EXECUTION VERSION

ELEIA LIMITED AS THE COMPANY

ELEIA HOLDCO LIMITED AS THE PARENT

NATWEST MARKETS PLC
NATIONAL WESTMINSTER BANK PLC
AND
NOMURA INTERNATIONAL PLC
AS THE MANDATED LEAD ARRANGERS

NATIONAL WESTMINSTER BANK PLC AS THE AGENT

AND

NATIONAL WESTMINSTER BANK PLC AS THE SECURITY AGENT

SENIOR FACILITIES AGREEMENT

10209593201-v33 70-41019368

CONTENTS

Cla	Clause	
1.	Definitions and Interpretation	1
2.	The Facilities	67
3.	Purpose	71
4.	Conditions of Utilisation	72
5.	Utilisation	74
6.	Ancillary Facilities	76
7.	Repayment	82
8.	Illegality, Voluntary Prepayment and Cancellation	85
9.	Mandatory Prepayment	87
10.	Restrictions	96
11.	Interest	97
12.	Interest Periods	99
13.	Changes to the Calculation of Interest	100
14.	Fees	101
15.	Tax Gross-up and Indemnities	103
16.	Increased Costs	113
17.	Other Indemnities	116
18.	Mitigation by the Lenders	118
19.	Costs and Expenses	118
20.	Representations	119
21.	Information Undertakings	128
22.	Financial Covenants	134
23.	General Undertakings	147
24.	Events of Default	165
25.	Changes to the Lenders	171
26.	Restriction on Debt Purchase Transactions	178
27.	Changes to the Obligors	179
28.	Role of the Agent, the Mandated Lead Arrangers and Others	183
29.	Conduct of Business by the Finance Parties	194
30.	Sharing Among the Finance Parties	195
31.	Payment Mechanics	196
32.	Set-off	202
33.	Notices	202
34.	Calculation and Certificates	206

35.	Partial Invalidity	206
36.	Remedies and Waivers	206
37.	Amendments and Waivers	207
38.	Confidentiality	214
39.	Confidentiality of Funding Rates	218
40.	Disclosure of Lender Details by Agent	220
41.	Contractual Recognition of Bail-in	221
42.	Counterparts	223
43.	Governing Law	223
44.	Enforcement	223
Sche	edule 1 The Original Parties	225
Part	1 The Original Obligors	225
Part	2 The Original Lenders	226
Sche	edule 2 Conditions Precedent	227
Part	1 Conditions Precedent to Initial Utilisation	227
Part	2 Conditions Precedent Required to be Delivered by an Additional Obligor	230
Sche	edule 3 Requests	233
Part	1 Utilisation Request	233
Part	2 Selection Notice - Applicable to a Facility	235
Sche	edule 4 Form of Transfer Certificate	236
Sche	edule 5 Form of Assignment Agreement	239
Sche	edule 6 Form of Accession Deed	242
Sche	edule 7 Form of Resignation Letter	246
Sche	edule 8 Form of Compliance Certificate	247
Sche	edule 9 Timetables	249
Sche	edule 10 Forms of Notifiable Debt Purchase Transactions Notice	250
Part	1 Form of Notice on Entering into Notifiable Debt Purchase Transaction	250
Part	2 Form of Notice on Termination of Notifiable Debt Purchase Transaction/Notifiable Debt Purchase Transaction Ceasing to be with Sponsor Affiliate	
Sche	edule 11 Form of Increase Confirmation	252
Sche	edule 12 Reference Rate Terms	255
	edule 13 Daily Non-Cumulative Compounded RFR Rate	
Sche	edule 14 Cumulative Compounded RFR Rate	260

THIS AGREEMENT is made on <u>24</u> August 2021 between the following parties:

- (1) **ELEIA LIMITED**, a limited liability company incorporated in England and Wales with company number 13512747 and with its registered address at C/O Ancala Partners LLP King's House, 36-37 King Street, London, England, EC2V 8BB (the "Company", the "Original Borrower", the "Original Guarantor" and the "Original Obligor");
- (2) **ELEIA HOLDCO LIMITED**, a limited liability company incorporated in England and Wales with company number 13569889 and with its registered address at C/O Ancala Partners LLP King's House, 36-37 King Street, London, England, EC2V 8BB (the "**Parent**");
- (3) NATWEST MARKETS PLC, NATIONAL WESTMINSTER BANK PLC and NOMURA INTERNATIONAL PLC as mandated lead arrangers (the "Mandated Lead Arrangers");
- (4) the financial institutions listed in Part 2 of Schedule 1 (*The Original Parties*) as lenders (the "**Original Lenders**");
- (5) **NATIONAL WESTMINSTER BANK PLC** as agent for the other Finance Parties (the "**Agent**"); and
- (6) **NATIONAL WESTMINSTER BANK PLC** as security agent for the Secured Parties (the "Security Agent").

IT IS AGREED as follows

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

The following words and phrases have the following meanings throughout this Agreement:

"Acceleration Event" means the occurrence of an Event of Default which has resulted in a notice being served by the Agent in accordance with Clause 24.17 (*Acceleration*).

"Acceptable Bank" means:

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

"Acceptance Condition" means, in relation to an Offer, a condition such that the Offer may not be declared unconditional until the Company has received acceptances in respect of a certain percentage or number of shares in the Target.

- "Accession Deed" means a document substantially in the form set out in Schedule 6 (Form of Accession Deed).
- "Accounting Principles" means generally accepted accounting principles in England, including IFRS.
- "Accounting Reference Date" means the Company's actual accounting date falling on or about 31 December in each year.
- "**Acquisition**" means the acquisition by the Company of 100 per cent. of the Target Shares pursuant to a Scheme or, as the case may be, at least 75 per cent. of the Target Shares pursuant to an Offer.

"Acquisition Closing Date" means:

- (a) where the Acquisition is implemented by way of a Scheme, the Scheme Effective Date; or
- (b) where the Acquisition is implemented by way of an Offer, the Offer Unconditional Date.
- "Acquisition Costs" means all fees, costs and expenses, stamp, registration and other Taxes incurred by the Company, the Parent or (for the purposes of the definition of Consolidated EBITDA only) any member of the Target Group in connection with the Acquisition, the Finance Documents or any Acquisition Document (and including, without limitation, (i) costs incurred in connection with the execution of hedging transactions for the purposes of the Acquisition and/or the utilisation of the Term Acquisition Facility and (ii) costs incurred by the Target Group in connection with any other actual or potential bid to acquire the Target).
- "Acquisition Documents" means the Scheme Documents or, as the case may be, the Offer Documents.
- "Acquisition Long Stop Date" means 31 December 2021.
- "Additional Borrower" means a company which becomes an Additional Borrower in accordance with Clause 27 (*Changes to the Obligors*).
- "Additional Business Day" means any day specified as such in the applicable Reference Rate Terms.
- "Additional Guarantor" means a company which becomes an Additional Guarantor in accordance with Clause 27 (*Changes to the Obligors*) and clause 21.10 (*New Debtor and/or Guarantor*) of the Intercreditor Agreement.
- "Additional Obligor" means an Additional Borrower or an Additional Guarantor.
- "Affected Lender" has the meaning given to that term in Clause 13.4 (*Notification to the Company and replacement*).
- "Affiliate" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

Notwithstanding the foregoing, in relation to any member of the NatWest Group, the term "Affiliate" shall not include (i) the UK government or any member or instrumentality thereof, including Her Majesty's Treasury and UK Financial Investments Limited (or any directors, officers, employees or entities thereof) or (ii) any persons or entities controlled by or under common control with the UK government or any member or instrumentality thereof (including Her Majesty's Treasury and UK Financial Investments Limited) and which are not part of NatWest Group plc and its subsidiaries or subsidiary undertakings.

- "Agreed Security Principles" means the principles set out in schedule 3 (Agreed Security Principles) to the Intercreditor Agreement.
- "Ancala" means Ancala Partners LLP or Ancala Infrastructure Fund II SCSp (including via its general partner) (or each of their respective affiliates, related trusts and partnerships and any funds, limited partnerships or other entities directly or indirectly controlled, managed and/or advised by Ancala Partners LLP or any of its affiliates).
- "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 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 6 (*Ancillary Facilities*), to the extent that amount is not cancelled or reduced under this Agreement or the Ancillary Documents relating to that Ancillary Facility.
- "Ancillary Document" means each document relating to or evidencing the terms of an Ancillary Facility.
- "Ancillary Facility" means any ancillary facility made available by an Ancillary Lender in accordance with Clause 6 (*Ancillary Facilities*).
- "Ancillary Lender" means each Lender (or an Affiliate of a Lender) which makes available an Ancillary Facility in accordance with Clause 6 (*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) of the following amounts outstanding under that Ancillary Facility:
- (a) the principal amount under each overdraft facility and on-demand short term loan facility (net of any Available Credit Balance);
- (b) the face amount of each guarantee, bond and letter of credit under that Ancillary Facility (excluding any amounts prepaid or repaid in respect of any such instrument and taking account of any decrease in the liability of the relevant Ancillary Lender); and

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

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

"Announcement" means any press release made by or on behalf of the Company announcing a firm intention to implement a Scheme or, as the case may be, make an Offer, in each case in accordance with Rule 2.7 of the City Code, including any subsequent variation, revision or replacement thereof (subject, in each case, to the conditions in Clause 23.33 (*Acquisition Documents*)).

"Annual Financial Statements" has the meaning given to that term in Clause 21.1 (*Financial statements*).

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

"Audit Laws" means the Statutory Auditors and Third Country Auditors Regulations 2016, the Statutory Auditors and Third Country Auditors Regulations 2017 and the EU Regulation (537/2014) on specific requirements regarding statutory audit of public-interest entities as it forms part of domestic law of the United Kingdom by virtue of the Withdrawal Act.

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

"Availability Period" means:

- in relation to the Term Acquisition Facility, the period from and including the Signing Date to and including the last day of the Certain Funds Period;
- (b) in relation to the Capex Facility, the period from and including the Closing Date to and including the date falling three months prior to the Termination Date; and
- (c) in relation to the Revolving Facility, the period from and including the Closing Date to and including the date falling one month prior to the Termination Date.

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

(a) the amount of its participation in any outstanding Utilisations under that Facility and, in the case of the Revolving Facility only, the amount of the aggregate of its (and its Affiliate's) Ancillary Commitments; and

(b) in relation to any proposed Utilisation, the 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 amount of its (and its Affiliate's) Ancillary Commitment in relation to any new Ancillary Facility or, as the case may be, the increase in respect of any existing Ancillary Facility that is due to be made available on or before the proposed Utilisation Date.

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

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

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

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

"Average Life" means, when applied to the amount of principal outstanding under a Facility or any amount which constitutes Permitted Refinancing Indebtedness at any date, the number of years obtained by dividing:

- (a) the sum of the products of:
 - (i) each required repayment of principal in respect of that outstanding amount; and
 - (ii) the number of years (calculated to the nearest 1/12th) that will elapse between that date and the date on which that payment is required to be made:

by

(b) the outstanding principal amount of that Facility or any amount which constitutes Permitted Refinancing Indebtedness as at that date.

"Backward Looking Lock-Up Tests" means:

(a) the Interest Cover Ratio on each Lock-Up Calculation Date in respect of the Relevant Period ending on such Lock-Up Calculation Date shall not be less than 2.00:1; and

(b) the Leverage Ratio in respect of the Relevant Period ending on the Lock-Up Calculation Date specified in column 1 below shall not be higher than the ratio set out in column 2 below opposite that Lock-Up Calculation Date:

Column 1 (Relevant Period expiring on)	Column 2 Leverage Ratio
30 June 2022	5.25:1
31 December 2022	5.25:1
30 June 2023	5.25:1
31 December 2023	5.25:1
30 June 2024	5.00:1
31 December 2024	5.00:1
30 June 2025	4.50:1
31 December 2025	4.50:1
30 June 2026	4.25:1

"Bank Levy" means (i) any amount payable by any Finance Party or any of its Affiliates on the basis of, or in relation to, its balance sheet or capital base or any part of that person or its liabilities or minimum regulatory capital or any combination thereof (including the UK bank levy as set out in the Finance Act 2011 (as amended) and any other levy or tax in any jurisdiction levied on a similar basis or for a similar purpose), (ii) any financial activities taxes (or other taxes) of a kind contemplated in the European Commission consultation paper on financial sector taxation dated 22 February 2011 and (iii) any bank surcharge or banking corporation tax surcharge (including the UK surcharge on banking companies as set out in Chapter 4 of Part 7A of the Corporation Tax Act 2010 and any other surcharge or tax of a similar nature in any jurisdiction), in each case which has been enacted or which has been formally announced as proposed as at the Signing Date or, if later, the date on which the relevant Finance Party becomes a Party.

"Base Case Model" means the financial model relating to the Group delivered to the Agent pursuant to paragraph 5(e) of Part 1 (Conditions Precedent to Initial Utilisation) of Schedule 2 (Conditions Precedent).

"Blocking Regulation" means:

(a) Regulation (EU) No 2271/96 of the European Parliament and the Council of 22 November 1996 protecting against the effects of the extraterritorial application of legislation adopted by a third country, and actions based on or resulting therefrom; or

(b) Regulation (EU) No 2271.96 of the European Parliament and the Council of 22 November 1996 protecting against the effects of the extraterritorial application of legislation adopted by a third country, and actions based on or resulting therefrom as it forms part of domestic law of the United Kingdom by virtue of the Withdrawal Act,

and any similar blocking or anti-boycott law in the United Kingdom.

"Borrower" means an Original Borrower or an Additional Borrower unless it has ceased to be a Borrower in accordance with Clause 27 (*Changes to the Obligors*) and, in respect of an Ancillary Facility only, any Affiliate of a Borrower that becomes a borrower of that Ancillary Facility with the approval of the relevant Lender pursuant to Clause 6.11 (*Affiliates of Borrowers*).

"**Borrowings**" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"Budget" means:

- (a) in relation to the period beginning on the Signing Date and ending on 31 December 2022 (or such earlier date as at which the Company elects, at its discretion, to deliver an updated budget), the Base Case Model; and
- (b) in relation to any other period, any budget delivered by the Company to the Agent in respect of that period pursuant to Clause 21.4 (*Budget*).

