as of such date for purposes of the Fixed Charge Coverage Ratio, Consolidated Net Leverage or Consolidated EBITDA-based permission, as applicable) and for purposes of subsequent calculations of the Fixed Charge Coverage Ratio, Consolidated Net Leverage or Consolidated EBITDA-based permission (only for the purpose of calculation of the relevant permission), as applicable, the Reserved Indebtedness Amount shall be deemed to be outstanding, whether or not such amount is actually outstanding, for so long as such commitments are outstanding or (y) be determined on the date such amount is borrowed pursuant to any such facility or increased commitment.

“Governmental Authority” means any nation, sovereign or government, any state, province, territory or other political subdivision thereof, and any entity or authority exercising executive, legislative, judicial, regulatory, self-regulatory or administrative functions of or pertaining to government, including a central bank or stock exchange.

“Group Initiative” means any restructuring, operating expense reduction, operating improvement, cost savings programs or, in each case, other similar initiative.

“Guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person, including any such obligation, direct or indirect, contingent or otherwise, of such Person:

(a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(b) entered into primarily for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);
provided, however, that the term “Guarantee” will not include endorsements for collection or deposit in the ordinary course of business. The term “Guarantee” used as a verb has a corresponding meaning.

“Hedging Agreement” means any Interest Rate Agreement, Currency Agreement, Commodity Hedging Agreement or other agreement entered into by the Parent or any of its Subsidiaries to offset, balance or manage risks related to any businesses, services or activities engaged in by the Parent or any of its Subsidiaries or any Associates in the ordinary course.

“Hedging Obligations” of any Person means the obligations of such Person pursuant to any Hedging Agreement.

“Holding Company” means any Person of which the Parent at any time is or becomes a Subsidiary after the date of this Agreement and any holding companies established by any Permitted Holder for purposes of holding its investment in any Holding Company.

“IFRS” means the International Financial Reporting Standards (formerly, International Accounting Standards) endorsed from time to time by the European Union or any variation thereof with which the Parent or its Restricted Subsidiaries are, or may be, required to comply; provided that at any date after the Closing Date the Parent may make an irrevocable election to establish that “IFRS” shall (except for the purposes of Section 11 (Reports) and Clause 25 (Information Undertakings) of this Agreement) mean IFRS as in effect on a date that is on or prior to the date of such election. Except as otherwise set forth in this Agreement, all ratios and calculations based on IFRS contained in this Agreement shall be computed in accordance with IFRS.

“Incur” means issue, create, assume, enter into any Guarantee of, incur, extend or otherwise become liable for; provided, however, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger, consolidation, acquisition or otherwise) will be deemed to be Incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary and the terms “Incurred” and “Incurrence” have meanings correlative to the foregoing and, subject to clause (vii) in the last paragraph of the definition of Fixed Charge Coverage Ratio, any Indebtedness pursuant to any revolving credit or similar facility shall only be “Incurred” at the time any funds are borrowed thereunder.

“Indebtedness” means, with respect to any Person on any date of determination (without duplication):

(a) the principal of indebtedness of such Person for borrowed money;

(b) the principal of obligations of such Person evidenced by bonds (other than a performance or advance payment bond or similar instrument), debentures, notes or other similar instruments;

(c) all reimbursement obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments except to the extent such reimbursement
obligations relate to trade payables and such obligations are satisfied within 30 days of Incurrence, in each case only to the extent issued by a bank or financial institution and provided that the underlying obligation in respect of which the instrument was issued would be treated as Indebtedness;

(d) the principal component of all obligations of such Person to pay the deferred and unpaid purchase price of property (except trade payables), where the deferred payment is arranged primarily as a means of raising finance, which purchase price is due more than one year after the date of placing such property in service or taking final delivery and title thereto (or if the relevant supplier customarily allows a period for payment, if later the date 180 days after the expiry of that period), for the avoidance of doubt excluding where the payment deferral results from the delayed or non-satisfaction of contract terms by the supplier, from a dispute carried out in good faith or from contract terms establishing payment schedules tied to total or partial contract completion and/or to the results of operational testing procedures and excluding earn-outs and other contingent consideration arrangements);

(e) Capitalized Lease Obligations of such Person;

(f) the principal component of all obligations, or liquidation preference, of such Person with respect to any Disqualified Stock or, with respect to any Restricted Subsidiary, any Preferred Stock (but excluding, in each case, any accrued dividends);

(g) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; provided, however, that the amount of such Indebtedness will be the lesser of (i) the fair market value of such asset at such date of determination (as determined in good faith by the Parent) and (ii) the amount of such Indebtedness of such other Persons;

(h) Guarantees by such Person of the principal component of Indebtedness of other Persons to the extent Guaranteed by such Person; and

(i) to the extent not otherwise included in this definition, net obligations of such Person under Hedging Agreements (the amount of any such obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such obligation that would be payable by such Person at such time).

The amount of Indebtedness of any Person at any time in the case of a revolving credit or similar facility shall, subject to clause (vii) in the last paragraph of the definition of Fixed Charge Coverage Ratio, be the total amounts of funds borrowed and then outstanding. The amount of Indebtedness of any Person at any date shall be determined as set forth above or as otherwise provided in this Agreement, and (other than with respect to letters of credit or Guarantees or Indebtedness specified in paragraph (c), (f), (g) or (h) above) shall be (x) in the case of any Indebtedness issued with original issue discount, the amount in respect thereof that would appear on the balance sheet (excluding any notes thereto) of such Person in accordance with IFRS and (y) the principal amount of the Indebtedness, in the case of any other Indebtedness. Except as provided under paragraphs (g) and (h) above, “Indebtedness” of a Person shall not include any Indebtedness of any other Person, regardless of whether it would be deemed under IFRS to be consolidated with the Indebtedness of the first Person.
Notwithstanding the above provisions, in no event shall the following constitute Indebtedness:

(a) Subordinated Shareholder Funding;

(b) any lease, concession or license of property (or guarantee thereof) which would have been categorized as an operating lease prior to the adoption of IFRS 16 or any deposit made in relation thereto,

(c) any asset retirement obligations,

(d) any prepayments or deposits or grants received from clients or customers or Governmental Authorities, in each case, in the ordinary course of business;

(e) any income Tax or other payables or obligations under any Tax Sharing Agreement;

(f) obligations under any profit sharing agreement or any license, permit or other approval (or Guarantees given in respect of such obligations) Incurred prior to the date of this Agreement or in the ordinary course of business;

(g) Contingent Obligations Incurred in the ordinary course of business and obligations under or in respect of Qualified Receivables Financing;

(h) trade credit on normal commercial terms;

(i) in connection with the purchase by the Parent or any Restricted Subsidiary of any business, any post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; provided, however, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid within 30 days thereafter;

(j) for the avoidance of doubt, any obligations in respect of workers’ compensation claims, early retirement or termination obligations or any bonds in relation thereto, Pension Items or similar claims, obligations or contributions or social security or wage Taxes;

(k) obligations of any Person for the reimbursements of any obligor in relation to any confirming services, reverse factoring services and commercial discount lines in the ordinary course of business;

(l) obligations of any Person for the reimbursement of any obligor on any letter of credit, banker's acceptance, performance bond, advance payment bonds, surety bonds, completion or performance guarantees or similar transactions, to the extent that such letters, bonds, guarantees or similar transactions are not drawn upon or, if and to the extent drawn upon, are honored in accordance with their terms and if to be reimbursed, are reimbursed no later than the fifth Business Day following receipt
by such Person of a demand for reimbursement following payment on the letter of
credit or bond; or

(m) any Ordinary Course Vehicle Obligations.

For the avoidance of doubt, where the amount of Indebtedness falls to be calculated or
where the existence (or otherwise) of any Indebtedness is to be established, unless the
context requires otherwise (as determined by the Parent in good faith), indebtedness owed
by the Parent or any Restricted Subsidiary to the Parent or any other Restricted Subsidiary
shall not be taken into account.

“Independent Financial Advisor” means an investment banking or accounting firm or
any third party appraiser; provided, however, that such firm or appraiser is not an Affiliate
of the Parent.

“Initial Public Offering” means an Equity Offering of the common stock or other common
equity interests of the IPO Entity following which there is a Public Market and, as a result
of which, the shares of common stock or other common equity interests of the IPO Entity
in such offering are listed on an internationally recognized exchange or traded on an
internationally recognized market.

“Interest Rate Agreement” means, with respect to any Person, any interest rate protection
agreement, interest rate future agreement, interest rate option agreement, interest rate swap
agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge
agreement or other similar agreement or arrangement to which such Person is party or a
beneficiary.