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

- (a) (in relation to any date for payment or purchase of a currency other than euro) the principal financial centre of the country of that currency; and
- (b) (in relation to:
 - (i) any date for payment or purchase of an amount relating to a Loan or Unpaid Sum; or
 - (ii) the determination of the first day or the last day of an Interest Period for a Loan or Unpaid Sum, or otherwise in relation to the determination of the length of such an Interest Period),

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

"Calculation Date" has the meaning given to that term in Clause 22.1 (Financial definitions).

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

"Capex Facility Commitment" means:

(a) in relation to an Original Lender, the amount set opposite its name under the heading "Capex Facility Commitment" in Part 2 of Schedule 1 (*The Original*

Parties) and the amount of any other Capex Facility Commitment transferred or assigned to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*); and

(b) in relation to any other Lender, the amount of any Capex Facility Commitment transferred or assigned to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*),

to the extent:

- (i) not cancelled, reduced, transferred or assigned by it under this Agreement; and
- (ii) not deemed to be zero pursuant to Clause 26.2 (Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates).

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

"Capital Expenditure" means any capital expenditure or obligation in respect of expenditure to the extent treated as capital expenditure in accordance with the Accounting Principles.

"Cash" means at any time cash denominated in sterling, US dollars or euro (or freely convertible into the same) in hand or at a bank (other than any cash standing to the credit of the Ringfenced Account) or any other credit balances credited to an account in the name of a member of the Group with an Acceptable Bank and to which a member of the Group is alone (or together with other members of the Group) beneficially entitled and for so long as:

- (a) that cash is repayable on demand within 30 days after the relevant date of calculation;
- (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of any member of the Group or of any other person whatsoever or on the satisfaction of any other condition (other than the giving of any notice not exceeding 30 days);
- (c) there is no Security or Quasi-Security over that cash except:
 - (i) pursuant to any Transaction Security Document;
 - (ii) Permitted Security constituted by a cash pooling, netting or set off arrangements entered into by members of the Group in the ordinary course of their banking arrangements; or
 - (iii) Permitted Security for Financial Indebtedness taken into account for the purpose of the Default Ratios; and
- (d) (subject to paragraph (a) above) such cash is (or would be) available to be applied in repayment or prepayment of the Facilities.

"Cash Equivalent Investments" means at any time:

- (a) debt securities which are freely negotiable and marketable:
 - (i) which mature not more than 12 months from the date of calculation; and
 - (ii) which are rated at least A by Standard & Poor's or Fitch or A2 by Moody's;
- (b) certificates of deposit of, or time deposits or overnight bank deposits with, any commercial bank whose short-term securities are rated at least A- by Standard and Poor's or Fitch or A3 by Moody's and having maturities of 12 months or less from the date of calculation:
- (c) commercial paper (for which a recognised trading market exists) of, or money market accounts or funds with or issued by, an issuer rated at least A- by Standard & Poor's or Fitch or A3 by Moody's and having an original tenor of 12 months or less;
- (d) medium term fixed or floating rate notes (for which a recognised trading market exists) of an issuer rated at least A- by Standard & Poor's or Fitch or A3 by Moody's at the time of acquisition, having a remaining term of 12 months or less from the date of calculation and which can be turned into cash on not more than 90 days' notice;
- (e) bills of exchange issued in any member of the European Economic Area, any Participating Member State, the US, the United Kingdom or Switzerland eligible for rediscount at the relevant central bank and accepted by an Acceptable Bank (or their dematerialised equivalent);
- (f) any investment in a money market fund or enhanced yield fund which:
 - (i) has a credit rating of either A by Standard & Poor's or Fitch or A2 by Moody's; and
 - (ii) invests substantially all its assets in securities of the type described in paragraphs (a) to (e) above of this definition; or
- (g) any other cash equivalent investments approved by the Agent acting on the instructions of the Majority Lenders (such approval not to be unreasonably withheld or delayed),

in each case, denominated in sterling, US dollars or euro.

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

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

"Certain Funds Period" means the period from the Signing Date to and including the earlier of:

- (a) if the Acquisition is intended to be completed pursuant to a Scheme, the date on which the Scheme lapses (including, subject to exhausting any rights of appeal, if a relevant court refuses to sanction the Scheme) or is withdrawn in writing, in each case, in accordance with the terms set out in the Announcement or Scheme Document and with the consent of the Takeover Panel where required or by an order of the Court (other than (i) where such lapse or withdrawal is as a result of the exercise of the Company's right to effect a switch from the Scheme to an Offer or (ii) it is otherwise to be followed within 20 Business Days by an announcement by the Company to implement the Acquisition by a different contractual offer or scheme of arrangement (as applicable) in accordance with the terms of this Agreement);
- (b) if the Acquisition is intended to be completed pursuant to an Offer, the date on which the Offer lapses, terminates or is withdrawn, in each case, in accordance with the terms set out in the Announcement or Offer Document and with the consent of the Takeover Panel where required (other than (i) where such lapse or withdrawal is as a result of the exercise of the Company's right to effect a switch from the Offer to a Scheme or (ii) it is otherwise to be followed within 20 Business Days by an announcement by the Company to implement the Acquisition by a different contractual offer or scheme of arrangement (as applicable) in accordance with this Agreement);
- (c) if the first Announcement has not been released by such time, the date falling 15 Business Days after the date of this Agreement;
- (d) the date on which the Term Acquisition Facility Commitments have been utilised in full;
- (e) the date on which the Target becomes a wholly-owned Subsidiary of the Company and the Company has paid for all of the Target Shares then owned by it; and
- (f) the Acquisition Long Stop Date, **provided that** if the Acquisition Closing Date occurs on such date or on a date that is less than 14 days prior to such date, then the last day of the Certain Funds Period shall be automatically extended to the date that is 14 days following the Acquisition Closing Date,

or, in each case, such later time as agreed by all of the Lenders (acting reasonably).

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

"Change of Control" means:

- (a) the Initial Investors (in aggregate and in whatever combination) cease to (directly or indirectly) satisfy each element of control of the Company;
- (b) Ancala ceases to have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or control the casting of, at least 45 per

- cent. of the maximum number of votes that might be cast at a general meeting of the Company;
- (c) the Company ceases to be a direct wholly-owned Subsidiary of the Parent; or
- (d) following the Acquisition Closing Date, the Target ceases to be a Subsidiary of the Company other than as a result of a Permitted Reorganisation or a Permitted Transaction.

For the purposes of this definition, "control" means:

- (a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or control the casting of, more than 50 per cent. of the maximum number of votes that might be cast at a general meeting of the Company;
- (b) appoint or remove more than half of the directors or other equivalent officers of the Company; and
- (c) the holding beneficially (directly or indirectly) of more than 50 per cent. of the issued voting share capital of the Company (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

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

"City Code" means the UK City Code on Takeovers and Mergers, as administered by the Takeover Panel.

"Clean Down Period" has the meaning given to such term in Clause 5.8 (*Clean down*).

"Clean-Up Default" means an Event of Default referred to in Clause 24 (*Events of Default*) other than those set out in Clause 24.1 (*Non-payment*), Clause 24.6 (*Insolvency*), Clause 24.7 (*Insolvency proceedings*) and Clause 24.8 (*Creditors' process*).

"Clean-Up Period" means:

- in respect of the Acquisition, the period commencing on the Acquisition Closing Date, until (and including) the date falling 90 days after the Acquisition Closing Date; and
- (b) in respect of a Permitted Acquisition, the period commencing on the closing date of such Permitted Acquisition (the "**Permitted Acquisition Closing Date**"), until (and including) the date falling 90 days after the Permitted Acquisition Closing Date.

"Clean-Up Representation" means any of the representations and warranties under Clause 20 (*Representations*).

"Clean-Up Undertaking" means any undertaking specified in Clauses 21 (*Information Undertakings*) and 23 (*General Undertakings*), but excluding Clause 23.36 (*Conditions Subsequent*).

"Closing Date" means the date of initial Utilisation.

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

"Commitment" means a Term Acquisition Facility Commitment, a Capex Facility Commitment or a Revolving Facility Commitment.

"Company's Auditors" means BDO LLP or any other firm appointed by the Company to act as its statutory auditors.

"Competitor" means any person that is, or is an Affiliate or Related Fund of, a person (the "first person") that is (except, in relation to any Affiliate, where such Affiliate is managed or controlled independently through a separate trust, fund or other entity from the person which is effectively exercising control over that first person):

- (a) a competitor of the Group in respect of the Permitted Business, **provided that** no person, a predominant portion of whose business involves banking, insurance, investment banking, investment or similar activities (including any person involved in the life insurance business or in the business of the investment of annuities or contributions to pension, retirement, medical or similar plans or arrangements), shall be deemed to be a Competitor under this paragraph (a));
- (b) a customer of the Target Group which is a trade supplier or sub-contractor of the Target Group in respect of the Permitted Business; or
- (c) a competitor of any of the Initial Investors in respect of their core activities (being that of investment funds investing by way of equity ownership and subordinated debt in infrastructure or similar assets (an "Infrastructure Equity Investment Fund")) provided that in the case of an Affiliate or Related Fund of such a person any such Affiliate or Related Fund which is an Infrastructure Debt Fund will not constitute a "Competitor",

and **provided that** no Original Lender or their Affiliates shall constitute a Competitor.

"Compliance Certificate" means a certificate substantially in the form set out in Schedule 8 (*Form of Compliance Certificate*) or in any other form agreed between the Company and the Agent (each acting reasonably).

"Compounded Rate Interest Payment" means the aggregate amount of interest that is, or is scheduled to become, payable under any Finance Document.

"Compounded Reference Rate" means, in relation to any RFR Banking Day during the Interest Period of a Loan, the percentage rate per annum which is the Daily Non-Cumulative Compounded RFR Rate for that RFR Banking Day.

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

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

"Confidential Information" means all information relating to the Initial Investors, the Parent, any Obligor, the Group, the Target Group, the Finance Documents, the Debt Documents or a Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or a Facility from either:

- (a) the Initial Investors, any member of the Group, the Target Group or any of its 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 Target Group or any of its advisers,

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

- (i) information that:
 - (A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 38.1 (*Confidential Information*); or
 - (B) is identified in writing at the time of delivery as non-confidential by any member of the Group, the Target Group or any of its advisers; or
 - (C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraph (a) or (b) above (other than in its capacity as an existing lender of the Group) or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Initial Investors, the Parent or the Group, the Target Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and
- (ii) any Funding Rate.

"Confidentiality Undertaking" means a confidentiality undertaking in favour of the Company substantially in the then current recommended form of the LMA or in any other form agreed between the Company and the relevant Lender (each acting reasonably).

"Consolidated Cashflow" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"Consolidated EBITDA" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"Court" means the High Court of Justice of England and Wales.

"Court Order" means the order of the Court sanctioning the Scheme, as required by Part 26 of the Companies Act 2006, in connection with the Acquisition.

"CTA" means the Corporation Tax Act 2009.

"Cumulative Compounded RFR Rate" means, in relation to an Interest Period for a Loan, the percentage rate per annum determined by the Agent (or by any other Finance Party which agrees to determine that rate in place of the Agent) in accordance with the methodology set out in Schedule 14 (*Cumulative Compounded RFR Rate*) or in any relevant Compounding Methodology Supplement.

"Cure Amount" has the meaning given to that term in Clause 22.4 (*Equity Cure Right*).

"Current Assets" has the meaning given to that term in Clause 22.1 (Financial definitions).

"Current Liabilities" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"Daily Non-Cumulative Compounded RFR Rate" means, in relation to any RFR Banking Day during an Interest Period for a Loan, the percentage rate per annum determined by the Agent (or by any other Finance Party which agrees to determine that rate in place of the Agent) in accordance with the methodology set out in Schedule 13 (Daily Non-Cumulative Compounded RFR Rate) or in any relevant Compounding Methodology Supplement.

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

"**Debt Document**" has the meaning given to that term in the Intercreditor Agreement.

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

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

any Commitment or amount outstanding under this Agreement.

"**Debt Service**" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"**Default**" means an Event of Default or any event or circumstance specified in Clause 24 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**Default Ratios**" means the Leverage Ratio and Interest Cover Ratio as tested pursuant to Clause 22.2 (*Financial condition*).

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

- (a) which has failed to make its participation in a Loan available (or has notified the Agent or the Company (which has notified the Agent) that it will not make its participation in a Loan available) by the Utilisation Date of that Loan in accordance with Clause 5.4 (*Lenders' participation*);
- (b) which has otherwise rescinded or repudiated a Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing, unless, in the case of paragraph (a) above:
 - (i) its failure to pay is caused by:
 - (A) administrative or technical error; or
 - (B) a Disruption Event; 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.

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

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

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

"Disposal Proceeds" has the meaning given to that term in Clause 9.4 (Disposal, Insurance, Report, Cure Amount, Excess Cashflow and Refinancing Proceeds).

"Disruption Event" means either or both of:

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

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

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

"Earn-out Liabilities" means all amounts that senior management reasonably determine are likely to fall due in relation to any Permitted Acquisition where all or a portion of its purchase price that remains payable in respect of such acquisition is to be determined in relation to the future performance of the relevant entities or assets acquired pursuant to that Permitted Acquisition.

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

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

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

"Environmental Claim" means any written claim, proceeding, formal notice or formal 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 Overfunding Amount" means the amount by which the aggregate of (i) equity and subordinated debt contributed to the Company by the Parent (and not previously repaid or otherwise distributed) and (ii) amounts outstanding under the Term Acquisition Facility, in each case on or before the making of a Permitted Payment pursuant to paragraph (h) thereof, exceeds the total aggregate of:

- (a) the cash purchase price for the shares in the Target paid or committed to be paid to Target Shareholders;
- (b) the principal amount of Financial Indebtedness outstanding under the Existing Target Facilities Agreement at the Acquisition Closing Date, less Cash and Cash Equivalent Investments of the Target Group on the Acquisition Closing Date; and
- (c) the aggregate amount of Acquisition Costs accrued and payable as at the Acquisition Closing Date,

provided that the aggregate amount of equity and subordinated debt contributed to the Company by the Parent following a Permitted Payment pursuant to paragraph (h) thereof is not less than an amount equal to 55% of the aggregate of paragraphs (a) to (c) above.