“Investment” means, with respect to any Person, all investments by such Person in other
Persons (including Affiliates) in the form of any direct or indirect advance, loan or other
extensions of credit (other than advances or extensions of credit to customers, suppliers,
directors, officers or employees of any Person in the ordinary course of business, and
excluding any debt or extension of credit represented by a bank deposit (other than a time
deposit) and any loans or credit arising as a result of the operation of cash pooling, net
balance or similar arrangements) or capital contribution to (by means of any transfer of
cash or other property to others or any payment for property or services for the account or
use of others), or the Incurrence of a Guarantee of any obligation of, or any purchase or
acquisition of Capital Stock, Indebtedness or other similar instruments issued by, such
other Persons and all other items that are or would be classified as investments on a balance
sheet prepared on the basis of IFRS; provided, however, that endorsements of negotiable
instruments and documents in the ordinary course of business will not be deemed to be an
Investment. If the Parent or any Restricted Subsidiary issues, sells or otherwise disposes of
any Capital Stock of a Person that is a Restricted Subsidiary such that, after giving effect
thereto, such Person is no longer a Restricted Subsidiary, any Investment by the Parent or
any Restricted Subsidiary in such Person remaining after giving effect thereto will be
deemed to be a new Investment at such time equal to the fair market value of the Capital
Stock of such Subsidiary not sold or disposed of in an amount determined as provided for
in Sections 2.2 and 2.4 (Limitation on Restricted Payments).
For purposes of Section 2 (*Limitation on Restricted Payments*):

(a) “Investment” will include the portion (proportionate to the Parent’s equity interest in a Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the fair market value of the net assets of such Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Parent will be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to (i) the Parent’s “Investment” in such Subsidiary at the time of such redesignation less (ii) the portion (proportionate to the Parent’s equity interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time that such Subsidiary is so re-designated a Restricted Subsidiary; and

(b) any property transferred to or from an Unrestricted Subsidiary will be valued at its fair market value at the time of such transfer, in each case as determined in good faith by the Parent.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced (at the Parent’s option) by any dividend, distribution, interest payment, return of capital, repayment or other amount or value received in respect of such Investment.

“*Investment Grade Securities*” means:

(a) securities issued or directly and fully guaranteed or insured by a Permissible Jurisdiction or any agency or instrumentality thereof (other than Cash Equivalents);

(b) debt securities or debt instruments with a rating of “A−” or higher from S&P or “A3” or higher by Moody’s or the equivalent of such rating by such rating organization or, if no rating of Moody’s or S&P then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization, but excluding any debt securities or instruments constituting loans or advances among the Parent and its Subsidiaries; and

(c) investments in any fund that invests exclusively in investments of the type described in paragraphs (a), and (b) above which fund may also hold cash and Cash Equivalents pending investment or distribution.

“IPO Entity” means the Parent, any Holding Company or any Successor Company of the Parent or any Holding Company.

“IPO Event” means the occurrence of an Initial Public Offering or a Listing.

“IPO Market Capitalization” means an amount equal to (a) the total number of issued and outstanding shares of common stock or common equity interests of the IPO Entity at the time of closing of the Initial Public Offering multiplied by (b) the price per share at which such shares of common stock or common equity interest are sold in such Initial Public Offering.

“Lien” means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof).
“Limited Condition Transaction” means (1) any Investment or acquisition (whether by merger, amalgamation, consolidation or other business combination or the acquisition of Capital Stock or otherwise), (2) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Stock or Preferred Stock requiring irrevocable notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or repayment and (3) any Restricted Payment requiring irrevocable notice in advance thereof.

“Listing” means a listing of all or any part of the share capital of theParent or any Subsidiary of the Parent on any other recognized investment exchange (as that term is used in the Financial Services and Markets Act 2000) or any other sale or issue by way of flotation or public offering in relation to the Parent or any such Subsidiary of the Parent in any jurisdiction or country.

“Management Advances” means loans or advances made to, or Guarantees with respect to loans or advances made to any Management Investors:

(a) in respect of travel, entertainment or moving related expenses Incurred in the ordinary course of business or (ii) for purposes of funding any such person's purchase of Capital Stock or Subordinated Shareholder Funding (or similar obligations) of the Parent, its Subsidiaries or any Holding Company;
(b) in respect of moving related expenses Incurred in connection with any closing or consolidation of any facility or office; or
(c) not exceeding the greater of £4.0 million and 2% of Consolidated EBITDA in the aggregate outstanding at any time.

“Management Investors” means the officers, directors, employees and other members of the management of or consultants to any Holding Company, the Parent or any of their respective Subsidiaries, or spouses, family members or relatives thereof, or any trust, partnership or other entity for the benefit of or the beneficial owner of which (directly or indirectly) is any of the foregoing, or any of their heirs, executors, successors and legal representatives, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Parent, any Restricted Subsidiary or any Holding Company.

“Market Capitalization” means an amount equal to (a) the total number of issued and outstanding shares of common stock or common equity interests of the IPO Entity on the date of the declaration of the relevant dividend multiplied by (b) the arithmetic mean of the closing prices per share of such common stock or common equity interests for the 30 consecutive trading days immediately preceding the date of declaration of such dividend.

“MEP” means any management equity plan, employee benefit scheme, incentive scheme or other similar or equivalent arrangement implemented or to be implemented.

“MEP Payment” means any payment or transaction which is, or which is to be made, entered into or used directly or indirectly (or to facilitate any such step or payment):
(a) to make payment to a member of any MEP (including payments to members leaving any MEP) or any trust or other person in respect of any MEP, incentive scheme or similar arrangement or pay any costs and expenses properly incurred in the establishing and maintaining of any MEP, incentive scheme or similar arrangement; and/or

(b) for repayment or refinancing of amounts outstanding under any loan made in connection with an MEP, incentive scheme or similar arrangement or capitalization of such loans.

“Moody’s” means Moody’s Investors Service, Inc. or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

“Nationally Recognized Statistical Rating Organization” means a nationally recognized statistical rating organization within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act.

“Net Available Cash” from an Asset Disposition means cash payments received (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise and net proceeds from the sale or other disposition of any securities received as consideration, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring Person of Indebtedness or other obligations relating to the properties or assets that are the subject of such Asset Disposition or received in any other non-cash form) therefrom, in each case net of:

(a) all legal, accounting, investment banking, title and recording tax expenses, commissions and other fees and expenses Incurred, and all Taxes paid or required to be paid or accrued as a liability under IFRS (after taking into account any available tax credits or deductions and any Tax Sharing Agreements), as a consequence of such Asset Disposition;

(b) all payments made on any Indebtedness which is secured by any assets subject to such Asset Disposition, in accordance with the terms of any Lien upon such assets, or which are required by applicable law to be repaid out of the proceeds from such Asset Disposition;

(c) all distributions and other payments required to be made to minority interest holders (other than any Holding Company, the Parent or any of their respective Subsidiaries) in Subsidiaries or joint ventures as a result of such Asset Disposition; and

(d) the deduction of appropriate amounts required to be provided by the seller as a reserve, on the basis of IFRS, against any liabilities associated with the assets disposed of in such Asset Disposition and retained by the Parent or any Restricted Subsidiary after such Asset Disposition.

“Net Cash Proceeds” with respect to any issuance or sale of Capital Stock or Subordinated Shareholder Funding, means the cash proceeds of such issuance or sale net of attorneys’ fees, accountants’ fees, underwriters’ or placement agents’ fees, listing fees, discounts or commissions and brokerage, consultant and other fees and charges actually Incurred in connection with such issuance or sale and net of Taxes paid or payable as a result of such issuance or sale (after taking into account any available tax credit or deductions and any Tax Sharing Agreements).
“Officer” means, with respect to any Person, (a) any member of the Board of Directors, the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, or the Secretary (i) of such Person or (ii) if such Person is owned or managed by a single entity, of such entity, or (b) any other individual designated as an “Officer” for the purposes of this Agreement by the Board of Directors of such Person.

“Officer’s Certificate” means, with respect to any Person, a certificate signed by one Officer of such Person.

“Opinion of Counsel” means a written opinion from legal counsel, in form and substance reasonably satisfactory to the Agent. The counsel may be an employee of or counsel to the Parent or its Subsidiaries.

“Original Financial Statements” mean the audited consolidated annual financial statements of the Target for the fiscal year ended April 1, 2018.

“Ordinary Course Vehicle Obligation” means with respect to any Buyer Finance Subsidiary, any credit facilities or other arrangements with banks and/or financial institutions providing loans, financing of accounts receivables or other similar arrangements, in each case, as amended, restated, supplemented, modified, renewed, refunded, replaced, restructured, refinanced, repaid, increased or extended from time to time, used in connection with funding the sale, conveyance, transfer, lease or disposition of vehicles in the ordinary course of business that meets the following conditions: (a) any obligation thereunder (contingent or otherwise) is, in the good faith determination of the Board of Directors or an Officer of the Parent, recourse to or obligates the Parent or any Restricted Subsidiary in a manner consistent with, or no less favorable to the Parent and any Restricted Subsidiary than, the current recourse under the Receivables Finance Facilities Agreement dated February 1, 2018 (the “HSBC Receivables Facility”), between, among others, BCA Vehicle Finance Limited and HSBC Invoice Finance (UK) Limited and (b) the aggregate principal amount of Ordinary Course Vehicle Obligations outstanding at any time shall not exceed the greater of (x) £265 million or (y) 150% of Consolidated EBITDA.