"Event of Default" means any event or circumstance specified as such in Clause 24 (Events of Default).

"Exceptional Items" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"Excess Cashflow" has the meaning given to that term in Clause 22.1 (Financial definitions).

"Existing Target Facilities Agreement" means the facilities agreement dated 27 November 2019 between, amongst others, the Target as borrower, HSBC UK Bank plc as agent and HSBC UK Bank plc as security trustee.

"Existing Target Facilities Prepayment Date" has the meaning given to such term in Clause 23.36 (*Conditions Subsequent*).

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

"Facility Office" means:

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

"FATCA" means:

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

"FATCA Application Date" means:

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

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

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

"Fee Letter" means:

- (a) any letter or letters dated on or about the Signing Date between the Mandated Lead Arrangers and/or the Lenders and the Company (or the Agent and the Company or the Security Agent and the Company) setting out the fees referred to in Clause 14 (*Fees*); and
- (b) any agreement setting out fees payable to a Finance Party referred to in paragraph (d) of Clause 2.2 (*Increase*) or Clause 14.6 (*Interest, commission and fees on Ancillary Facilities*) of this Agreement or under any other Finance Document.

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

- (a) the definition of "**Default**";
- (b) the definition of "Material Adverse Effect";
- (c) paragraph (a) of the definition of "**Permitted Transaction**";
- (d) the definition of "**Transaction Document**";
- (e) the definition of "**Transaction Security Document**";
- (f) paragraph (a)(iv) of Clause 1.2 (*Construction*);
- (g) Clause 2.3 (Finance Parties' rights and obligations);
- (h) Clause 23.12 (*Pari Passu ranking*);
- (i) Clause 23.27 (Further Assurance); and
- (j) Clause 24 (*Events of Default*) (other than paragraph (b) of Clause 24.13 (*Repudiation and rescission of agreements*) and Clause 24.17 (*Acceleration*)).

"Finance Lease" means any lease or hire purchase contract, a liability under which would, in accordance with the Accounting Principles, be treated as a balance sheet liability (excluding the effect of IFRS 16 or any adoption of IFRS 16 principles by IFRS 102 and any successor standard thereto, or any equivalent measure under any other generally accepted accounting standards).

"Finance Party" means the Agent, the Mandated Lead Arrangers, the Security Agent, a Lender, any Hedge Counterparty or an Ancillary Lender provided that where the

term "**Finance Party**" is used in, and construed for the purposes of, this Agreement, a Hedge Counterparty shall be a Finance Party only for the purposes of:

- (a) the definition of "Secured Parties";
- (b) paragraph (a)(i) of Clause 1.2 (*Construction*);
- (c) paragraph (c) of the definition of "Material Adverse Effect";
- (d) Clause 2.3 (Finance Parties' rights and obligations);
- (e) Clause 23.12 (Pari Passu ranking);
- (f) Clause 23.27 (Further Assurance); and
- (g) Clause 29 (Conduct of Business by the Finance Parties).

"**Financial Half-Year**" means the period commencing on the day after one Half-Year Date and ending on the next Half-Year Date.

"Financial Indebtedness" means (without double counting) any indebtedness for or in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument (other than pursuant to any Trade Instrument);
- (d) the amount of any liability in respect of Finance Leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis or where recourse is limited to customary warranties and indemnities):
- (f) for the purpose of cross default under Clause 24.5 (*Cross Default*) only, any Treasury Transaction **provided that** when calculating the value of that Treasury Transaction:
 - (i) only the marked to market value; or
 - (ii) if, taking into account any netting arrangements, any actual amount is due as a result of the termination or close out of that Treasury Transaction, that amount,

shall be taken into account;

(g) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability (but not, in any case,

- Trade Instruments) of an entity which is not a member of the Group which liability would fall within one of the other paragraphs of this definition;
- (h) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the latest Termination Date or are otherwise classified as borrowings under the Accounting Principles (excluding the effect of IFRS 16 or any adoption of IFRS 16 principles by IFRS 102 and any successor standard thereto, or any equivalent measure under any other generally accepted accounting standards);
- (i) any amount of any liability under an advance or deferred purchase agreement if:
 - (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question; or
 - (ii) the agreement is in respect of the supply of assets or services and payment is due more than 180 days after the date of supply;
- (j) any amount raised under any other transaction (including any forward sale or purchase agreement, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles (excluding the effect of IFRS 16 or any adoption of IFRS 16 principles by IFRS 102 and any successor standard thereto, or any equivalent measure under any other generally accepted accounting standards); and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in the paragraphs above.

"Financial Year" has the meaning given to that term in Clause 22.1 (Financial definitions).

"First Testing Date" means 30 June 2022.

"Fitch" means Fitch Ratings Limited.

"Forward Looking Lock-Up Tests" means:

- (a) the Interest Cover Ratio in respect of each Lock-Up Calculation Date in respect of a Relevant Period commencing on the date immediately after a Lock-Up Calculation Date shall not be less than 2.00:1; and
- (b) the Leverage Ratio in respect of the Relevant Period commencing on the date immediately after a Lock-Up Calculation Date specified in column 1 below shall not be higher than the ratio set out in column 2 below opposite that Lock-Up Calculation Date:

Column 1 (Relevant Period commencing on the day after)	Column 2 Leverage Ratio
30 June 2022	5.25:1
31 December 2022	5.25:1
30 June 2023	5.25:1
31 December 2023	5.25:1
30 June 2024	5.00:1
31 December 2024	5.00:1
30 June 2025	4.50:1
31 December 2025	4.50:1
30 June 2026	4.25:1

[&]quot;Funding Rate" means any individual rate notified by a Lender to the Agent pursuant to paragraph (a)(ii) of Clause 13.3 (*Cost of funds*).

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

"Group" means the Company and each of its Subsidiaries from time to time and, on and from the Acquisition Closing Date, the Target Group. A "member of the Group" shall be construed accordingly.

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

"Growth Capital Expenditure" has the meaning given to such term in Clause 22.1 (Financial definitions).

"Guarantor" means each Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 27 (*Changes to the Obligors*).

"Guarantor Coverage Requirement" has the meaning given to it in Clause 23.26 (Guarantors).

"Half-Year Date" means each of 30 June and 31 December.

"Hedge Counterparty" means any person which, to the extent required, has become a Party as a "Hedge Counterparty" in accordance with Clause 25.8 (Accession of Hedge

[&]quot;**Funds Flow Statement**" means the funds flow statement delivered by the Company to the Agent pursuant to Part 1 of Schedule 2 (*Conditions Precedent*).

Counterparties) and which, in each case, is or has become a party to the Intercreditor Agreement as a Hedge Counterparty in accordance with the provisions of the Intercreditor Agreement.

"Hedge Fund" means a pooled investment vehicle or similar entity (including any Related Funds) that is or would reasonably be recognised or categorised as a "hedge fund" by reputable institutions which are prominent participants in the financial markets. Hedge Fund shall be construed so as to include "vulture funds" and any pass-through or structured finance vehicles, in whatever legal form, which are used by a Hedge Fund as part of structuring an investment.

"Hedging Agreement" means any master agreement, confirmation, schedule or other agreement (which may take the form of a novation agreement or confirmation evidencing the novation of any (or part of any) transaction) maintained, entered into or to be entered into by a member of the Group and a Hedge Counterparty for the purpose of hedging liabilities (including, without limitation, interest rate labilities and foreign exchange liabilities) which, at the time that that master agreement, confirmation, schedule or other agreement (as the case may be) is entered into, the Finance Documents require or permit to be hedged.

"Hedging Letter" means the hedging strategy letter dated on or about the Signing Date and made between, amongst others, the Original Lenders and the Company describing the hedging arrangements to be entered into in respect of the interest rate liabilities of the Obligors.

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

"Holding Stack Companies" means Eleia Topco Limited and its direct or indirect Subsidiaries provided such entities are (direct or indirect) Holding Companies of the Company.

"ICA Accession Deed" means a document substantially in the form set out in schedule 4 (*Form of Accession Deed*) of the Intercreditor Agreement.

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

"Impaired Agent" means the 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), (b) or (c) 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 11 (*Form of Increase Confirmation*).

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

"**Information Memorandum**" means the document in the form approved by the Company concerning the Target Group which is to be distributed by the Mandated Lead Arrangers in connection with the syndication of the Facilities.

"Infrastructure Debt Fund" means any fund whose activities are solely the making, purchasing or investing in loans or debt securities in infrastructure and/or similar assets and which, to the extent it is an Affiliate or Related Fund of an Infrastructure Equity Investment Fund, is managed or controlled independently from such Infrastructure Equity Investment Fund and has established procedures which will prevent confidential information supplied to such entity from being transmitted or otherwise made available to such Infrastructure Equity Investment Fund.

"Initial Investors" means Ancala Partners LLP, Fiera Infrastructure Inc., Ancala Infrastructure Fund II SCSp (including via its general partner), EagleCrest EFW Limited and each of their respective affiliates, related trusts and partnerships and any funds (including via its general partner), limited partnerships or other entities directly or indirectly controlled, managed and/or advised by Ancala Partners LLP, Fiera Infrastructure Inc. or any of their respective affiliates.

"**Insolvency Event**" in relation to an entity means that the entity:

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

- similar law affecting creditors' rights, or a petition is presented for its windingup or liquidation by it or such regulator, supervisor or similar official;
- (e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:
 - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
 - (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (f) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (g) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (d) above);
- (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.

"Intellectual Property" means:

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

"Intercreditor Agreement" means the intercreditor agreement dated the same date as this Agreement and made between, among others, the Parent, the Company, the Original Borrowers, the Security Agent, the Agent, the Lenders and the Mandated Lead Arrangers.

"Interest Cover Ratio" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"Interest Period" means, in relation to a Loan, each period determined in accordance with Clause 12 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 11.3 (*Default interest*).

"Intra-Group Debt" means any liabilities owed by a member of the Group to another member of the Group.

"Investors" means the Initial Investors and their or any subsequent successors or assignees or transferees.

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

"**Legal Opinion**" means any legal opinion delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) or Clause 27 (*Changes to the Obligors*).

"Legal Reservations" means:

- (a) the principle that certain remedies may be granted or refused at the discretion of the court, the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting the rights of creditors and secured creditors;
- (b) the time barring of claims under applicable limitation laws and defences of acquiescence, set off or counterclaim and the possibility that an undertaking to assume liability for or to indemnify a person against non-payment of stamp duty may be void;
- (c) the principle that in certain circumstances Security granted by way of fixed charge may be re-characterised as a floating charge or that Security purported to be constituted as an assignment may be re-characterised as a charge;
- (d) the principle that additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void;
- (e) the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant;
- (f) the principle that the creation or purported creation of Security over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which Security has purportedly been created;
- (g) the principle that a court may not give effect to any parallel debt provisions, covenants to pay the Security Agent or other similar provisions;

- (h) similar principles, rights and defences under the laws of any Relevant Jurisdiction referred to in paragraphs (a) to (g) (inclusive) above of this definition:
- (i) the principles of private and procedural laws of the Relevant Jurisdiction which affect the enforcement of a foreign court judgment; and
- (j) any other matters which are set out as qualifications or reservations (however described) as to matters of law in the Legal Opinions.

"Lender" means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 2.2 (*Increase*) or Clause 25 (*Changes to the Lenders*),

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

"Lender Approved List" means the list of banks and financial institutions delivered to the Agent pursuant to paragraph 5(g) of Part 1 of Schedule 2 (*Conditions Precedent*) and as subsequently amended with the agreement of all the Lenders and the Company in relation to the removal of an entity from the list and in the Company's discretion in relation to the addition of an entity to the list.

"Leverage Ratio" has the meaning given to that term in Clause 22.1 (Financial definitions).

"Listing" means a listing of all or any part of the share capital of the Company or any Holding Company of the Company (other than any Initial Investor) (whether directly or indirectly via depositary receipts or any other instrument, system or programme) on an internationally recognised investment exchange or any other sale or issue by way of flotation or public offering in any country on a regulated securities exchange or market.

"Listing Proceeds" means the cash proceeds from a Listing or a primary issue of shares in connection with a Listing and excluding, for the avoidance of doubt, any proceeds received by the Parent or the Initial Investors (or any other person holding, directly or indirectly, any issued share capital of the Company from time to time) or members of management of the Group from a secondary offering to the market of shares held by such persons following or simultaneously with a Listing after deducting:

- (a) any reasonable costs and expenses in relation to that Listing which are incurred by any member of the Group to persons who are not members of the Group; and
- (b) any Tax incurred (or properly reserved for in accordance with the relevant Accounting Principles) and required to be paid by a member of the Group in connection with that Listing (on the basis of existing rates and taking account of any available credit, deduction or allowance).

"LMA" means the Loan Market Association.

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

"Loan Notes" means any loan notes to be issued by the Company to Target Shareholders (or their nominee) in an amount not exceeding the Target Shareholder Tax Claim Proceeds.

"Lock-Up Account" means an interest-bearing account:

- (a) held by the Company with the Security Agent or an Affiliate of the Security Agent or with such other bank as may be agreed between the Company and the Security Agent;
- (b) identified in a letter between the Company and the Agent as a Lock-Up Account;
- (c) subject to Security in favour of the Security Agent which Security is in form and substance satisfactory to the Agent and the Security Agent; and
- (d) from which no withdrawals may be made by any members of the Group except to the extent permitted by this Agreement and the Intercreditor Agreement,

as the same may be redesignated, substituted or replaced from time to time.

"Lock-Up Amount" means, in respect of any two consecutive Lock-Up Calculation Dates, the amount (if any) credited to the Lock-Up Account in respect of the first of those Lock-Up Calculation Dates in accordance with paragraph (a) of Clause 9.6 (*Lock-Up*) less any amounts subsequently withdrawn pursuant to Clause 9.6 (*Lock-Up*) (but without double counting).

"Lock-Up Calculation Date" means the Company's accounting dates falling on or around 30 June and 31 December in each Financial Year on or after the First Testing Date.

"Lock-Up Event" means a breach of any Lock-Up Test.

"Lock-Up Tests" means the Forward Looking Lock-Up Tests and the Backward Looking Lock-Up Tests.

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

"Major Event of Default" means with respect to the Company or, where applicable, the Parent any circumstances constituting an Event of Default under any of:

- (a) Clause 24.1 (*Non-payment*) (insofar as it relates to the non-payment of fees, principal or interest, but not failure to reimburse costs and expenses or satisfy any indemnity obligation);
- (b) Clause 24.3 (*Other obligations*) insofar as it relates to a breach of:
 - (i) Clause 23.6 (Merger), Clause 23.8 (Acquisitions), Clause 23.9 (Joint Ventures), Clause 23.10 (Holding Companies), Clause 23.12 (Pari Passu Ranking), Clause 23.13 (Negative Pledge), Clause 23.14

(*Disposals*), Clause 23.16 (*Loans or Credit*) to Clause 23.19 (*Financial Indebtedness*) (inclusive), Clause 23.23 (*Hedging*), Clause 23.24 (*Share Capital*), paragraphs (a), (b), (c), (d), (f), (h) and (i) of Clause 23.33 (*Acquisition Documents*), paragraph (a) of Clause 23.28 (*Anti-corruption law*); and

- (ii) Clause 23.29 (*Sanctions*), **provided that** for the purposes of this definition only:
 - (A) sub-paragraph (a)(i)(A) shall be deemed amended to include the words "to the best of the knowledge and belief of the Company," at the beginning of such sub-paragraph;
 - (B) sub-paragraph (a)(i)(A) shall be deemed amended to include the words "insofar as it would result in any member of the Group or a Finance Party being in breach of any Sanctions or becoming a Restricted Party" after "any Restricted Party";
 - (C) sub-paragraph (a)(i)(B) shall be deemed amended to include the words "insofar as it would result in any member of the Group or a Finance Party being in breach of any Sanctions or becoming a Restricted Party" after "in applicable jurisdiction",

for the avoidance of doubt excluding any obligation on the Company to procure compliance by any member of the Target Group;

- (c) Clause 24.4 (*Misrepresentation*), insofar as it relates to a breach of any Major Representation;
- (d) Clause 24.6 (*Insolvency*);
- (e) Clause 24.7 (*Insolvency Proceedings*) **provided that** for the purposes of this definition only, the words "as a result of actual financial difficulties (other than a composition, compromise or arrangement arising under this Agreement or in respect of Subordinated Debt)" shall be deemed inserted after "the Parent" in sub-paragraph (a)(ii);
- (f) Clause 24.8 (*Creditors' process*);
- (g) Clause 24.9 (Unlawfulness and invalidity); and
- (h) Clause 24.13 (*Repudiation and rescission of agreements*) **provided that** for the purposes of this definition only, paragraph (b) of Clause 24.13 (*Repudiation and rescission of agreements*) shall be deemed amended to include the words "or a Finance Party" after the words "other than an Obligor or the Parent".

"Major Representation" means a representation or warranty with respect to the Company (in respect of itself only) and/or the Parent (in respect of itself only) under any of:

- (a) Clause 20.2 (*Status*) to Clause 20.8 (*Insolvency*) (inclusive), Clause 20.20 (*Security and Financial Indebtedness*), Clause 20.27 (*Holding Companies*), paragraph (a) of Clause 20.28 (*Anti-corruption law*); and
- (b) Clause 20.29 (*Sanctions*) **provided that** for this purpose, paragraph (b) of Clause 20.29 (*Sanctions*) shall be deemed amended to include the words "To the best of the knowledge and belief of the Company," at the beginning of such paragraph.

"Majority Lenders" means a Lender or Lenders whose Commitments aggregate 66 \(\frac{1}{2} \) per cent. or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated 66 \(\frac{1}{2} \) per cent. or more of the Total Commitments immediately prior to that reduction).

"Margin" means, in relation to any Loan:

- (a) in respect of the period commencing on the Closing Date and ending on an including the date falling 24 Months thereafter, 3.15 per cent. per annum;
- (b) in respect of the period commencing on the day after the date falling 24 Months after the Closing Date and ending on and including the date falling 36 Months after the Closing Date, 3.25 per cent. per annum;
- in respect of the period commencing on the day after the date falling 36 Months after the Closing Date and ending on and including the date falling 48 Months after the Closing Date, 3.50 per cent. per annum; and
- in respect of the period commencing on the day after the date falling 48 Months after the Closing Date and thereafter, 4.00 per cent. per annum.

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

"Material Adverse Effect" means an event or circumstance which has a materially adverse effect on:

- (a) the business or financial condition (but not, for the avoidance of doubt, the obligations under Clause 22.2 (*Financial condition*)) of the Group (taken as a whole);
- (b) the ability of the Obligors (taken as a whole) to perform their payment obligations under the Finance Documents or the Permitted Refinancing Indebtedness Debt Documents taking into account the financial support available to them from members of the Group (to the extent permitted by the Finance Documents); or
- (c) subject to Legal Reservations and Perfection Requirements (but without prejudice to the provisions of Clause 23.27 (*Further Assurance*) and the Transaction Security Documents), the validity or enforceability of the Finance Documents, Permitted Refinancing Indebtedness Debt Documents or the validity or enforceability or effectiveness of any Transaction Security granted or purported to be granted pursuant to any of the Transaction Security

Documents and which, if capable of remedy, has not been remedied within 20 Business Days of the earlier of (i) the Security Agent giving notice to the Company or the relevant Obligor and (ii) the Company or another Obligor becoming aware of the relevant event or circumstance,

provided that, for the purpose of Clause 24.15 (*Change in Landfill Tax*), any change in landfill tax or any change in relation to treatment of air pollution control residues or dredging in connection with landfill tax shall be deemed to have a Material Adverse Effect if it is reasonably likely to materially and adversely affect the ability of the Group to comply with the Default Ratios (taking into account any third party financial support or insurance which is reasonably available to the Group).

"Material Company" means at any time:

- (a) an Obligor;
- (b) a member of the Group that directly holds shares in an Obligor or a Material Subsidiary; or
- (c) a Material Subsidiary.

"Material Subsidiary" means a member of the Group which has earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA) representing 5 per cent. or more of Consolidated EBITDA or has gross tangible assets (excluding all intra-group items and goodwill) representing 5 per cent. or more of the gross tangible assets of the Group, in each case, calculated on a consolidated basis.

Compliance with the conditions set out in this definition shall be determined by reference to the most recent Compliance Certificate supplied by the Company in relation to the latest Annual Financial Statements. However, if a member of the Group has been acquired, since the date as at which the latest Annual Financial Statements were prepared, the financial statements shall be deemed to be adjusted in order to take into account the acquisition of that member of the Group.

"Minimum Acceptance Condition" means, in relation to an Offer, an Acceptance Condition of not less than 75 per cent. of the issued ordinary share capital of the Target on a fully diluted basis (assuming exercise in full of all options, warrants and other rights to require allotment or issue of any shares in Target, whether or not such rights are then exercisable).

"Minimum Equity Requirement" means a contribution by way of equity or Subordinated Debt from the Parent to the Company in an amount equal to no less than 40 per cent. of the total aggregate of:

- (a) the cash purchase price for the shares in the Target which is payable to Target Shareholders on or about the date falling 14 days after the Acquisition Closing Date:
- (b) the principal amount of Financial Indebtedness outstanding under the Existing Target Facilities Agreement at the Acquisition Closing Date, less Cash and Cash

Equivalent Investments of the Target Group on the Acquisition Closing Date; and

(c) the Acquisition Costs incurred by the Company and the Parent.

"Money Laundering Laws" means, in respect of a member of the Group, applicable financial record keeping and reporting requirements and money laundering statutes applicable to it, rules and regulations thereunder and any related or similar rules or regulations, issued, administered or enforced by any governmental agency, in each case, in relation to which that member of the Group is obliged to comply.

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

"Moody's" means Moody's Investors Service Limited.

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

"Net Finance Charges" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

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

"New Equity" means any amount subscribed for after the Acquisition Closing Date by the Parent for any Permitted Share Issue of the Company.

"New Lender" has the meaning given to that term in Clause 25 (*Changes to the Lenders*).

"Non-Consenting Lender" means any Lender which does not agree to a consent to, or a waiver or amendment of, any provision of the Finance Documents where:

- (a) the Company or the Agent (at the request of the Company) has requested the Lenders to agree to a consent to, or an amendment or waiver of, any provision of the Finance Documents;
- (b) the consent, waiver or amendment in question requires the agreement of all Lenders or the Super Majority Lenders; and
- (c) the consent, waiver or amendment requires the approval of:
 - (i) all the Lenders, and a Lender or Lenders whose Commitments aggregate 75 per cent. or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated 75 per cent. or more of the Total Commitments prior to that reduction) have agreed to such consent, waiver or amendment; or

(ii) the Super Majority Lenders, and the Majority Lenders have agreed to such consent, waiver or amendment.

"Non-Group Entity" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"Non-Obligor" means a member of the Group which is not an Obligor.

"Notifiable Debt Purchase Transaction" has the meaning given to that term in paragraph (b) of Clause 26.2 (Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates).

"Obligor" means a Borrower or a Guarantor.

"Obligor/Non-Obligor Basket" means the aggregate of the utilised amounts under each of the permitted exceptions referred to in:

- (a) paragraph (d) of the definition of "**Permitted Disposal**";
- (b) paragraph (b) of the definition of "**Permitted Share Issue**",
- (c) paragraph (g)(i) of the definition of "**Permitted Financial Indebtedness**";
- (d) paragraph (h) of the definition of "**Permitted Financial Indebtedness**";
- (e) paragraphs (c) and (q) of the definition of "**Permitted Guarantee**";
- (f) paragraph (g) of the definition of "**Permitted Loan**"; and

which shall not exceed £1,000,000 (or its equivalent in other currencies) at any time, in each case excluding any amounts funded from Retained Excess Cashflow or the proceeds of a Permitted Equity Injection and at any time adjusted to take into account the repayment of loans made by an Obligor, the release of any guarantee or other reduction of liability of an Obligor in respect of a Non-Obligor, and redemption of any shares subscribed for in any Non-Obligor and the reduction in any credit balances netted off by an Obligor against debit balances of a Non-Obligor.

"**Obligors' Agent**" means the Company, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.4 (*Obligors' Agent*).

"Offer" means an offer proposed to be made by the Company to acquire all of the Target Shares not already held by it, substantially on the terms set out in an Offer Document as such offer may from time to time be amended, added to, revised, renewed or waived as permitted in accordance with this Agreement.

"Offer Document" means the applicable Announcement and the offer documents dispatched to the shareholders of the Target setting out the terms and conditions of an Offer and otherwise made available to such persons and in the manner required by Rule 24.1 of the Takeover Code.

"Offer Unconditional Date" means the date on which the Offer becomes or is declared to be unconditional in all respects in accordance with its terms.

"Original Financial Statements" means:

- (a) in relation to the Target Group, the audited financial statements of the Target, for its Financial Year ended 31 December 2020;
- (b) in relation to the Company, the first set of its financial statements delivered by it under this Agreement.

"Outstanding Tax Claims" means any amounts paid by way of landfill tax (including interest and penalties thereon) that may be paid or repaid to the Target or any member of the Target Group in consequence of:

- the appeals of the Target or its subsidiaries in relation to landfill tax, including without limitation the appeals of Augean North Limited and Augean South Limited proceeding before the First Tier Tribunal with case reference numbers TC/2018/07241, TC/2019/05264, TC/2019/01281, TC/2020/03692, TC/2021/00631 and TC/2021/02366; and
- (b) the requests for review of assessments or any subsequent appeals that may be made by the Target or its subsidiaries in respect of any assessment for landfill tax received by the Target or its subsidiaries as at the date of the Announcement, to the extent it has been paid by the Target or any member of the Target Group prior to the date of the Announcement, including without limitation the assessments dated 27 October 2017, 29 January 2018, 27 April 2018, 30 July 2018, 24 August 2017, 24 November 2017, 28 February 2018, 30 May 2018 and 31 August 2018 which are under review by HMRC; and
- (c) any claim for repayment interest payable by HMRC, for repayment of penalties or for recovery of costs in connection with the matters referred to in paragraphs (a) and (b) above.

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

"Party" means a party to this Agreement.

"**Pension Items**" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"Perfection Requirements" means the making or the procuring of the appropriate registrations, filing, endorsements, notarisation, stampings and/or notifications of the Transaction Security Documents and/or the Security created thereunder and any other actions or steps, necessary in any Relevant Jurisdiction or under any laws or regulations in order to create or perfect any Security or the Transaction Security Documents or to achieve the relevant priority expressed therein.