“Parent Expenses” means:

(a) costs (including all professional fees and expenses) Incurred by any Holding Company 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, this Agreement or any other agreement or instrument relating to Indebtedness of the Parent or any Restricted Subsidiary, including in respect of any reports filed with respect to the Securities Act, Exchange Act or the respective rules and regulations promulgated thereunder;

(b) customary indemnification obligations of any Holding Company owing to directors, officers, employees or other Persons under its charter or by-laws or pursuant to written agreements with any such Person to the extent relating to the Parent and its Subsidiaries;

(c) obligations of any Holding Company in respect of director and officer insurance (including premia therefor) to the extent relating to the Parent and its Subsidiaries;
(d) fees and expenses payable by any Holding Company, or the return of equity overfunding to any Holding Company;

(e) (i) general corporate overhead expenses, including professional fees and expenses and other operational expenses of any Holding Company or any Equity Investor or any of its Affiliates related to the ownership or operation of the business of the Parent or any of its Restricted Subsidiaries and Equity Investor or any of its Affiliates (including, without limitation, accounting, legal, corporate reporting, and administrative expenses as well as payments made pursuant to operating partner arrangements or secondment, employment or similar agreements entered into between the Parent and/or any of its Restricted Subsidiaries and/or any Holding Company and any Equity Investor or any of its Affiliates or any employee thereof) or (ii) costs and expenses with respect to any litigation or other dispute relating to the Transactions or the ownership, directly or indirectly, of the Parent by any Holding Company;

(f) other fees, expenses and costs relating directly or indirectly to activities of the Parent and its Subsidiaries in an amount not to exceed the greater of £4.0 million and 2% of Consolidated EBITDA in any fiscal year;

(g) expenses Incurred by any Holding Company in connection with any Public Offering or other sale of Capital Stock or Indebtedness:

   (i) where the net proceeds of such offering or sale are intended to be received by or contributed to the Parent or a Restricted Subsidiary,

   (ii) in a pro-rated amount of such expenses in proportion to the amount of such net proceeds intended to be so received or contributed, or

   (iii) otherwise on an interim basis prior to completion of such offering so long as any Holding Company shall cause the amount of such expenses to be repaid to the Parent or the relevant Restricted Subsidiary out of the proceeds of such offering promptly if completed; and

(h) amounts to enable a Holding Company of the Parent (or any other company which acts as the host of any MEP, incentive scheme or similar arrangement) to:

   (i) pay Taxes, duties or similar amounts;

   (ii) pay fees, expenses and other costs incurred in acting as, or maintaining its existence as, a holding company of the Parent and its Subsidiaries and/or host of any MEP, incentive scheme or similar arrangement or arising by operation of law or in the ordinary course of administration of its business as a holding company of the Parent and its Subsidiaries (including remuneration payable to employees, directors and officers); and/or

   (iii) meet substance requirements for Tax purposes.

“Pari Passu Indebtedness” means Indebtedness of the Parent, the Borrower or any Guarantor if such Indebtedness or Guarantee, as the case may be, ranks equally in right of
payment to the Facilities or the Guarantees of the Facilities, as the case may be, and which, in each case, is secured by Liens on the Collateral.

“Pension Items” means any costs, charges or liabilities, including contributions, made in respect of any pension funds or post-retirement benefit schemes, other than administration costs.

“Permissible Jurisdiction” means any state, commonwealth or territory of the United States or the District of Columbia, Canada or any province of Canada, Japan, any member state of the European Union as of the date of this Agreement (including for the avoidance of doubt the United Kingdom), Switzerland, Norway, the Channel Islands or any political subdivision, taxing authority agency or instrumentality of any such state, commonwealth, territory, union, country or member state and also, for the purposes of the definitions of “Cash Equivalents” and “Temporary Cash Investments” only, any jurisdiction in which the Parent or a Restricted Subsidiary does business as of the Issue Date.

“Permitted Asset Swap” means the concurrent purchase and sale or exchange of assets used or useful in a Similar Business or a combination of such assets and cash, Cash Equivalents or Temporary Cash Investments between the Parent or any of its Restricted Subsidiaries and another Person; provided that any cash or Cash Equivalents received in excess of the value of any cash or Cash Equivalents sold or exchanged must be applied in accordance with the covenant described under Section 5 (Limitation on Sales of Assets and Subsidiary Stock).

“Permitted Collateral Liens” means (A) Liens on the Collateral described in one or more of paragraphs (b), (c), (d), (e), (f), (h), (i), (j), (k), (l), (m), (n), (r), (s), (t), (v), (w), (x), (aa) and (bb) of the definition of “Permitted Liens”, (B) Liens on the Collateral to secure Indebtedness of the Parent or a Restricted Subsidiary that is permitted to be Incurred under paragraphs (a), (b) (in the case of (b), to the extent such Guarantee is in respect of Indebtedness otherwise permitted to be secured and specified in this definition of Permitted Collateral Liens), (d)(iii) (if the original Indebtedness was so secured with a Lien of equal or higher priority), (e)(i) (covering only the shares and assets of the acquired Person the Indebtedness of which is so secured), (e)(ii), (f) or (k) of Section 1.2 (Limitation on Indebtedness); provided, however, that in the case of Liens on the Collateral to secure Indebtedness of the Parent or a Restricted Subsidiary that is permitted to be Incurred under paragraphs (e)(i) or (e)(ii) of Section 1.2 (Limitation on Indebtedness) after giving pro forma effect to such transaction and the use of proceeds thereof, the Consolidated Senior Secured Leverage Ratio of the Parent would have been less than 5.25 to 1.0, (C) Liens on the Collateral securing Indebtedness Incurred under Section 1.1 (Limitation on Indebtedness); provided that, in the case of this clause (C), after giving pro forma effect to such Incurrence and the use of proceeds therefrom, the Consolidated Senior Secured Leverage Ratio of the Parent would have been less than 5.25 to 1.0, (D) Liens on the Collateral securing Refinancing Indebtedness in respect of any Indebtedness secured pursuant to (i) the foregoing clauses (A), (B) or (C) and (ii) the foregoing clause (D); provided that any such Liens securing Indebtedness pursuant to (x) the foregoing
clauses (B), (C) or (E)(i) rank equal or junior to all Liens on the Collateral securing the Facilities or (y) the foregoing clauses (D) or (E)(ii) rank junior to all Liens on the Collateral securing the Facilities and (z) foregoing clause (E)(i) of this definition, which constitutes Refinancing Indebtedness in respect of Indebtedness Incurred under Section 1.1 (Limitation on Indebtedness) or paragraph (e)(i) of Section 1.2 (Limitation on Indebtedness) or paragraph (e)(ii) of Section 1.2 (Limitation on Indebtedness), rank equal or junior to the Liens on Collateral securing such Indebtedness being refinanced, and (F) Liens on the Collateral that secure Indebtedness on a basis junior to the Loans; provided that the holders of such Indebtedness (or their representative) accede to the Intercreditor Agreement or an Additional Intercreditor Agreement. To the extent that Indebtedness relating to an instrument or agreement is permitted to be secured by a Permitted Collateral Lien, other associated obligations under such instrument or agreement not themselves constituting Indebtedness may also be secured by such Permitted Collateral Lien.

“Permitted Holders” means, collectively, (a) the Equity Investors and any Affiliate or Related Person of any of them, or any co-investor investing with the Equity Investor (provided that any direct or indirect voting rights of any such co-investor in respect of a member of the Group are, directly or indirectly, exercisable by the Equity Investor), (b) Senior Management and (c) any Person who is acting as an underwriter in connection with a public or private offering of Capital Stock of any Holding Company or the Parent, acting in such capacity.