"Permitted Acquisition" means:

(a) the Acquisition or any other acquisition of shares in the Target, in each case by the Company;

- (b) an acquisition by a member of the Group of any shares in a member of the Group which at the time of acquisition is not a wholly-owned Subsidiary **provided that** if the shares which are held already by another member of the Group are subject to Transaction Security, the shares so acquired will also become subject to Transaction Security as soon as reasonably practicable and in any event within 45 days of such acquisition;
- (c) any Permitted Reorganisation;
- (d) an acquisition by a member of the Group pursuant to a Permitted Disposal, a Permitted Transaction, a Permitted Joint Venture, a Permitted Share Issue or that is otherwise permitted under this Agreement;
- (e) the acquisition of, or subscription for, the issued share capital or analogous ownership interests of a limited liability entity incorporated in England and Wales, Scotland or Northern Ireland (or such other country approved by the Majority Lenders and (to the extent it or its Affiliate is a Lender) each Mandated Lead Arranger), including by way of formation, which has not traded prior to the date of the acquisition and which on acquisition, subscription or incorporation becomes a member of the Group;
- (f) an acquisition by a member of the Group funded from Retained Excess Cashflow and/or Permitted Equity Injections, **provided that**:
 - (i) no Event of Default is continuing on the date on which a legally binding commitment is entered into for the acquisition or (on that date) would occur as a result of that acquisition;
 - (ii) no Lock-Up Event would occur as a result of making such acquisition if the Lock-Up Tests were recalculated as at the most recent Calculation Date in respect of which a Compliance Certificate has been delivered (taking into account the proposed acquisition (on a *pro forma* basis);
- (g) any acquisition of securities which are Cash Equivalent Investments;
- (h) means an acquisition by a member of the Group of all or a majority of the issued share capital of a limited liability company or (if the acquisition is made by a limited liability company whose sole purpose is to make the acquisition) a business or undertaking carried on as a going concern (in each case, which becomes a member of the Group immediately following such acquisition) (each an "**Acquired Entity**"), but only if:
 - (i) no Event of Default is continuing on the date on which a legally binding commitment is entered into for the acquisition or (on that date) would occur as a result of that acquisition;
 - (ii) no Lock-Up Event would occur as a result of making such acquisition if the Lock-Up Tests were recalculated as at the most recent Calculation Date in respect of which a Compliance Certificate has been delivered (taking into account the proposed acquisition (on a *pro forma* basis);

- (iii) in respect of a Permitted Acquisition where the purchase price payable in relation to that Permitted Acquisition (as determined on the date on which a legally binding commitment is entered into and by reference to the consideration payable at such time and including any related fees, costs and expenses) is greater than £20,000,000 (or its equivalent in other currencies), promptly following the completion of the acquisition, management of the Group shall provide a presentation by conference call to the Finance Parties covering relevant aspects of the acquisition including its strategic rationale;
- (iv) the Acquired Entity is engaged in the Permitted Business and is incorporated in England and Wales, Scotland or Northern Ireland (or such other country approved by the Majority Lenders and (to the extent it or its Affiliate is a Lender) each Mandated Lead Arranger);
- (v) the purchase price for such Acquired Entity (as determined on the date on which a legally binding commitment is entered into and by reference to the consideration payable at such time), in aggregate with the purchase price for each other Acquired Entity (as determined on the same date and by reference to the consideration payable at such time for each other Acquired Entity) and including any related fees, costs and expenses, does not exceed £50,000,000 at any time (unless such excess amount is funded by Permitted Equity Injections or Retained Excess Cashflow but without prejudice to the requirement to satisfy the other requirements of this paragraph (h));
- (vi) subject to the Guarantor Coverage Test, if the Acquired Entity is required to accede as a Guarantor (calculated on the basis of the most recently available annual financial statements of the Acquired Entity and the most recent Compliance Certificate supplied by the Company in relation to the latest Annual Financial Statements), such Acquired Entity shall, subject to the Agreed Security Principles accede as a Guarantor within 45 days of the Permitted Acquisition Closing Date;
- (vii) at least four Business Days before making the acquisition, a certificate signed by a director of the Company is provided to the Agent:
 - (A) confirming that the proposed Utilisation of the Capex Facility would not exceed 60 per cent of the consideration payable in relation to that Permitted Acquisition (and any related fees, costs and expenses);
 - (B) confirming that the most recently delivered Compliance Certificate demonstrates compliance with the Default Ratios as the most recent Calculation Date, as updated for and taking into account the proposed acquisition (on a *pro forma* basis);
 - (C) in respect of a Permitted Acquisition where the purchase price payable in relation to that Permitted Acquisition (as determined on the date on which a legally binding commitment is entered into and by reference to the consideration payable at such time

and including any related fees, costs and expenses) is greater than £5,000,000 but less than £20,000,000 (or its equivalent in other currencies), attaching tax, legal and financial due diligence reports to the extent commissioned by the Company (if any) for the acquisition (in each case, on a non-reliance basis and where requested, on a confidential basis and subject to the execution of the relevant letters by the Lenders);

- (D) in respect of a Permitted Acquisition where the purchase price payable in relation to that Permitted Acquisition (as determined on the date on which a legally binding commitment is entered into and by reference to the consideration payable at such time and including any related fees, costs and expenses) is greater than £20,000,000 (or its equivalent in other currencies), attaching tax, legal and financial due diligence reports commissioned by the Company for the acquisition (in each case, on a non-reliance basis and where requested, on a confidential basis and subject to the execution of the relevant letters by the Lenders);
- confirming that as at the date of the Permitted Acquisition, the (E) Acquired Entity does not have any material (in the context of the Group or which are outside the ordinary course of business) contingent liabilities disclosed in the financial statements of the Acquired Entity (if any) in accordance with the Accounting Principles, unless such liabilities are indemnified by or on behalf of the relevant vendor by an Acceptable Bank or an Affiliate of an Acceptable Bank, insured against by a reputable insurer, taken into account when determining the consideration payable in relation to that Permitted Acquisition (and any related fees, costs and expenses), cash collateralised by the vendor, or maintained in reserves in accordance with the Accounting Principles, where such liabilities are not material in the context of the Group taken as a whole, where such liabilities would be permitted under the terms of the Finance Documents or where such liabilities are pension liabilities which are fully provided for by the Acquired Entity in accordance with applicable law;

(F) confirming that:

(1) the earnings before interest, tax, depreciation and amortisation of the Acquired Entity (calculated on an LTM basis and on a basis consistent with Consolidated EBITDA (and, for the avoidance of doubt, disregarding any Pro Forma Acquisition Costs Savings), the "Acquired Entity Earnings") for the Relevant Period ending on the most recent Calculation Date are (x) positive; or (y) if negative, the Pro Forma Consolidated EBITDA (taking into account relevant Pro Forma Acquisition Cost Savings) for the proposed Acquired Entity will be positive within a period of 18 months

immediately following the Permitted Acquisition Closing Date of that acquisition (any entity which falls within this sub-paragraph (y), being a "**Negative EBITDA Entity**"); and

- (2) in the case of an acquisition of a Negative EBITDA Entity, such acquisition would not result in the Consolidated EBITDA during the Relevant Period of all Negative EBITDA Entities acquired since the Closing Date (each an "Existing Acquired Entity") when (A) aggregated with the Acquired Entity Earnings for the proposed Acquired Entity for the Relevant Period, and (B) in relation to each Existing Acquired Entity, disregarding any Pro Forma Acquisition Cost Savings that have not actually been achieved by or in relation to the Existing Acquired Entity during such Relevant Period, being less than -£3,000,000 in aggregate for the Relevant Period (and for these purposes the Company shall confirm the nature and calculation of such Pro Forma Acquisition Cost Savings actually achieved in reasonable detail satisfactory to the Agent and the Majority Lenders (each acting reasonably)); and
- (G) the Acquired Entity is not the subject of Sanctions; or
- (i) any other acquisition permitted by the Agent (acting on the instructions of the Majority Lenders).

"Permitted Business" means the business of the members of the Group being:

- (a) the ownership, financing, development, installation, management and/or operation of waste and resource management services (including, without limitation, treatment, transportation and/or disposal of waste) in the United Kingdom;
- (b) any business or activity supporting any assets or services which is complementary or ancillary to the business described in paragraph (a) above; and
- (c) any other business consented to by the Majority Lenders (and, in the case of any business not in the United Kingdom, consented to by each Mandated Lead Arranger (to the extent it or its Affiliate is a Lender)),

provided that all or substantially all of the business of the Group falls within paragraph (a) and (if applicable) paragraph (c) above.

"Permitted Disposal" means any Disposal:

- (a) of an asset by a member of the Group (the "**Disposing Company**") to another member of the Group (the "**Acquiring Company**"), but if:
 - (i) the Disposing Company is a Guarantor, the Acquiring Company must be a Guarantor; and
 - (ii) the Disposing Company had given Security over the asset, the Acquiring Company must, subject to the Agreed Security Principles, give equivalent Security over the asset;
- (b) of assets (other than shares or businesses) comprised in a transaction which is permitted by any other provision of the Finance Documents;
- (c) of assets (other than shares or businesses) in the ordinary course of trading;
- (d) of any asset from an Obligor to a Non-Obligor **provided that** the aggregate amount transferred net of the value of any assets transferred from a Non-Obligor to an Obligor, in each case, determined on an arm's length basis does not cause the Obligor/Non-Obligor Basket to be exceeded at any time;
- (e) of rights relating to Treasury Transactions, so long as the Company is in compliance with the mandatory hedging requirement immediately after this disposal;
- (f) of assets (other than shares or businesses) which are obsolete, surplus, redundant or which are no longer required for the relevant person's business or operations;
- (g) of Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments;
- (h) constituted by a licence of intellectual property rights permitted under this Agreement;
- (i) of assets compulsorily acquired by any governmental authority, **provided that** such acquisition would not constitute an Event of Default under Clause 24.12 (*Expropriation*);
- (j) of assets to a Joint Venture, to the extent it is a Permitted Joint Venture;
- (k) arising as a result of any Permitted Security;
- (l) of receivables sold or discounted on a non-recourse basis;
- (m) of receivables (other than any receivables that meet any requirement for derecognition under the Accounting Principles) arising from an arrangement for the sale or discounting of receivables of any member of the Group on a recourse basis, including by way of factoring or securitisation of receivables or similar programme, **provided that** the aggregate of any such uncollected receivables does not exceed £500,000;

- (n) of assets (other than shares) in exchange for other assets comparable or superior as to type, value and quality;
- (o) constituting a Permitted Reorganisation;
- (p) comprising the transfer, assignment or surrender or, or the granting of leases, sub-leases or licences over, Real Property in the ordinary course of the business of the Group; or
- (q) of assets (other than shares) for cash where the net consideration receivable (when aggregated with net consideration receivable for any other Disposal not permitted under the preceding paragraphs) does not exceed £5,000,000 (or its equivalent in other currencies) in aggregate at any time or otherwise where the proceeds in excess of that amount are applied in prepayment of the Facilities.

For the purposes of this definition of "**Permitted Disposal**", where a disposal meets the criteria of more than one of the categories of transactions or items permitted pursuant to the paragraphs of this definition of "**Permitted Disposal**", the Company may (in its sole discretion) classify or reclassify such transaction or item (or portion thereof) from time to time and will only be required to include the amount and type of such transaction (or portion thereof) in any one category.

"**Permitted Equity Injection**" means the proceeds of New Equity and/or Subordinated Debt in the Company.

"Permitted Financial Indebtedness" means Financial Indebtedness:

- (a) arising under any of the Finance Documents or any Permitted Refinancing Indebtedness Debt Documents;
- (b) arising under the Acquisition Documents;
- (c) arising under any agreements in relation to Subordinated Debt and any Intra-Group Debt agreements, in each case and subject always to the terms of this Agreement and the Intercreditor Agreement;
- (d) arising under a Permitted Loan, Permitted Guarantee, Permitted Transaction or Permitted Share Issue;
- (e) of any person acquired in a Permitted Acquisition by a member of the Group after the Acquisition Closing Date which is incurred under arrangements in existence at the date of acquisition, but not incurred or the principal amount increased (otherwise than by the capitalisation of interest) or its maturity date extended in contemplation of that acquisition, **provided that**, if:
 - (i) such financial indebtedness is outstanding for more than 45 days following completion of such Permitted Acquisition; and
 - (ii) the creditor of such financial indebtedness has recourse to any member of the Group other than the person acquired by way of a Permitted Acquisition (or has recourse to any assets of any member of the Group

other than the assets of the person acquired by way of a Permitted Acquisition),

then the Company shall, within 45 days following completion of such Permitted Acquisition, procure that the relevant creditor will accede to the Intercreditor Agreement as a "**subordinated creditor**" on terms satisfactory to the Agent (acting on the instructions of the Majority Lenders (acting reasonably)) (and the Lenders (acting reasonably and in good faith) shall agree to consider making such amendments as the Company considers necessary to the Intercreditor Agreement in order to effect such accession);

- (f) under vendor financing programmes, sale and lease back arrangements, Finance Leases of vehicles, plant, equipment or computers not permitted under paragraph (j) below, **provided that** the aggregate of such Financial Indebtedness does not exceed at any time £10,000,000 (or its equivalent in other currencies);
- (g) raised by the issue of redeemable shares which are either:
 - (i) held by another member of the Group, **provided that** any redeemable shares which are held by an Obligor in a Non-Obligor do not cause the Obligor/Non-Obligor Basket to be exceeded at any time; or
 - (ii) not redeemable at the option of their holder until after the latest Termination Date;
- (h) arising under any cash pooling, netting or set off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Group (including an Ancillary Facility which is an overdraft comprising more than one account), **provided that** the aggregate amount of any cash pooling, netting or set off arrangement entered into by any Obligor in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of Non-Obligors does not cause the Obligor/Non-Obligor Basket to be exceeded at any time;
- (i) made available by the relevant vendor in connection with any Permitted Acquisition, **provided that:**
 - (i) no Security or guarantee shall be granted by any member of the Group in favour of the relevant vendors in relation to such Financial Indebtedness; and
 - (ii) where such Financial Indebtedness constitutes Earn-out Liabilities, it does not exceed one third of the consideration payable for such Permitted Acquisition;
- (j) any supplier credits on normal commercial terms in the ordinary course of trade;
- (k) under or relating to letters of credit and other documentary credits issued in the ordinary course of business where such indebtedness is unsecured other than in respect of the underlying assets and related rights;

- (l) pursuant to interest rate and other hedging instruments that amount to Permitted Treasury Transactions;
- (m) in respect of any environmental liabilities where the aggregate amount of such financial indebtedness does not, when aggregated with any guarantees of Financial Indebtedness under paragraph (s) of the definition of Permitted Guarantee (without double counting in respect of the Financial Indebtedness and any guarantee thereof), exceed at any time exceed £15,000,000 (or its equivalent in other currencies);
- (n) arising from an arrangement for the sale or discounting of receivables of any member of the Group on a recourse basis, including by way of factoring or securitisation of receivables or similar programme provided that the aggregate of any such uncollected receivables do not exceed at any time £500,000 (or its equivalent in other currencies);
- (o) Financial Indebtedness of the Group existing as at the Acquisition Closing Date provided such Financial Indebtedness is repaid in full on or before the date falling 15 Business Days after the Acquisition Closing Date;
- (p) arising under the Loan Notes issued to the Target Shareholders in an aggregate amount not exceeding the Target Shareholder Tax Claim Proceeds in the Ringfenced Account;
- (q) to the extent covered by a letter of credit, guarantee or indemnity issued under an Ancillary Facility; or
- (r) not permitted by the preceding paragraphs, provided that the outstanding principal amount of which does not exceed at any time £5,000,000 (or its equivalent in other currencies).

For the purposes of this definition of "**Permitted Financial Indebtedness**", where Financial Indebtedness meets the criteria of more than one of the categories of transactions or items permitted pursuant to any of the paragraphs of this definition of "**Permitted Financial Indebtedness**", the Company may (in its sole discretion) classify or reclassify such transaction or item (or portion thereof) from time to time and will only be required to include the amount and type of such transaction (or portion thereof) in any one category.

"Permitted Guarantee" means:

- (a) any guarantee arising under the Finance Documents;
- (b) a guarantee by an Obligor of the obligations of another Obligor or by a Non-Obligor of the obligations of another member of the Group;
- (c) a guarantee by an Obligor of obligations of a Non-Obligor **provided that** the aggregate amount guaranteed does not cause the Obligor/Non-Obligor Basket to be exceeded:
- (d) guarantees of Permitted Financial Indebtedness or any guarantees that constitute Permitted Financial Indebtedness;

- (e) any guarantee of a Permitted Joint Venture;
- (f) guarantees of Permitted Treasury Transactions and Permitted Transactions;
- (g) guarantees pursuant to a Permitted Acquisition or a Permitted Disposal **provided that** any such guarantee is limited to the relevant purchase price or disposal proceeds (as applicable) paid or received in consideration of such Permitted Acquisition or Permitted Disposal;
- (h) guarantees given by a member of the Group to a landlord in its capacity as such in the ordinary course of business;
- (i) guarantees which are in favour of financial institutions which have guaranteed obligations of a member of the Group pursuant to transactions which that member of the Group has entered into the ordinary course of business;
- (j) the endorsement of negotiable instruments in the ordinary course of business;
- (k) any guarantees guaranteeing performance under any contract or agreement of, or which is in respect of an underlying obligation of, a member of the Group, which, in each case, is entered into in the ordinary course of business;
- (1) any guarantee given in respect of the netting or set off arrangements permitted pursuant to paragraph (h) of the definition of "**Permitted Security**" and paragraph (i) of the definition of "**Permitted Financial Indebtedness**";
- (m) indemnities in favour of directors or officers of any member of the Group or the Parent in their capacity as such on customary terms;
- (n) indemnities given in the ordinary course of day to day business;
- (o) a customary indemnity required to be given in favour of a liquidator of a member of the Group whose liquidation is a Permitted Reorganisation;
- (p) customary guarantees and/or indemnities granted to the trustee of any employee share option or management incentive or unit trust scheme established in the ordinary course of business;
- (q) any guarantee given or arising under legislation relating to Tax or corporate law under which any member of the Group assumes general liability for the obligations of another member of the Group incorporated or Tax resident in the same country **provided that** the aggregate amount guaranteed or liability assumed does not cause the Obligor/Non-Obligor Basket to be exceeded;
- (r) customary indemnities given in mandate, engagement and commitment letters;
- (s) guarantees or indemnities of environmental obligations of any member of the Group and/or counterindemnities in respect of letters of credit, performance bonds or bank guarantees issued in respect of environmental liabilities of any member of the Group, provided that to the extent such amounts constitute Financial Indebtedness, such amounts (when aggregated with amounts under paragraph (m) of the definition of Permitted Financial Indebtedness (without

- double counting in respect of the Financial Indebtedness and the guarantee thereof)) do not exceed £15,000,000;
- (t) any guarantee required by law or a court to be granted in favour of creditors in relation to mergers of members of the Group in order to permit or facilitate the merger occurring where such merger would be permitted under the Finance Documents and to the extent it would not be prohibited under the terms of the Intercreditor Agreement;
- (u) any guarantee permitted by the Agent (acting on the instructions of the Majority Lenders);
- (v) any authorised guarantee agreement (as such term is used in the Landlord and Tenant (Covenants) Act 1995) entered into in respect of leasehold Real Property which is disposed of in accordance with this Agreement;
- (w) any guarantee arising under a rent deposit deed entered into on arm's length terms and in the ordinary course of business guaranteeing the obligations of a member of the Group in relation to property leases to a member of the Group; or
- (x) any other guarantees or indemnities not permitted by the preceding paragraphs and the outstanding principal amount of which does not exceed at any time £5,000,000.

For the purposes of this definition of "**Permitted Guarantee**", where a guarantee or indemnity meets the criteria of more than one of the categories of transactions or terms permitted pursuant to the paragraphs of this definition of "**Permitted Guarantee**", the Company may (in its sole discretion) classify or reclassify such transaction or item (or portion thereof) from time to time and will only be required to include the amount and type of such transaction (or portion thereof) in any one category.

"Permitted Holding Company Activity" means:

- (a) customary holding company activities including those contemplated by the Acquisition, structure and activities described in the Tax Structure Paper or referred to in the definition of "**Permitted Payments**" as carried on at that level;
- (b) any Permitted Loans in respect of Permitted Payments;
- (c) any Financial Indebtedness and/or other liabilities incurred and any loan, guarantee or payment made and/or transactions ("Activities") entered into in each case under the Transaction Documents, and equivalent Activities no greater in amount or extent under the Permitted Refinancing Indebtedness Debt Documents;
- (d) the provision of management, advisory and administrative services and the secondment of employees to, and guaranteeing the obligations of other members of the Group, of a type and to an extent customarily provided by a holding company to its subsidiaries (**provided that**, in the case of guarantees, the guaranteed obligations are undertaken in the ordinary course of business of the relevant member of the Group);

- (e) activities required to maintain its Tax status;
- (f) incurring liabilities for, or in connection with, Taxes of members of the Group by the Company or the Parent;
- (g) entering into documentation for, and the receipt of the proceeds of, any Permitted Equity Injection and the making of a corresponding payment to the Company (in the case of the Parent) or to a member of the Group (in the case of the Company);
- (h) any liabilities incurred by the Company or the Parent pursuant to any Subordinated Debt;
- (i) the receipt of any Permitted Payments made by a member of the Group and the making of any Permitted Payments to a member of the Group or the making of a Permitted Payment to the Investors (or to a member of the Group to fund such Permitted Payment);
- (j) the making of claims (and the receipt of any related proceeds) for rebates or indemnification with respect to Taxes and the benefit of a Permitted Payment;
- (k) any activities in connection with any litigation or court or other proceedings that are, in each case, being contested in good faith;
- (l) the ownership of shares in its Subsidiaries or Permitted Joint Venture and any liabilities incurred or payments made by a holding company in respect of its share capital and professional fees, employee costs, administration costs and Taxes in each case incurred in the ordinary course of its business as a holding company and not prohibited under this Agreement;
- (m) the ownership of cash balances or Cash Equivalent Investments at any time (including arising under any cash pooling arrangement entered into with any of its Subsidiaries) and the on lending of cash intra Group;
- (n) in respect of the Parent, any liabilities incurred from its Affiliates (other than a member of the Group);
- (o) in respect of the Company, the issuance of Loan Notes to the Target Shareholders in an aggregate amount not exceeding the Target Shareholder Tax Claim Proceeds in the Ringfenced Account; or
- (p) incurring liabilities arising by operation of law.

"Permitted Joint Venture" means any investment in any Joint Venture where:

(a) the Joint Venture is engaged in the Permitted Business and is incorporated in England and Wales, Scotland or Northern Ireland (or such other country approved by the Majority Lenders and (to the extent it or its Affiliate is a Lender) each Mandated Lead Arranger);

- (b) no Event of Default is continuing on the date on which the relevant member of the Group enters into a legally binding commitment for the relevant investment; and
- (c) the aggregate of:
 - (i) all amounts subscribed for shares in, lent to, or invested in all such Joint Ventures by any member of the Group;
 - (ii) the contingent liabilities of any member of the Group under any guarantee given in respect of the liabilities of any such Joint Venture; and
 - (iii) the market value of any assets transferred by any member of the Group to any such Joint Venture,

does not (when aggregated with any other investments in Permitted Joint Ventures after the Acquisition Closing Date) exceed over the life of the Facilities in aggregate £5,000,000 (or its equivalent in other currencies), except to the extent funded, reimbursed or repaid (as applicable) by or using Permitted Equity Injections or Retained Excess Cashflow or otherwise approved by the Majority Lenders.

"Permitted Loan" means:

- (a) any trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities;
- (b) any advance payment made in respect of Capital Expenditure in the ordinary course of business;
- (c) a loan made to a Permitted Joint Venture;
- (d) any loan from the Company to the Target for the purpose of repayment of the Existing Target Facilities Agreement;
- (e) any loan made solely for the purposes of enabling an Obligor to meet its payment obligations under the Facilities, a Permitted Refinancing Indebtedness Debt Document or a Permitted Payment;
- (f) a loan made by an Obligor to another Obligor or made by a member of the Group which is not an Obligor to another member of the Group;
- (g) any loan made by an Obligor to a member of the Group which is not an Obligor so long as the aggregate amount of the Financial Indebtedness under any such loans do not cause the Obligor/Non-Obligor Basket to be exceeded on a net basis taking into account loans made by Non-Obligors to Obligors;
- (h) a loan made by a member of the Group to an employee or director of any member of the Group if the amount of that loan when aggregated with the amount of all loans to employees and directors by members of the Group does not exceed £500,000 (or its equivalent in other currencies) at any time;

- (i) any loans made to an employee share option scheme up to an aggregate amount of £1,000,000 (or its equivalent in other currencies) at any time;
- (j) deferred consideration on Permitted Disposals not exceeding £2,500,000;
- (k) any loan which constitutes a Permitted Payment;
- (l) any loan (other than a loan made by a member of the Group to another member of the Group) so long as the aggregate amount of the Financial Indebtedness under any such loans does not exceed £4,500,000 (or its equivalent in other currencies) unless such excess amount is funded by Permitted Equity Injections or Retained Excess Cashflow.

"Permitted Payment" means the payment or payments of distributions, dividends, bonus issues, return of capital, fees, principal, interest or other amounts whatsoever (whether by way of loan, payment, repayment, prepayment or otherwise and whether in cash or in kind and for the avoidance of doubt, prepayment, repayment or redemption of the principal amount of any Subordinated Debt or intra-Group Financial Indebtedness or any interest accruing thereon):

- (a) made by a member of the Group to the Parent, **provided that** the following conditions are met:
 - (i) the Lock-Up Tests were satisfied as at the most recent Lock-Up Calculation Date in respect of which a Compliance Certificate has been delivered **provided that** such computations have been adjusted to reflect an assumption that the proposed payment to the Parent has been made; and
 - (ii) no Event of Default has occurred or would occur as a result of making such payment;
- (b) made by any member of the Group (other than the Company) to its Holding Company (other than the Parent or any other Holding Company of the Company);
- (c) made by the Company to the Parent or a Holding Stack Company in respect of Taxes payable by a Holding Stack Company in its capacity as a Holding Company of the Group (but not in respect of Taxes payable by a Holding Stack Company as a result of revenue attributable to persons which are not members of the Group);
- (d) made by the Company to the Parent or a Sponsor Affiliate of professional fees, regulatory, management and administrative costs (including legal, accountancy and audit costs and directors' fees, costs and expenses) of Holding Stack Companies (including where the Parent or Sponsor Affiliate has incurred such costs on behalf of a member of the Group on an arms' length basis), and in each case, in relation to the Group (but not in respect of such fees and costs payable by Holding Stack Companies attributable to persons which are not members of the Group) **provided that:**

- (i) the aggregate of all such fees and costs do not exceed £500,000 (or its equivalent in other currencies) in any Financial Year; and
- (ii) such fees and costs are on arm's length terms and are reasonably incurred;
- (e) made by the Company to the Parent or a Holding Stack Company to fund the purchase of any departing management's, directors' or employees' equity in (or loan notes issued by) a member of the Group or a Holding Stack Company (together with the purchase or repayment of any related loans) and/or other compensation payments (including bonus payments and relating to incentive schemes) in respect of departing management, directors or employees **provided** that the aggregate of all such payments (when aggregated with any payments in the same Financial Year under paragraph (f) of the definition of Permitted Transaction) do not exceed £1,000,000 (or its equivalent in other currencies) in any Financial Year;
- (f) made by the Company (without double counting) of Acquisition Costs to the Parent or a Sponsor Affiliate for the payment of such Acquisition Costs in accordance with the Funds Flow Statement;
- (g) made by any member of the Group in connection with:
 - (i) the service contracts of employees or directors of a Holding Stack Company to the extent that such employees are engaged exclusively in relation to the business of the Group but are employed by such Holding Stack Company; and
 - (ii) any management services agreement entered into by the Company or another member of the Group and the Parent or any Holding Stack Company (as applicable) for the benefit of the Group and to the extent relating solely to the Permitted Business of the Group **provided that** the aggregate of all such payments do not exceed £500,000 (or its equivalent in other currencies) in any Financial Year,

provided that, in each case, such payments are on bona fide arm's length commercial terms, are reasonably and properly incurred and are duly documented in writing;

- (h) made by the Company to the Parent in an amount not exceeding the Equity Overfunding Amount, **provided that**:
 - (i) no Event of Default has occurred or would occur as a result of making such payment;
 - (ii) such payment is made after the earlier of the Offer Repayment Date and the date on which the Company acquires 100 per cent. of the Target Shares: and
 - (iii) such amount has been funded from the equity and/or subordinated debt contributed to the Company by the Parent;

- (i) made by any member of the Group as permitted by the Agent (acting on the instructions of the Majority Lenders);
- (j) made by any member of the Group in order to enable the payments referred to in the preceding paragraphs above; and
- (k) in the case of any payment permitted pursuant to paragraphs (b) to (j) (inclusive) above, any applicable VAT payable in connection with such payment.