“Permitted Investment” means (in each case, by the Parent or any of its Restricted Subsidiaries):

(a) Investments in (i) a Restricted Subsidiary (including the Capital Stock of a Restricted Subsidiary) or the Parent or (ii) a Person (including the Capital Stock of any such Person) that is engaged in any Similar Business and such Person will, upon the making of such Investment, become a Restricted Subsidiary;

(b) Investments in another Person if such Person is engaged in any Similar Business and as a result of such Investment such other Person is merged, consolidated or otherwise combined with or into, or transfers or conveys all or substantially all its assets to, or is liquidated into the Parent or a Restricted Subsidiary;

(c) Investments in cash, Cash Equivalents, Temporary Cash Investments or Investment Grade Securities;

(d) Investments in receivables owing to the Parent or any Restricted Subsidiary created or acquired in the ordinary course of business, including without limitation deferred receivables representing work in progress created in the ordinary course of business;

(e) Investments in payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;

(f) Management Advances;
Investments received in settlement of debts created in the ordinary course of business and owing to the Parent or any Restricted Subsidiary, or as a result of foreclosure, perfection or enforcement of any Lien, or in satisfaction of judgments or pursuant to any plan of reorganization or similar arrangement including upon the bankruptcy or insolvency of a debtor;

Investments made as a result of the receipt of non-cash consideration from a sale or other disposition of property or assets, including an Asset Disposition, in each case, that was made in compliance with Section 5 (Limitation on Sales of Assets and Subsidiary Stock);

Investments in existence on, or made pursuant to contractual commitments in existence on, the Closing Date; (or, in the case of any Person which becomes a Restricted Subsidiary after the Closing Date, any Investments in existence on, or to which that Person is contractually committed as at, the date on which it becomes a Restricted Subsidiary);

Hedging Agreements and related Hedging Obligations, which transactions or obligations are Incurred in compliance with Section 1.2 (Limitation on Indebtedness);

Investments, taken together with all other Investments made pursuant to this paragraph (k) and then outstanding, in an aggregate amount at the time of such Investment (without giving effect to appreciation or to accretion or capitalization of interest) not to exceed the greater of (x) £45.0 million and (y) 25% of Consolidated EBITDA; provided that, if an Investment is made pursuant to this paragraph in a Person that is not a Restricted Subsidiary and such Person subsequently becomes a Restricted Subsidiary or is subsequently designated a Restricted Subsidiary pursuant to Section 2 (Limitation on Restricted Payments), such Investment shall thereafter be deemed to have been made pursuant to paragraphs (a) or (b) of the definition of “Permitted Investments” and not this paragraph;

Investments in negotiable instruments held for collection and pledges or deposits with respect to workers' compensation, leases or utilities provided to third parties in the ordinary course of business or Liens otherwise described in the definition of “Permitted Liens” or made in connection with Liens permitted under the covenant described under Section 3 (Limitation on Liens);

any Investment to the extent made, directly or indirectly, using Capital Stock of the Parent (other than Disqualified Stock) or Subordinated Shareholder Funding or Capital Stock of any Holding Company as consideration;

any transaction to the extent constituting an Investment that is permitted and made in accordance with the provisions of Section 6.2 (Limitation on Affiliate Transactions) (except those described in paragraphs (a), (c), (f), (h), (i) and (l) of Section 6.2), and Investments in Receivables Subsidiaries;
(o) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or leases or agreements in respect of vehicles, information technology and other electronic equipment and point of sale equipment or network or related (or similar or replacement) assets or licenses or leases of intellectual property, in each case, in the ordinary course of business;

(p) Guarantees not prohibited by Section 1 (Limitation on Indebtedness) and (other than with respect to Indebtedness) guarantees, keepwells and similar arrangements; and

(q) Investments in Associates or Unrestricted Subsidiaries in an aggregate amount when taken together with all other Investments made pursuant to this paragraph (q) that are at the time outstanding not to exceed the greater of £35.0 million and 20% of Consolidated EBITDA.

“Permitted Liens” means, with respect to any Person:

(a) Liens on assets or property of a Restricted Subsidiary that is not a Guarantor securing Indebtedness of any Restricted Subsidiary that is not a Guarantor;

(b) pledges, deposits or Liens under workmen’s compensation laws, unemployment insurance laws, social security laws or similar legislation, or insurance related obligations (including pledges or deposits securing liability to insurance carriers under insurance or self-insurance arrangements), or in connection with bids, tenders, completion guarantees, contracts (other than for borrowed money) or leases, or to secure utilities, licenses, public or statutory obligations, or to secure surety, indemnity, judgment, appeal or performance bonds, guarantees of government contracts (or other similar bonds, instruments or obligations), or as security for contested Taxes or import or customs duties or for the payment of rent, or other obligations of like nature, in each case Incurred in the ordinary course of business;

(c) Liens imposed by law, including carriers’, warehousemen’s, mechanics’, landlords’, materialmen’s and repairmen’s or other like Liens, in each case for sums not yet overdue for a period of more than 60 days or that are bonded or being contested in good faith by appropriate proceedings;

(d) Liens for Taxes not yet delinquent or which are being contested in good faith by appropriate proceedings;

(e) Liens in favor of issuers of surety, performance or other bonds, guarantees or letters of credit or bankers’ acceptances (not issued to support Indebtedness for borrowed money) issued pursuant to the request of and for the account of such Person in the ordinary course of its business;

(f) encumbrances, ground leases, easements, survey exceptions, or reservations of, or rights of others for, licenses, rights of way, sewers, electric lines, utility agreements, telegraph and telephone lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental to the conduct of the business of the Parent and its Restricted Subsidiaries or to the ownership of its properties which do not in the aggregate materially adversely affect the value of said properties (taken as a whole) or
materially impair their use in the operation of the business of the Parent and its Restricted Subsidiaries (taken as a whole);

(g) Liens securing Hedging Obligations permitted under this Agreement, or over assets or property of any Restricted Subsidiary which is not required to give a Guarantee pursuant to the Agreed Security Principles and which Lien is in favor of obligations under the Facilities;

(h) leases, licenses, subleases and sublicenses of assets (including real property and intellectual property rights), in each case entered into in the ordinary course of business;

(i) Liens arising out of judgments, decrees, orders or awards not giving rise to an Event of Default so long as any appropriate legal proceedings which may have been duly initiated for the review of such judgment, decree, order or award have not been finally terminated or the period within which such proceedings may be initiated has not expired;

(j) Liens on assets or property of the Parent or any Restricted Subsidiary for the purpose of securing Capitalized Lease Obligations or Purchase Money Obligations, or securing the payment of all or a part of the purchase price of, or securing other Indebtedness Incurred to finance or refinance the acquisition, improvement or construction of, assets or property; provided that (i) the aggregate principal amount of Indebtedness secured by such Liens is otherwise permitted to be Incurred under this Agreement and (ii) any such Lien may not extend to any assets or property of the Parent or any Restricted Subsidiary other than assets or property acquired, improved, constructed or leased with the proceeds of such Indebtedness and any improvements or accessions to such assets and property or proceeds of such property (including rents), as well as the Capital Stock or assets of any special purpose vehicle that holds no material assets (other than any of the foregoing or those associated with such assets, the financing of such assets, or their deployment);

(k) Liens arising by virtue of any statutory or common law provisions or standard terms and procedures relating to banker’s Liens, rights of set-off or similar rights and remedies as to deposit accounts, securities accounts or other funds maintained with a depositary or financial institution or clearing systems (including Euroclear or Clearstream);

(l) Liens arising from Uniform Commercial Code financing statement filings (or similar filings in other applicable jurisdictions) regarding operating leases entered into by the Parent and its Restricted Subsidiaries in the ordinary course of business;

(m) Liens existing on, or provided for or required to be granted under written agreements existing on, the Closing Date;

(n) Liens on property, other assets or shares of stock of a Person at the time such Person becomes a Restricted Subsidiary (or at the time the Parent or a Restricted Subsidiary acquires such property, other assets or shares of stock, including any acquisition by means of a merger, consolidation or other business combination transaction with or into the Parent or any Restricted Subsidiary); provided, however, that such Liens are not created, Incurred or assumed in anticipation of or in connection with such other Person becoming a Restricted Subsidiary (or such acquisition of such property, other assets or stock); provided further, that such Liens are limited to all or part of the same property, other assets or stock (plus improvements, accessions, proceeds or dividends or distributions in connection with
the original property, other assets or stock) that secured the obligations to which such Liens relate;

(o) Liens on assets or property of the Parent or any Restricted Subsidiary securing Indebtedness or other obligations of the Parent or such Restricted Subsidiary owing to the Parent or a Restricted Subsidiary and Liens in favor of the Parent or any Restricted Subsidiary;

(p) Liens securing Refinancing Indebtedness Incurred to refinance Indebtedness that was previously so secured, and permitted to be secured under this Agreement; provided that any such Lien is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced or is in respect of property that is or could be the security for or subject to a Permitted Lien hereunder;

(q) any interest or title of a lessor under any Capitalized Lease Obligation or operating lease;

(r) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any government, statutory or regulatory authority, developer, landlord or other third party on property over which the Parent or any Restricted Subsidiary has easement rights or on any leased property and subordination or similar arrangements relating thereto and (ii) any condemnation or eminent domain proceedings affecting any real property;

(s) any Lien, encumbrance or other restriction (including put and call arrangements) with respect to Capital Stock of, or other ownership interests in, any joint venture, minority interest arrangement or similar investment or arrangement (and/or related assets, including shares or other ownership interests in any special purpose vehicle holding any such assets) pursuant to any joint venture, minority interest or other similar agreement;

(t) Liens on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets;

(u) Liens on cash accounts securing Indebtedness Incurred under paragraph (j)(iii) of Section 1.2 (Limitation on Indebtedness);

(v) (i) Liens on escrowed proceeds for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters or arrangers thereof) or cash set aside at the time of the Incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose and (ii) Liens on cash or government securities set aside for the purpose of defeasing, repaying, repurchasing or retiring Indebtedness;