"Permitted Refinancing Indebtedness" means any Financial Indebtedness incurred by a member of the Group in accordance with the provisions of the Intercreditor Agreement **provided that**, if such refinancing does not refinance and cancel the Facilities in full then unless otherwise agreed by the Majority Lenders, the following conditions must be satisfied:

- (a) the relevant Borrower has provided a certificate to the Agent confirming that immediately following the incurrence of such Financial Indebtedness and any associated repayment of any Financial Indebtedness, Financial Indebtedness of the Group (excluding any Financial Indebtedness under Treasury Transactions):
 - (i) will increase by no more than the amount of the Financial Indebtedness which will be used to fund any fees, costs, expenses, premia, Taxes and hedging termination payments arising in connection with the incurrence of the Financial Indebtedness and any associated repayment of any Financial Indebtedness; and
 - (ii) no breach of the Default Ratios would occur if the Default Ratios were recalculated as at the most recent Calculation Date in respect of which a Compliance Certificate has been delivered taking into account the incurrence of the proposed Permitted Refinancing Indebtedness on a *pro forma* basis;
- (b) no Event of Default has occurred and is continuing or would result from such establishment:
- (c) all creditors of such Financial Indebtedness (or their respective representatives) shall accede to the Intercreditor Agreement;
- (d) such Financial Indebtedness ranks no higher than pari passu to the Facilities;
- (e) the proposed Financial Indebtedness does not benefit from any recourse to any member of the Group or the Parent or from any guarantees or Security other than:
 - (i) guarantees equivalent to those provided by members of the Group or the Parent in connection with the other Facilities in accordance with clause 15 (*Guarantee and Indemnity*) of the Intercreditor Agreement; and/or
 - (ii) the Transaction Security on the same or no better terms as the other Secured Parties;

- (f) no Investor, Parent or a member of the Group shall be a provider of such Financial Indebtedness;
- (g) such Financial Indebtedness does not provide for any mandatory prepayments (other than prepayments in respect of Refinancing Proceeds) except to the extent such prepayments also apply to the other Facilities or the other Facilities have been repaid;
- (h) no borrowing, guaranteeing, security or similar limits binding on the borrower of such Financial Indebtedness would be exceeded as a result of the incurrence of such Financial Indebtedness;
- (i) the Average Life of such Financial Indebtedness shall not be shorter than the Average Life of the Facilities (excluding such Financial Indebtedness and taken as a whole) calculated as at the date of the establishment of such Financial Indebtedness;
- (j) such Financial Indebtedness does not provide for any scheduled amortisation or cash sweeps (other than lock up sweep) prior to the Termination Date;
- (k) the termination of such Financial Indebtedness is no earlier than the Termination Date;
- (1) such Financial Indebtedness shall be term debt; and
- (m) the currency of such Financial Indebtedness is sterling.

"Permitted Refinancing Indebtedness Debt Document" means any agreement or other document setting out the terms (or any of them) evidencing or constituting Permitted Refinancing Indebtedness, in each case, which is provided to the Agent (on an information only basis) as soon as reasonably practicable following entry into such agreement or other document.

"Permitted Reorganisation" means:

- (a) any amalgamation, merger, consolidation, reorganisation and/or rationalisation as set out in the Tax Structure Paper; and
- (b) any other amalgamation, merger, consolidation, reorganisation on a solvent basis by a member of the Group (other than the Company or (if it is not a whollyowned Subsidiary of the Company) the Target) of, with or into another member of the Group (other than the Company or (if it is not a wholly-owned Subsidiary of the Company) the Target) where:
 - (i) all of the assets of that member remain within the Group and the value or percentage of any minority interest in any member of the Group held by any person which is not a member of the Group is not increased; and
 - (ii) if the assets or the shares in it were subject to Security in favour of the Secured Parties immediately prior to such re-organisation, the Secured Parties will enjoy the same or substantially equivalent guarantees from it (or its successor) and the same or substantially equivalent Security

over the same assets and over the shares in it (or in each case its successor) **provided that** the restarting of any hardening periods shall be ignored for the purposes of assessing equivalency.

"Permitted Security" means:

- (a) any Security or Quasi-Security arising by operation of law or agreement of similar effect and in the ordinary course of trading and if arising as a result of any default or omission by any member of the Group, which does not subsist for a period of more than 30 days;
- (b) any Security or Quasi-Security over or affecting any asset acquired by a member of the Group after the Acquisition Closing Date if:
 - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a member of the Group;
 - (ii) the principal amount secured (otherwise than by a capitalisation of interest) has not been increased in contemplation of or since the acquisition of that asset by a member of the Group; and
 - (iii) the Security or Quasi-Security is removed or discharged within three months of the date of acquisition of such asset;
- any Security or Quasi-Security over or affecting any asset of any company which becomes a member of the Group after the Acquisition Closing Date, where the Security or Quasi-Security is created prior to the date on which that company becomes a member of the Group if:
 - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that company;
 - (ii) the principal amount secured has not increased (otherwise than by capitalisation of interest) in contemplation of or since the acquisition of that company; and
 - (iii) the Security or Quasi-Security is removed or discharged within three months of that company becoming a member of the Group;
- (d) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of trading and (unless disputed in good faith) not arising as a result of any default or omission by any member of the Group that is continuing for a period of more than 30 days;
- (e) any Security or Quasi-Security arising as a consequence of any Finance Lease permitted pursuant to paragraph (f) of the definition of "**Permitted Financial Indebtedness**";

- (f) any Security or Quasi-Security over receivables relating to any factoring or securitisation of receivables or similar programme permitted pursuant to paragraph (n) of the definition of "**Permitted Financial Indebtedness**";
- (g) any Security or Quasi-Security securing acquired indebtedness that is Permitted Financial Indebtedness under paragraph (e) of that definition, **provided that**, if the relevant creditor of the Permitted Financial Indebtedness has acceded to the Intercreditor Agreement as a "**subordinated creditor**" in accordance with paragraph (e) of the definition of "**Permitted Financial Indebtedness**" any Security or Quasi-Security securing such Permitted Financial Indebtedness shall:
 - (i) rank in right or priority of payment on a junior basis to the Transaction Security; or
 - (ii) be discharged on the date of such accession by the relevant creditor to the Intercreditor Agreement;
- (h) any Security or Quasi-Security under netting or set-off arrangements under Permitted Treasury Transactions;
- (i) any Security or Quasi-Security over bank accounts arising from standard form terms of the relevant account bank;
- (j) any Security or Quasi-Security, including cash collateral and blocked accounts, to secure obligations under the Finance Documents;
- (k) any Security or Quasi-Security over documents of title and goods as part of a documentary credit transaction and arising in the ordinary course of business;
- (l) any Security or Quasi-Security over assets of any member of the Group so long as the Security or Quasi-Security is irrevocably removed or discharged by no later than the date falling 15 Business Days after the Acquisition Closing Date;
- (m) any Security or Quasi-Security arising under a rent deposit deed entered into on arm's length terms and in the ordinary course of business securing the obligations of a member of the Group in relation to property leases to a member of the Group;
- (n) any Security or Ouasi-Security over the Ring-Fenced Account;
- (o) any Security or Quasi-Security arising with respect to environmental obligations of any member of the Group; or
- (p) any Security or Quasi-Security securing Financial Indebtedness the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other Financial Indebtedness which has the benefit of Security or Quasi-Security given by any member of the Group other than any permitted under paragraphs (a) to (m) above) does not exceed £5,000,000 at any time.

"Permitted Share Issue" means an issue of:

- (a) shares by the Company to the Parent in connection with a new equity contribution **provided that** such shares are not redeemable by their terms and become subject to Transaction Security;
- (b) shares by a member of the Group which is a Subsidiary to its immediate Holding Company or to a minority shareholder proportionate to its existing holding where (if the existing shares of the Subsidiary are the subject of Transaction Security) the newly issued shares (to the extent held by a member of the Group) also become subject to Transaction Security on the same terms and **provided that** if shares are issued by a Non-Obligor to an Obligor for cash the Obligor/Non-Obligor Basket will not be exceeded on a net basis;
- shares to a member of the Group pursuant to a Permitted Reorganisation or a Permitted Acquisition; or
- (d) shares to directors and other officers who are required to have a minimum shareholding under applicable law or regulation, to the extent they do not at the time of issue have such a shareholding.

"Permitted Transaction" means:

- (a) any Disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Finance Documents;
- (b) any transactions pursuant to a Permitted Reorganisation;
- (c) transactions (other than the granting or creation of Security or Quasi-Security, the granting or making of a Restricted Payment, making of loans, granting of guarantees, making of an acquisition or disposal of assets, the entering into of Treasury Transactions or Joint Ventures or the incurring or permitting to subsist of Financial Indebtedness) conducted in the ordinary course of trading on arm's length terms;
- (d) any payments or other transactions contemplated by the Tax Structure Paper;
- (e) any 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;
- (f) any acquisition by a member of the Group of, or loan to a trust or special purpose vehicle to fund the acquisition of, shares and loan notes of directors and employees whose appointment and/or contract is terminated, **provided that** the aggregate of all such payments (when aggregated with any payments in the same Financial Year under paragraph (e) of the definition of Permitted Payment) do not exceed £1,000,000 (or its equivalent in other currencies) in any Financial Year;
- (g) an acquisition of any equipment in the ordinary course of business;

- (h) any payment, pursuant to an agreement entered into prior to the Acquisition Closing Date, to Target Shareholders in an aggregate amount not exceeding the Target Shareholder Tax Claim Proceeds;
- (i) any transaction of a member of the Group entered into upon request of a regulatory agency in order to allow the respective member of the Group to comply with mandatory regulatory requirements to enable it or any of its Subsidiaries to conduct its business; or
- (j) any transaction undertaken in connection with the Group's Real Property which the Company certifies:
 - (i) are undertaken in the ordinary course of the Group's business on arm's length terms;
 - (ii) are undertaken with a view to preserving or increasing the value of the Group's Real Property; and
 - (iii) are not materially detrimental to the rights of the Finance Parties under the Finance Documents or the ability of the Obligors to perform their obligations under the Finance Documents (taking into account actual and contingent liabilities associated with the Real Property),

such transactions to include, without limitation, planning applications, the entering into of any planning agreement, any deed of variation or any deed of surrender, the granting of any sub-lease, under-lease, servitude, real burden, occupational lease or license, the granting of any easement, wayleave or title condition or agreeing to any variation to title plans (including, without limitation, in connection with the rationalisation of boundaries or the settlement of boundary disputes). The Company shall deliver such certification to the Agent and the Security Agent together with (A) a description of the relevant transaction; and (B) confirmation that such transaction is a Permitted Transaction under the terms of this paragraph (j). The Agent and Security Agent shall notify the Lenders of any Permitted Transaction under this paragraph (j).

"**Permitted Treasury Transaction**" means a derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price which:

- (a) is documented by the Hedging Agreements;
- (b) is for the purpose of hedging interest rate liabilities or foreign exchange risks in relation to the Facilities or other Permitted Financial Indebtedness;
- (c) is in connection with the forward sale or purchase of power;
- (d) is for the purpose of hedging foreign exchange exposures arising in the ordinary course of business of a member of the Group; or
- (e) is entered into for the hedging of actual or projected exposures arising in the ordinary course of trading activities of a member of the Group,

and, in each case, which is not entered into for speculative purposes.

"*Pro Forma* Acquisition Cost Savings" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"*Pro Forma* Consolidated EBITDA" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"Qualifying Lender" has the meaning given to it in Clause 15 (*Tax Gross-up and Indemnities*).

"Quarter Date" means 31 March, 30 June, 30 September and 31 December in each year.

"Quasi-Security" has the meaning given to that term in Clause 23.13 (*Negative pledge*).

"Real Property" means:

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

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

"Reference Rate Supplement" means a document which:

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

"Reference Rate Terms" means the terms set out and in Schedule 12 (Reference Rate Terms) or in any Reference Rate Supplement.

"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.

"Relevant Jurisdiction" means in relation to an Obligor or the Parent:

- (a) its jurisdiction of incorporation or establishment;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
- (c) any jurisdiction where it conducts its business (and for these purposes the holding of an interest in a Subsidiary shall not be deemed to constitute conducting business in the jurisdiction of incorporation or establishment of that Subsidiary); and

(d) the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

"Relevant Market" means the market specified as such in the Reference Rate Terms.

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

"Relevant Period" has the meaning given to that term in Clause 22.1 (Financial definitions).

"Relevant Proceeds" means Disposal Proceeds, Report Proceeds, any IPO Prepayment Amount, Insurance Proceeds, Cure Amount, Cash Sweep Proceeds and Refinancing Proceeds (each as defined in Clause 9.4 (*Disposal, Insurance, Report, Cure Amount, Excess Cashflow and Refinancing Proceeds*)) and any amount of Excess Cashflow which is applied in prepayment in accordance with Clause 9.6 (*Lock-up*).

"Repeating Representations" means each of the representations set out in Clause 20.2 (Status) to Clause 20.7 (Governing Law and Enforcement) (inclusive), paragraph (a) of Clause 20.12 (No Event of Default), paragraph (c) of Clause 20.15 (Financial Statements), paragraph (a) of Clause 20.21 (Ranking), Clause 20.22 (Good Title to Assets), Clause 20.23 (Legal and Beneficial Ownership) and paragraph (a) of Clause 20.29 (Sanctions).

"Replacement Reference Rate" means a reference rate which is:

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

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

- (b) in the opinion of the Majority Lenders and the Company, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to the RFR; or
- (c) in the opinion of the Majority Lenders and the Company, an appropriate successor to the RFR.

"Reporting Day" means the day (if any) specified as such in the Reference Rate Terms.

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

"Reports" means:

- (a) the model audit letter issued by RSM Corporate Finance LLP and dated 18 August 2021;
- (b) the commercial due diligence report dated 20 July 2021 by Tolvik Consulting Limited titled "Project Alpheus: Commercial Due Diligence Hazardous Waste Markets";
- (c) the financial and tax due diligence report dated 17 August 2021 by PricewaterhouseCoopers LLP titled "Project Alpheus Financial and Tax Due Diligence";
- (d) the insurance due diligence report dated 9 August 2021 by Marsh Limited titled "Project Alpheus Insurance Due Diligence Report";
- (e) the legal due diligence report dated 13 August 2021 by Clifford Chance LLP titled "Project Alpha Legal Review Report"; and
- (f) the technical due diligence report dated August 2021 by SLR Consulting Limited titled "Project Alpheus Final (vF) Technical and Environmental Due Diligence Red Flag Report".

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

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

"Restricted Party" means a person that is:

- (a) listed on, or owned or controlled by (directly or indirectly), or acting on behalf of, at the direction or for the benefit of, a person listed on, a Sanctions List;
- (b) located in or organised under the laws of a country or territory that is a Sanctioned Country, or a person who is owned or controlled by (directly or indirectly), or acting on behalf of, at the direction or for the benefit of, such person or whose government is the subject of country-wide or territory-wide Sanctions;
- (c) a member of the government of a Sanctioned Country; or
- (d) otherwise a subject of Sanctions.