(w) Liens securing or arising by reason of any netting or set-off arrangement entered into in the ordinary course of banking or other trading activities or pursuant to any derivative or hedging transaction, or liens over cash accounts securing cash pooling arrangements;
Liens arising out of conditional sale, title retention, hire purchase, consignment or similar arrangements for the sale of goods or otherwise in connection with any leasing (including sale and leaseback transactions and sale and hire purchase transactions), vendor financing or similar arrangements;

Liens, provided that the aggregate principal amount of Indebtedness (excluding capitalized interest) secured by such Liens in aggregate does not at any one time exceed the greater of £10.0 million and 6.0% of Consolidated EBITDA at any one time outstanding;

Permitted Collateral Liens;

Liens on Capital Stock or other securities or assets of any Unrestricted Subsidiary that secure Indebtedness of such Unrestricted Subsidiary;

Liens on Receivables Assets Incurred in connection with a Qualified Receivables Financing and Liens securing Ordinary Course Vehicle Obligations;

Liens securing Indebtedness permitted to be Incurred pursuant to paragraph (a) of Section 1.2 (Limitation on Indebtedness);

any cash collateral arrangement securing the obligations of an ancillary lender, landlord, hedging counterparty or regulator in respect of ancillary facilities, leases, Hedging Obligations or capital, surety or other guarantee requirements under applicable regulations of the Parent or its Restricted Subsidiaries;

any Liens granted in favor of creditors so as to implement a Permitted Reorganisation; and

on or prior to the Existing Target Debt Refinancing Date, Existing Target Debt.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, government or any agency or political subdivision thereof or any other entity.

“Preferred Stock” as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

“Public Market” means any time after:

(a) an Equity Offering has been consummated; and

(b) at least 20% of the total issued and outstanding ordinary shares or common equity of the IPO Entity has been distributed to investors other than the Permitted Holders or any other direct or indirect shareholders of the Parent as of the Closing Date.

“Public Offering” means any offering, including an Initial Public Offering, of shares of common stock or other common equity interests that are listed on an exchange or publicly offered (which shall include an offering pursuant to Rule 144A and/or Regulation S under the Securities Act to professional market investors or similar Persons).
“Purchase Money Obligations” means any Indebtedness Incurred to finance or refinance the acquisition, leasing, construction or improvement of property (real or personal) or assets (including Capital Stock), and whether acquired through the direct acquisition of such property or assets or the acquisition of the Capital Stock of any Person owning such property or assets, or otherwise.

“Qualified Receivables Financing” means any Receivables Financing of a Receivables Subsidiary that meets the following conditions: (a) the Board of Directors or an Officer of the Parent shall have determined in good faith that such Qualified Receivables Financing (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Parent and the Receivables Subsidiary, (b) all sales of accounts receivable and related assets to the Receivables Subsidiary are made at fair market value, and (c) the financing terms, covenants, termination events and other provisions thereof shall be on market terms (as determined in good faith by the Parent) and may include Standard Securitization Undertakings.

The grant of a security interest in any accounts receivable of the Parent or any of its Restricted Subsidiaries (other than a Receivables Subsidiary) to secure Indebtedness under a Credit Facility shall not be deemed a Qualified Receivables Financing.

“RCF Accordion Amount” means, in respect of a revolving credit, working capital or similar facility established or to be established as an Incremental Facility, the greater of £50 million and 35% of Consolidated EBITDA.

“Receivables Assets” means any assets that are or will be the subject of a Qualified Receivables Financing.

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

“Receivables Financing” means any transaction or series of transactions that may be entered into by the Parent or any of its Subsidiaries pursuant to which the Parent or any of its Subsidiaries may sell, convey or otherwise transfer to (a) a Receivables Subsidiary (in the case of a transfer by the Parent or any of its Subsidiaries), or (b) any other Person (in the case of a transfer by a Receivables Subsidiary), or may grant a security interest in, any accounts receivable (whether now existing or arising in the future) of the Parent or any of its Subsidiaries, and any assets related thereto, including all collateral securing such accounts receivable, all contracts and all guarantees or other obligations in respect of such accounts receivable, proceeds of such accounts receivable and other assets which are customarily transferred or in respect of which security interest are customarily granted in connection with asset securitization transactions involving accounts receivable and any Hedging Obligations entered into by the Parent or any such Subsidiary in connection with such accounts receivable.
“Receivables Repurchase Obligation” means any obligation of a seller of receivables in a Qualified Receivables Financing to repurchase receivables arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, off set or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

“Receivables Subsidiary” means a Subsidiary of the Parent (or another Person formed for the purposes of engaging in a Qualified Receivables Financing with the Parent in which the Parent or any Subsidiary of the Parent makes an Investment and to which the Parent or any Subsidiary of the Parent transfers accounts receivable and related assets) which engages in no activities other than in connection with the financing of accounts receivable of the Parent and/or its Subsidiaries, all proceeds thereof and all rights (contractual or other), collateral and other assets relating thereto, and any business or activities incidental or related to such business, and which is designated by the Board of Directors of the Parent (as provided below) as a Receivables Subsidiary and:

(a) no portion of the Indebtedness or any other obligations (contingent or otherwise) of which (i) is guaranteed by the Parent or a Restricted Subsidiary (excluding guarantees of obligations (other than the principal of, and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (ii) is recourse to or obligates the Parent or a Restricted Subsidiary in any way other than pursuant to Standard Securitization Undertakings, or (iii) subjects any property or asset of the Parent or any of its Restricted Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings;

(b) with which neither the Parent nor any Restricted Subsidiary has any contract, agreement, arrangement or understanding other than on terms which the Parent reasonably believes to be no less favorable to the Parent or such Restricted Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Parent; and

(c) to which neither the Parent nor any Restricted Subsidiary has any obligation to maintain or preserve such entity’s financial condition or cause such entity to achieve certain levels of operating results.

In the event of any designation by the Board of Directors of the Parent of a Person as a Receivables Subsidiary, the Parent shall deliver to the Agent an Officer’s Certificate certifying that such designation complied with or satisfied the foregoing conditions.

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

“Refinancing Indebtedness” means Indebtedness that is Incurred to refund, refinance, replace, exchange, renew, repay or extend (including pursuant to any defeasance or discharge mechanism) any Indebtedness (or unutilized commitment in respect of Indebtedness that could have otherwise been Incurred in compliance with this Agreement) existing on the date of this Agreement or Incurred in compliance with this Agreement.
(including Indebtedness of the Parent that refines Indebtedness (or unutilized commitment in respect of Indebtedness) of any Restricted Subsidiary and Indebtedness of any Restricted Subsidiary that refines Indebtedness (or unutilized commitment in respect of Indebtedness) of the Parent or a Restricted Subsidiary) including Indebtedness that refines Refinancing Indebtedness; provided, however, that:

(a) if the Indebtedness being refinanced constitutes Subordinated Indebtedness, the Refinancing Indebtedness has a final Stated Maturity at the time such Refinancing Indebtedness is Incurred that is the same as or later than the final Stated Maturity of the Indebtedness being refinanced or, if shorter, of the Facilities;

(b) such Refinancing Indebtedness is Incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness (or unutilized commitment in respect of Indebtedness) being refinanced (plus, without duplication, any additional Indebtedness Incurred to pay interest or premia required by the instruments governing such existing Indebtedness and costs, expenses and fees Incurred in connection therewith); and

(c) if the Indebtedness being refinanced is expressly subordinated in right of payment to the Facilities, such Refinancing Indebtedness is subordinated to the Facilities on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being refinanced;

provided, however, that Refinancing Indebtedness shall not include (i) Indebtedness of the Parent or a Restricted Subsidiary that refines Indebtedness of an Unrestricted Subsidiary, or (ii) Indebtedness of a Restricted Subsidiary that is not a Guarantor that refines Indebtedness of the Parent, the Borrower or a Guarantor.

Refinancing Indebtedness in respect of any Credit Facility or any other Indebtedness may be Incurred within 180 days after the termination, discharge or repayment of any such Credit Facility or other Indebtedness.

“Related Person” with respect to any Equity Investor, means:

(a) any controlling equity holder or Subsidiary of such Person;

(b) in the case of an individual, any spouse, family member or relative of such individual, any trust or partnership for the benefit of one or more of such individual and any such spouse, family member or relative, or the estate, executor, administrator, committee or beneficiaries of any thereof;

(c) any trust, corporation, partnership or other Person for which one or more of the Permitted Holders and other Related Persons of any thereof constitute the beneficiaries, stockholders, partners or owners thereof, or Persons beneficially holding in the aggregate a majority (or more) controlling interest therein; or

(d) in the case of the Equity Investors any investment fund or vehicle managed, sponsored or advised by such Person or any successor thereto, or by any Affiliate of such Person or any such successor.
“Related Taxes” means

(a) any Taxes including sales, use, transfer, rental, ad valorem, value added, stamp, property, consumption, franchise, license, capital, registration, business, customs, net worth, gross receipts, excise, occupancy, intangibles or similar Taxes (other than (x) Taxes measured by income and (y) withholding Taxes), required to be paid (provided such Taxes are in fact paid) by any Parent by virtue of its:

(b) being organized or having Capital Stock outstanding (but not by virtue of owning stock or other equity interests of any corporation or other entity other than, directly or indirectly, the Parent or any of the Parent’s Subsidiaries);

(c) issuing or holding Subordinated Shareholder Funding;

(d) being a Holding Company, directly or indirectly, of the Parent or any of the Parent’s Subsidiaries;

(e) receiving dividends from or other distributions in respect of the Capital Stock of, directly or indirectly, the Parent or any of the Parent’s Subsidiaries; or

(f) having made any payment in respect to any of the items for which the Parent is permitted to make payments to any Holding Company pursuant to Section 2 (Limitation on Restricted Payments),

if and for so long as the Parent is a member of a group filing a consolidated or combined tax return with any Holding Company or party to a Tax Sharing Agreement, any consolidated or combined Taxes measured by income for which such Holding Company is liable up to an amount not to exceed, with respect to such Taxes, the amount of any such Taxes that Parent and its Subsidiaries would have been required to pay on a separate company basis or on a consolidated basis if the Parent and its Subsidiaries had paid Tax on a consolidated, combined, group, affiliated or unitary basis on behalf of an affiliated group consisting only of the Parent and its Subsidiaries; provided that distributions shall be permitted in respect of the income of an Unrestricted Subsidiary only to the extent such Unrestricted Subsidiary distributed cash for such purpose to the Parent or its Restricted Subsidiaries.

“Restricted Investment” means any Investment other than a Permitted Investment.

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

“S&P” means Standard & Poor’s Investors Ratings Services or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

“SEC” means the U.S. Securities and Exchange Commission.

“Securities Act” means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.
“Senior Indebtedness” means any Indebtedness of the Parent, the Borrower or any Guarantor that ranks at least pari passu in right of payment with the Facilities and is not secured by a Lien.

“Senior Management” means the officers, directors, and other current or former members of senior management of the Parent or any of its Subsidiaries, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Parent or any Holding Company.

“Senior Secured Indebtedness” means, with respect to any Person as of any date of determination, any Indebtedness secured by a Lien on the Collateral that is at least pari passu with the Liens securing the Facilities, after giving effect to any recovery of proceeds under any intercreditor or priority agreement.

“Similar Business” means (a) any businesses, services or activities engaged in by the Parent or any of its Subsidiaries or Associates on the Closing Date and (b) any businesses, services and activities engaged in by the Parent or any of its Subsidiaries or Associates that are related, complementary, incidental, ancillary or similar to any of the foregoing or are extensions or developments of any thereof.

“Specified Transaction” means, with respect to any period, any Investment, disposal, Incurrence of Indebtedness, refinancing, prepayment or repayment of Indebtedness, Restricted Payment, Subsidiary designation, restructuring, other strategic initiative or other action (including, for the avoidance of doubt, the entering into of any new contractual arrangement) of the Parent or any Restricted Subsidiary (including for this purpose any Person that became a Restricted Subsidiary or was merged or otherwise combined with or into the Parent or any Restricted Subsidiary since the beginning of the relevant period).

“Standard Securitization Undertakings” means representations, warranties, covenants, indemnities and guarantees of performance entered into by the Parent or any Subsidiary of the Parent which the Board of Directors or an Officer of the Parent has determined in good faith to be customary in a Receivables Financing, including those relating to the servicing of the assets of a Receivables Subsidiary, it being understood that any Receivables Repurchase Obligation shall be deemed to be a Standard Securitization Undertaking.

“Stated Maturity” means, with respect to any security, loan or financial instrument, the date specified in such security, loan or financial instrument, as the fixed date on which the payment of principal of such security, loan or financial instrument, is due and payable, including pursuant to any mandatory redemption provision, but shall not include any Contingent Obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

“Sterling Equivalent” means, with respect to any monetary amount in a currency other than pounds sterling, at any time of determination thereof by the Parent or the Agent, the amount of pounds sterling obtained by converting such currency involved in such computation into pounds sterling at the spot rate for the purchase of pounds sterling with the applicable currency as published in The Financial Times in the “Currency Rates”
section (or, if The Financial Times is no longer published, or if such information is no longer available in The Financial Times, such source as may be selected in good faith by the Board of Directors or an Officer of the Parent) on the date of such determination.

“Subordinated Indebtedness” means, with respect to any Person, any Indebtedness (whether outstanding on the Closing Date or thereafter Incurred) which is expressly subordinated in right of payment to the Utilisations and any Guarantee pursuant to a written agreement (which, for the avoidance of doubt, will not include the Facilities or any Pari Passu Indebtedness and, for the purposes of this Agreement and subject to Clause 27.19 (Second Lien Payments), Indebtedness shall not be considered subordinated in right of payment solely because it is unsecured, or secured on a junior basis to or entitled to proceeds from security enforcement after, other Indebtedness).

“Subordinated Shareholder Funding” means, collectively, (a) the Parent’s existing preference shares and shareholder loans as of the date of this Agreement; (b) any funds provided to the Parent by any Holding Company, any Affiliate of any Holding Company or any Permitted Holder or any Affiliate thereof, in exchange for or pursuant to any security, instrument or agreement other than Capital Stock, in each case issued to and held by a Holding Company or a Permitted Holder, or (c) any investment by a Management Investor pursuant to an MEP, in exchange for or pursuant to any security, instrument or agreement other than Capital Stock, together with any such security, instrument or agreement and any other security or instrument other than Capital Stock issued in payment of any obligation under any Subordinated Shareholder Funding; provided, however, that such Subordinated Shareholder Funding, in each case:

(a) does not mature or require any amortization, redemption or other repayment of principal or any sinking fund payment prior to the Stated Maturity of the Facilities (other than through conversion or exchange of such funding into Capital Stock (other than Disqualified Stock) of the Parent or any funding meeting the requirements of this definition) or the making of any such payment prior to the date that is six months following the Stated Maturity of the Facilities is restricted by the provisions of this Agreement as a “Restricted Payment”;

(b) does not require, prior to the Stated Maturity of the Facilities, payment of cash interest, cash withholding amounts or other cash gross-ups, or any similar cash amounts;

(c) contains no change of control or similar provisions and does not accelerate and has no right to declare a default or event of default or take any enforcement action or otherwise require any cash payment, in each case, prior to the Stated Maturity of the Facilities;

(d) does not provide for or require any security interest or encumbrance over any asset of the Parent or any of its Subsidiaries; and

(e) pursuant to the Intercreditor Agreement, any Additional Intercreditor Agreement or any other intercreditor agreement is fully subordinated and junior in right of payment to the Facilities pursuant to subordination, payment blockage and enforcement limitation terms which are customary in all material respects for similar funding;
provided, further, however, that upon the occurrence of any event or circumstance that results in such Indebtedness ceasing to qualify as Subordinated Shareholder Funding, such Indebtedness shall constitute an Incurrence of such Indebtedness by the Company, and any and all Restricted Payments made through the use of the net proceeds from the Incurrence of such Indebtedness since the date of the original issuance of such Subordinated Shareholder Funding shall constitute new Restricted Payments that are deemed to have been made after the date of the original issuance of such Subordinated Shareholder Funding.

“Subsidiary” means, with respect to any Person:

(a) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof; or

(b) any partnership, joint venture, limited liability company or similar entity of which:

(i) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership interests or otherwise; and

(ii) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Subsidiary Guarantor” means a Guarantor other than the Parent.

“Successor Company” means, with respect to any Person (other than a Holding Company), the resulting, surviving or transferee Person and, with respect to a Holding Company, means a Successor Holding Company.

“Successor Holding Company” means, with respect to a Holding Company, any other Person of which more than 50% of the total voting power of the Voting Stock, at the time such Holding Company becomes a Subsidiary of such other Person, is “beneficially owned” (as such term is defined in Rules 13d-3 and 13d-5 under the Exchange Act (as in effect on the Closing Date)) by one or more other Persons that, immediately prior to such Holding Company becoming a Subsidiary of such other Person, “beneficially owned” more than 50% of the total voting power of the Voting Stock of such Holding Company.

“Tax Sharing Agreement” means any fiscal unity arising under relevant Tax laws, and any Tax sharing or profit and loss pooling, tax loss transfer or other similar or equivalent agreement with customary or arm’s-length terms entered into with any Holding Company or Unrestricted Subsidiary, as the same may be amended, supplemented, waived or
otherwise modified from time to time in accordance with the terms thereof and of this
Agreement.

“Taxes” means all present and future taxes, levies, imposts, deductions, charges, duties
and withholdings and any charges of a similar nature (including interest, penalties and other
liabilities with respect thereto) that are imposed by any government or other taxing
authority.

“TDR Capital” means TDR Capital LLP and its successors and assigns.

“Temporary Cash Investments” means any of the following:

(a) any investment in

(i) direct obligations of, or obligations Guaranteed by, (x) any Permissible
Jurisdiction, (y) any country in whose currency funds are being held
specifically pending application in the making of an investment or capital
expenditure by the Parent or a Restricted Subsidiary in that country with
such funds or (z) any agency or instrumentality of any such country, or

(ii) direct obligations of any country recognized by the United States of
America, France or the United Kingdom rated at least “A” by S&P or “A-
1” by Moody’s (or, in either case, the equivalent of such rating by such
organization or, if no rating of S&P or Moody’s then exists, the equivalent
of such rating by any Nationally Recognized Statistical Rating
Organization);

(b) overnight bank deposits, and investments in time deposit accounts, certificates of
deposit, bankers’ acceptances and money market deposits (or, with respect to
foreign banks, similar instruments) maturing not more than one year after the date
of acquisition thereof (or, if later, from the relevant date of calculation under this
Agreement) issued by:

(i) the Agent,

(ii) any institution authorized to operate as a bank in any of the countries or
member states referred to in paragraph (a)(i) above, or

(iii) any bank or trust company organized under the laws of any such country or
member state or any political subdivision thereof,

in each case, having capital and surplus aggregating in excess of £250 million (or
the foreign currency equivalent thereof) and whose long-term debt is rated at least
“A” by S&P or “A-2” by Moody’s (or, in either case, the equivalent of such rating
by such organization or, if no rating of S&P or Moody’s then exists, the equivalent
of such rating by any Nationally Recognized Statistical Rating Organization) at the
time such Investment is made;
(c) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in paragraph (a) or (b) above entered into with a Person meeting the qualifications described in paragraph (b) above;

(d) Investments in commercial paper, maturing not more than 270 days after the date of acquisition, issued by a Person (other than the Parent or any of its Subsidiaries), with a rating at the time as of which any Investment therein is made of “P-2” (or higher) according to Moody’s or “A-2” (or higher) according to S&P (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization);

(e) Investments in securities maturing not more than one year after the date of acquisition issued or fully Guaranteed by any Permissible Jurisdiction or any agency or instrumentality thereof, and rated at least “BBB” by S&P or “Baa3” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization);

(f) bills of exchange issued in any Permissible Jurisdiction, in each case, eligible for rediscount at the relevant central bank and accepted by a bank (or any dematerialized equivalent);

(g) any money market deposit accounts issued or offered by a commercial bank organized under the laws of a country that is a member of the Organization for Economic Co-operation and Development, in each case, having capital and surplus in excess of £250 million (or the foreign currency equivalent thereof) or whose long term debt is rated at least “A” by S&P or “A2” by Moody’s (or, in either case, the equivalent of such rating by such organization or, if no rating of S&P or Moody’s then exists, the equivalent of such rating by any Nationally Recognized Statistical Rating Organization) at the time such Investment is made;

(h) investment funds investing 95% of their assets in securities of the type described in paragraphs (a) through (e) above (which funds may also hold reasonable amounts of cash pending investment and/or distribution); and

(i) investments in money market funds complying with the risk limiting conditions of Rule 2a-7 (or any successor rule) of the SEC under the U.S. Investment Company Act of 1940, as amended.

“Term Loan Accordion Amount” means, in respect of a term loan facility established or to be established as an Incremental Facility, 35% of Consolidated EBITDA.

“Transactions” means the Acquisition and the transactions associated with it, the payment of consideration under the Acquisition Documents, the entry into of the Acquisition Documents, this Agreement and the Second Lien Facility Agreement, the entry into associated documentation including the Transaction Security Documents and the use of proceeds of the various financing steps.

“Unrestricted Subsidiary” means:

(a) any Subsidiary of the Parent that (other than the Borrower) at the time of determination is an Unrestricted Subsidiary (as designated by the Board of Directors of the Parent in the manner provided below); and

(b) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors of the Parent may designate any Subsidiary of the Parent (including any newly acquired or newly formed Subsidiary or a Person becoming a Subsidiary through merger, consolidation or other business combination transaction, or Investment therein, but excluding the Borrower) to be an Unrestricted Subsidiary only if:

(i) such Subsidiary or any of its Subsidiaries does not own any Capital Stock or Indebtedness of, or own or hold any Lien on any property of, the Parent or any other Subsidiary of the Parent which is not a Subsidiary of the Subsidiary to be so designated or otherwise an Unrestricted Subsidiary; and

(ii) such designation and the Investment of the Parent in such Subsidiary complies with Section 2 (Limitation on Restricted Payments).

In the event of any designation by the Board of Directors of the parent of a Subsidiary as an Unrestricted Subsidiary, the Parent shall deliver to the Agent an Officer’s Certificate certifying that such designation complies with the applicable foregoing conditions.

The Board of Directors of the Parent may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided, that immediately after giving effect to such designation (1) no Default or Event of Default would result therefrom and (2)(x) the Parent could Incur at least £1.00 of additional Indebtedness under Section 1.1 (Limitation on Indebtedness) or (y) the Fixed Charge Coverage Ratio for the Parent and its Restricted Subsidiaries for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date of such designation would not be less than it was immediately prior to giving effect to such designation, in each case, on a pro forma basis taking into account such designation. Any such designation by the Board of Directors of the Parent shall be evidenced to the Agent by promptly filing with the Agent a copy of the resolution of the Board of Directors of the Parent giving effect to such designation or an Officer’s Certificate certifying that such designation complied with or satisfied the foregoing provisions.

“Voting Stock” of a Person means all classes of Capital Stock of such Person then outstanding and normally entitled to vote in the election of directors.
SCHEDULE 17
FORM OF SUBSTITUTE AFFILIATE LENDER DESIGNATION NOTICE

To: [●] as Agent; and

[[●] as Security Agent]

for itself and each of the other parties to the Facilities Agreement [and the Intercreditor Agreement] referred to below.

Cc: The Obligors’ Agent

From: [Designating Lender] (the Designating Lender)

Countersigned by [Substitute Affiliate Lender] (the Substitute Affiliate Lender)

Dated: [●]

Dear Sirs

Facilities Agreement dated [●] 2019 (the “Facilities Agreement”)

1. We refer to the Facilities Agreement [and to the Intercreditor Agreement]. Terms defined in the Facilities Agreement have the same meaning in this Designation Notice.

2. We hereby designate our Affiliate details of which are given below as a Substitute Affiliate Lender in respect of any Loans required to be advanced to [specify name of borrower or refer to all borrowers in a particular jurisdiction etc] (Designated Loans).

3. The Substitute Affiliate Lender confirms that it is:15

   (a) in respect of an advance under a Finance Document to a UK Obligor:

      (i) [not a UK Qualifying Lender;]

      (ii) [a UK Qualifying Lender (other than a UK Treaty Lender, an Exempt Lender or a Tax Transparent Lender);]

      (iii) [a UK Treaty Lender;]

      (iv) [an Exempt Lender;] or

      (v) [a Tax Transparent Lender;] and

   (b) in respect of an advance under a Finance Document to a Danish Obligor:

      (i) [not a Danish Qualifying Lender;]

15 Delete as applicable.
(ii) [a Danish Qualifying Lender (other than a Danish Treaty Lender);] or
(iii) [a Danish Treaty Lender;] and

c) in respect of an advance under a Finance Document to a Dutch Obligor:
(i) [not a Dutch Qualifying Lender;]
(ii) [a Dutch Qualifying Lender (other than a Dutch Treaty Lender);] or
(iii) [a Dutch Treaty Lender;] and

d) in respect of an advance under a Finance Document to a German Obligor:
(i) [not a German Qualifying Lender;]
(ii) [a German Qualifying Lender (other than a German Treaty Lender);] or
(iii) [a German Treaty Lender.]

4. [The Substitute Affiliate Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

(a) a company resident in the United Kingdom for United Kingdom tax purposes;
(b) a partnership each member of which is:
   (i) a company so resident in the United Kingdom; or
   (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
   (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]

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16 Include if Substitute Affiliate Lender comes within paragraph (a)(ii) of the definition of UK Qualifying Lender in Clause 18.1 (Definitions).

* Insert jurisdiction of tax residence

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

*** Delete as applicable.
5. [The Substitute Affiliate Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [   ]) and is tax resident in [   ]*, so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent to notify:

(a) each Borrower as at the date of this Substitute Affiliate Lender Designation Notice; and

(b) each Additional Borrower which becomes an Additional Borrower after the date of this Substitute Affiliate Designation Notice,

in each case, that it wishes that scheme to apply to the Facilities Agreement.]*

6. [The Substitute Affiliate Lender provides a QPP Certificate in the form set out in the Schedule to this notice.]**

7. The details of the Substitute Affiliate Lender are as follows:

(a) Name: [● ]

(b) Facility Office: [● ]

(c) Fax: [● ]

(d) Attention: [● ]

(e) Jurisdiction of Incorporation: [● ]

7. By countersigning this notice below the Designated Affiliate Lender agrees to become a Designated Affiliate Lender in respect of Designated Loans as indicated above and agrees to be bound by the terms of the Facilities Agreement [and the Intercreditor Agreement] accordingly.

8. This Designation Notice [and any non-contractual obligations arising out of or in connection with it] [is/are] governed by English law.

................................................................

For and on behalf of

[Designating Lender]

We acknowledge and agree to the terms of the above.

**** Delete as applicable.

***** Include only if the assignment includes the assignment of a Revolving Facility Commitment / a participation in the Revolving Facility.

17 Statement to be included and separate QPP Certificate in the form of the Schedule to be executed alongside the Substitute Affiliate Lender Designation Notice if the Substitute Affiliate Lender is a person eligible for the UK withholding tax exemption for qualifying private placements.
For and on behalf of
[Substitute Affiliate Lender]

We acknowledge the terms of the above.

For and on behalf of
The [Agent] and the [Security Agent]

Dated

WARNING IN RELATION TO DUTCH BORROWERS:

Please seek Dutch legal advice (i) until the interpretation of the term “public (as referred to in Article 4.1(1) of the Capital Requirements Regulation (EU/575/2013) has been published by the competent authority, if the share of a Lender in any utilisation requested by a Borrower incorporated in the Netherlands is less than EUR 100,000 (or the foreign currency equivalent thereof) and (ii) as soon as the interpretation of the term “public” has been published by the competent authority, if the Lender is considered to be part of the public on the basis of such interpretation.
THE SCHEDULE

Form of Substitute Affiliate Lender QPP Certificate

To: [ ] as the Company

From: [Name of creditor]

Dated:

Facilities Agreement dated [●] (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a QPP Certificate. Terms defined in the Facilities Agreement have the same meaning in this QPP Certificate unless given a different meaning in this QPP Certificate.

2. We confirm that:
   (a) we are beneficially entitled to all interest payable to us as a Lender in respect of an advance under a Finance Document;
   (b) we are a resident of a qualifying territory; and
   (c) we are beneficially entitled to the interest which is payable to us in respect of an advance under a Finance Document for genuine commercial reasons, and not as part of a tax advantage scheme.

These confirmations together form a creditor certificate.

3. In this QPP Certificate the terms "resident", "qualifying territory", "scheme", "tax advantage scheme" and "creditor certificate" have the meaning given to them in the Qualifying Private Placement Regulations 2015 (2015 No. 2002).

[Name of creditor]

By:

[This QPP Certificate is required where a lender is a person eligible for the UK withholding tax exemption for qualifying private placements; a separate QPP Certificate should be provided by each such lender.]
SCHEDULE 18
FORM OF QPP CERTIFICATE

To: [ ] as the Company

From: [Name of creditor]

Dated: 

Facilities Agreement dated [●] (the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a QPP Certificate. Terms defined in the Facilities Agreement have the same meaning in this QPP Certificate unless given a different meaning in this QPP Certificate.

2. We confirm that:

(a) we are beneficially entitled to all interest payable to us as a creditor in respect of an advance under a Finance Document;

(b) we are a resident of a qualifying territory; and

(c) we are beneficially entitled to the interest which is payable to us in respect of an advance under a Finance Document for genuine commercial reasons, and not as part of a tax advantage scheme.

These confirmations together form a creditor certificate.

3. In this QPP Certificate the terms "resident", "qualifying territory", "scheme", "tax advantage scheme" and "creditor certificate" have the meaning given to them in the Qualifying Private Placement Regulations 2015 (2015 No. 2002).

[Name of creditor]

By:

[This QPP Certificate is required where a lender is a person eligible for the UK withholding tax exemption for qualifying private placements; a separate QPP Certificate should be provided by each such lender.]
Signatures

[Restated for the purposes of Clause 37 (Notices) only]

The Parent

BBD PARENTCO LIMITED

By:

Address: 20 Bentinck Street
          London W1U 2EU

Fax: +44 (0) 20 7399 4242

Email: blair.thompson@tdrcapital.com; emma.gilks@tdrcapital.com

Attention: Project Bluebird – Blair Thompson/Emma Gilks
The Company and Original Borrower

BBD BIDCO LIMITED

By:

Address: 20 Bentinck Street
          London W1U 2EU

Fax: +44 (0) 20 7399 4242

Email: blair.thompson@tdrcapital.com; emma.gilks@tdrcapital.com

Attention: Project Bluebird – Blair Thompson/Emma Gilks
The Original Guarantor

BBD PARENTCO LIMITED

By:

Address: 20 Bentinck Street
           London W1U 2EU

Fax: +44 (0) 20 7399 4242

Email: blair.thompson@tdrcapital.com; emma.gilks@tdrcapital.com

Attention: Project Bluebird – Blair Thompson/Emma Gilks

BBD BIDCO LIMITED

By:

Address: 20 Bentinck Street
           London W1U 2EU

Fax: +44 (0) 20 7399 4242

Email: blair.thompson@tdrcapital.com; emma.gilks@tdrcapital.com

Attention: Project Bluebird – Blair Thompson/Emma Gilks
The Arrangers

BANK OF AMERICA MERRILL LYNCH INTERNATIONAL DESIGNATED ACTIVITY COMPANY

By:

Address: 2 King Edward Street#
          London, EC1A 1HQ
          United Kingdom

Email:

Attention: David Carlton / Charlotte Levy
HSBC BANK PLC

By:

Address: 8 Canada Square, London, E14 5HQ
Email: jamessteele@hsbc.com
Attention: James Steele
ROYAL BANK OF CANADA

By:

Name: 

Title:

Address: Riverbank House, 2 Swan Lane
London EC4R 3BF

Email:

Attention: Manager Loans Agency
The Agent

Signed for and on behalf of HSBC BANK PLC

Authorised Signature

Address: Issuer Services, Level 28
8 Canada Square
London E14 5HQ

Tel:

Fax: +44 (0) 20 7991 4347

E-mail: lag.fax@hsbcib.com (Borrower operational requests)
lad.agency.pef.loans@hsbc.com (All other enquiries)

Attention: Issuer Services, Loan Agency
The Security Agent

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED

Signed for and on behalf of HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED

Authorised Signatory

Address: 8 Canada Square
          London E14 5HQ

Fax: +44 20 7991 4350

Attention: CTLA Trustee Services Administration
The Original Lenders

BANK OF AMERICA MERRILL LYNCH INTERNATIONAL DESIGNATED ACTIVITY COMPANY

By:

Address: 2 King Edward Street
London EC1A 1HQ
United Kingdom

Email: David Carlton / Charlotte Levy
HSBC BANK PLC

By:

Address: 8 Canada Square, London, E14 5HQ

Email: jamessteele@hsbc.com

Attention: James Steele
ROYAL BANK OF CANADA

By:

Name:

Title:

Address: Riverbank House, 2 Swan Lane London EC4R 3BF

Email:

Attention: Manager Loans Agency
SIGNATURES

The Parent
For and on behalf of

BBD PARENTCO LIMITED
By: Mark Stephens
The Company and Original Borrower

For and on behalf of

**BBD BIDCO LIMITED**

By: Mark Stephens
The Original Guarantors

For and on behalf of

BBD PARENTCO LIMITED

By: Mark Stephens
For and on behalf of

**BBD BIDCO LIMITED**

By: Mark Stephens
The Agent

For and on behalf of

HSBC BANK PLC

By: Steve Wright
The Security Agent

For and on behalf of

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED

By: Simon Lazarus – Authorised Signatory
The Arrangers

For and on behalf of

BANCO SANTANDER S.A., LONDON BRANCH

By: Matthew Thomas

   Maria De Juan
For and on behalf of

BANK OF AMERICA MERRILL LYNCH INTERNATIONAL DESIGNATED ACTIVITY COMPANY

By: Eward Martin
For and on behalf of

HSBC BANK PLC

By: Joanne Robertson – Legal Counsel
For and on behalf of

**KKR CAPITAL MARKETS LIMITED**

By: Mark Danzey
For and on behalf of

ROYAL BANK OF CANADA

By: Alan McCormick – Director – RBC Capital Markets
For and on behalf of

SANTANDER UK PLC

By: Matthew Thomas

   David Navalon
For and on behalf of

SUMITOMO MITSUI BANKING CORPORATION EUROPE LIMITED

By: Joe Plank – Director

Tomohito Shinozaki – Executive Director
The Original Lenders
For and on behalf of

BANCO SANTANDER S.A., LONDON BRANCH
By: Matthew Thomas

Maria De Juan
For and on behalf of

BANK OF AMERICA MERRILL LYNCH INTERNATIONAL DESIGNATED ACTIVITY COMPANY

By: Edward Martin
For and on behalf of

**HSBC BANK PLC**

By: Joanne Robertson – Legal Counsel
For and on behalf of

**KKR CORPORATE LENDING (UK) LLC**

By: John Knox
For and on behalf of

ROYAL BANK OF CANADA

By: Cein Mahood-Gallagher
For and on behalf of

SANTANDER UK PLC

By: Matthew Thomas

David Navalon
For and on behalf of

SUMITOMO MITSUI BANKING CORPORATION EUROPE LIMITED

By: Joe Plank – Director

Tomohito Shinozaki - Executive Director