"**Retained Excess Cashflow**" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"Retained Tax Claim Proceeds" means the cash proceeds (including without limitation any repayment of landfill tax, repayment interest, repayment of penalties or recovery of costs) received by the Target or any member of the Target Group after the date of the Announcement pursuant to a final determination of any proceedings or other

matter forming part of the Outstanding Tax Claims less the amount of Target Shareholder Tax Claim Proceeds (if any).

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

"Revolving Facility Commitment" means:

- in relation to an Original Lender, the amount 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 or assigned to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*); and
- (b) in relation to any other Lender, the amount of any Revolving Facility Commitment transferred or assigned to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*),

to the extent:

- (i) not cancelled, reduced, transferred or assigned by it under this Agreement; and
- (ii) not deemed to be zero pursuant to Clause 26.2 (Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates).

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

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

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

"Ringfenced Account" means any bank account opened or to be opened by the Company in connection with the payment of the Target Shareholder Tax Claim Proceeds (if any) to the Target Shareholders.

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

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

"Sanctioned Country" means any country or portion thereof which is subject to countrywide or territory-wide Sanctions including any jurisdiction which the Agent has notified to the Company in writing from time to time is a prohibited or restricted jurisdiction or territory which, as at this date, includes the (i) Islamic Republic of Iran, (ii) Democratic People's Republic of Korea, (iii) Republic of Cuba, (iv) the Syrian Arab Republic, (v) Crimea, (vi) Sudan and (vii) South Sudan.

"Sanctions" means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by a Sanctions Authority.

"Sanctions Authority" means:

- (a) the United Nations;
- (b) the United States of America;
- (c) the European Union (or any member state thereof);
- (d) the United Kingdom; and
- (e) the governments and official institutions or agencies of any of paragraphs (a) to(d) above, including OFAC, the US Department of State and Her Majesty's Treasury.

"Sanctions List" means the Specially Designated Nationals and Blocked Persons list maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by Her Majesty's Treasury, the consolidated list of persons, groups or entities subject to European Union sanctions administered by the European External Action Service or any similar list maintained by, or public announcement of a Sanctions designation made by, a Sanctions Authority, each as amended, supplemented or substituted from time to time.

"Scheme" means the scheme of arrangement under Part 26 of the Companies Act 2006 proposed by the Target to its shareholders in connection with the Acquisition substantially on the terms set out in the applicable Announcement, as such scheme may from time to time be amended, added to, revised, renewed or waived, as permitted in accordance with this Agreement.

"Scheme Circular" means the circular (including any supplemental circular) dispatched by the Target to the shareholders of the Target containing, amongst other things, the notices of the general meeting and the Court meeting required in connection with the Scheme and the proposals for and the terms and conditions of the Scheme.

"Scheme Documents" means each of (i) the applicable Announcement, (ii) the Scheme Circular, and (iii) the Court Order.

"Scheme Effective Date" means the date on which the Court Order is duly delivered on behalf of the Target to the Registrar of Companies in accordance with section 899 of the Companies Act 2006.

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

"Security" means a mortgage, assignation in security, charge, pledge, lien, standard security or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Selection Notice**" means a notice substantially in the form set out in Part 2 of Schedule 3 (*Requests*) given in accordance with Clause 12 (*Interest Periods*) in relation to a Term Facility.

"Semi-Annual Financial Statements" has the meaning given to that term in Clause 21.1 (*Financial statements*).

"Separate Loan" has the meaning given to that term in Clause 7.3 (*Repayment of Revolving Facility Loans*).

"Signing Date" means the date of this Agreement.

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

"Sponsor Affiliate" means each Investor, each of its affiliates, any trust of which an Investor or any of its affiliates is a trustee, any partnership of which an Investor or any of its affiliates is a partner and any trust, fund or other entity which is managed by, advised by, or is under the control of (including by way of a power of attorney), an Investor or any of its affiliates **provided that** any such trust, fund or other entity which has been established for at least 6 Months solely for the purpose of making, purchasing or investing in loans or debt securities and which is managed, advised or controlled independently from all other trusts, funds or other entities managed or controlled by an Investor or any of its affiliates which have been established for the primary or main purpose of investing in the share capital of companies shall not constitute a Sponsor Affiliate.

"Standard and Poor's" means Standard and Poor's Rating Services.

"Subordinated Debt" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

"Subsidiary" means:

- (a) a subsidiary within the meaning of Section 1159 of the Companies Act 2006; and
- (b) unless the context otherwise requires, a subsidiary undertaking within the meaning of Section 1162 of the Companies Act 2006.

"Super Majority Lenders" means a Lender or Lenders whose Commitments aggregate 85 per cent. or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated 85 per cent. or more of the Total Commitments immediately prior to that reduction).

"Syndication Period" has the meaning given to that term in the Syndication Letter.

"Syndication Letter" means the syndication letter dated on or about the date hereof between, amongst others, the Company and the Mandated Lead Arrangers.

"Target" means Augean plc.

"Target Group" means the Target and its Subsidiaries from time to time.

"Target Shares" means the entire issued and to be issued share capital of the Target.

"**Target Shareholder**" means a holder of shares in the Target prior to the Acquisition Closing Date.

"Target Shareholder Tax Claim Proceeds" means, if applicable, such amount of the cash proceeds (including without limitation any repayment of landfill tax, repayment interest, repayment of penalties or recovery of costs) received by the Target or any member of the Target Group after the date of the Announcement pursuant to a final determination of any proceedings or other matter forming part of the Outstanding Tax Claims that the Target has agreed to pay to Target Shareholders pursuant to the Announcement.

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

"**Tax Structure Paper**" means the structure paper dated 19 August 2021 by PricewaterhouseCoopers LLP titled "Project Alpheus".

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

"Term Acquisition Facility Commitment" means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading "**Term Acquisition Facility Commitment**" in Part 2 of Schedule 1 (*The Original Parties*) and the amount of any other Term Acquisition Facility Commitment transferred or assigned to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*); and
- (b) in relation to any other Lender, the amount of any Term Acquisition Facility Commitment transferred or assigned to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*),

to the extent:

- (i) not cancelled, reduced, transferred or assigned by it under this Agreement; and
- (ii) not deemed to be zero pursuant to Clause 26.2 (Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates).

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

"Term Facility" means the Term Acquisition Facility and the Capex Facility.

"Term Loan" means a Term Acquisition Facility Loan or Capex Facility Loan.

"**Termination Date**" means with respect to each Term Facility and the Revolving Facility, the fifth anniversary of the Closing Date.

"Total Capex Facility Commitments" means the aggregate of the Capex Facility Commitments, being £20,000,000 at the Signing Date.

"Total Commitments" means the aggregate of the Total Term Acquisition Facility Commitments, the Total Revolving Facility Commitments, the Total Capex Facility Commitments, being £155,000,000 at the Signing Date.

"Total Net Debt" has the meaning given to that term in Clause 22.1 (Financial definitions).

"Total Revolving Facility Commitments" means the aggregate of the Revolving Facility Commitments, being £10,000,000 at the Signing Date.

"Total Term Acquisition Facility Commitments" means the aggregate of the Term Acquisition Facility Commitments, being £125,000,000 at the Signing Date.

"**Trade Instruments**" means any performance bonds, advance payment bonds or documentary letters of credit issued in respect of the obligations of any member of the Group arising in the ordinary course of trading of that member of the Group.

"Transaction Documents" means the Finance Documents and the Acquisition Documents.

"Transaction Security" means the Security created or expressed to be created in favour of the Security Agent and/or the Secured Parties pursuant to the Transaction Security Documents.

"Transaction Security Documents" means each of the documents listed as being a Transaction Security Document in paragraph 2(f) of Part 1 of Schedule 2 (*Conditions Precedent*), any document required to be delivered to the Agent or Security Agent under paragraph 13 of Part 2 of Schedule 2 (*Conditions Precedent*), together with any other document entered into by any Obligor or the Parent, 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 Debt 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 relevant transferor, transferee, the Agent and the Company (each acting reasonably).

"Transfer Date" means, in relation to an assignment or transfer, the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate or, in the event that a Transfer Date is not specified in the Assignment Agreement or Transfer Certificate, the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

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

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

"Utilisation" means a utilisation of a Facility.

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

"Utilisation Request" means a notice substantially in the relevant form set out in Part 1 of Schedule 3 (*Requests*).

"VAT" means:

- (a) any value added tax imposed by the Value Added Tax Act 1994;
- (b) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (c) any other tax of a similar nature, whether imposed in the United Kingdom or in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) or (b) above, or imposed elsewhere.

"Withdrawal Act" means the European Union (Withdrawal) Act 2018.

"Working Capital" has the meaning given to that term in Clause 22.1 (*Financial definitions*).

1.2 **Construction**

- (a) Unless a contrary indication appears, a reference in this Agreement to:
 - the "Agent", any "Finance Party", any "Hedge Counterparty", any "Lender", and "Mandated Lead Arranger", any "Obligor", any "Party", any "Secured Creditor", the "Security Agent" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
 - (ii) a document in "**agreed form**" is a document which is agreed in writing by or on behalf of the Company and the Agent;
 - (iii) "assets" includes present and future properties, revenues and rights of every description;
 - (iv) "consideration payable" means the aggregate of amounts paid or scheduled to be paid on a deferred basis including any amounts that have

- been paid in respect of Earn-Out Liabilities (but not amounts in respect of Earn-Out Liabilities which have not fallen due);
- (v) a "**Finance Document**" or a "**Transaction Document**" or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
- (vi) a "group of Lenders" includes all the Lenders;
- (vii) "guarantee" means (other than in clause 15 (Guarantee and Indemnity) of the Intercreditor Agreement) 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;
- (viii) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (ix) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which it is the customary practice of the relevant person to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (xi) a provision of law is a reference to that provision as amended or reenacted;
- (xii) a time of day is a reference to London time;
- (xiii) release, re-transfer and/or re-transfer shall, to the extent it relates to assets located in Scotland or otherwise governed by Scots law, be construed to also refer to retrocess:
- (xiv) stamp duty shall, to the extent it relates to assets located in Scotland or otherwise governed by Scots law, be construed to refer to any analogous Tax in Scotland (including land and buildings transaction tax);
- (xv) freehold shall, to the extent it relates to real property assets located in Scotland or otherwise governed by Scots law, be construed to refer to heritable; and

- (xvi) assignment shall, to the extent it relates to Scottish assets or assets governed by Scots law, be construed to refer to assignation.
- (b) Clause and Schedule headings are for ease of reference only.
- (c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (d) A Default or an Event of Default is "**continuing**" if it has not been remedied or waived and an Acceleration Event is "**continuing**" if it has not been waived or the notice in relation to such Acceleration Event has not been withdrawn, cancelled or otherwise ceased to have effect.
- (e) A reference in this Agreement to a page or screen of an information service displaying a rate shall include:
 - (i) any replacement page of that information service which displays that rate; and
 - (ii) the appropriate page of such other information service which displays that rate from time to time in place of that information service,

and, if such page or service ceases to be available, shall include any other page or service displaying that rate specified by the Agent after consultation with the Company.

- (f) A reference in this Agreement to a Central Bank Rate shall include any successor rate to, or replacement rate for, that rate.
- (g) Any Reference Rate Supplement relating to a currency overrides anything relating to that currency in:
 - (i) Schedule 12 (*Reference Rate Terms*); or
 - (ii) any earlier Reference Rate Supplement.
- (h) A Reference Rate Supplement relating to the Daily Non-Cumulative Compounded RFR Rate or the Cumulative Compounded RFR Rate overrides anything relating to that rate in:
 - (i) Schedule 13 (*Daily Non-Cumulative Compounded RFR Rate*) or Schedule 14 (*Cumulative Compounded RFR Rate*), as the case may be; or
 - (ii) any earlier Compounding Methodology Supplement.
- (i) A Borrower providing "cash cover" for an Ancillary Facility means a Borrower paying an amount in the currency of the Ancillary Facility to an interest-bearing account in the name of the Borrower and the following conditions being met:

- (i) the account is with the Ancillary Lender for which that cash cover is to be provided;
- (ii) until no amount is or may be outstanding under that Ancillary Facility, withdrawals from the account may only be made to pay the relevant Finance Party amounts due and payable to it under this Agreement in respect of that Ancillary Facility; and
- (iii) the Borrower has executed a security document over that account, in form and substance satisfactory to the Finance Party with which that account is held, creating a first ranking security interest over that account.
- (j) A Borrower "**repaying**" or "**prepaying**" Ancillary Outstandings means:
 - (i) that Borrower providing cash cover in respect of the Ancillary Outstandings;
 - (ii) the maximum amount payable under the Ancillary Facility being reduced or cancelled in accordance with its terms; or
 - (iii) the Ancillary Lender being satisfied that it has no further liability under that Ancillary Facility,

and the amount by which Ancillary Outstandings are repaid or prepaid under paragraphs (i)(i) and (i)(ii) above is the amount of the relevant cash cover or reduction or cancellation.

- (k) An amount borrowed includes any amount utilised under an Ancillary Facility.
- (l) Any acquisition entered into on the basis of any basket or threshold in the definition of "Permitted Acquisition" which is calculated by reference to consideration payable shall be determined at the date the legally binding commitment to acquire such entity is entered into and (**provided that** such amount of consideration payable is, at the time of such legally binding commitment, duly within the relevant basket or under the relevant threshold) shall be treated as having duly fallen within the relevant basket or under the relevant threshold even in the event that the total consideration payable for any Acquired Entity subsequently exceeds the relevant basket or threshold set out in the definition of "Permitted Acquisition".

1.3 Currency symbols and definitions

"GBP", "sterling" and "£" denote the lawful currency of the United Kingdom.

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 or the Contract (Third Party Rights) (Scotland) Act 2017 (the "**Third Parties Acts**") to enforce or enjoy the benefit of any term of this Agreement.

(b) Subject to Clause 37.5 (*Other exceptions*) but otherwise notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

1.5 **Provisions of information by directors**

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

1.6 **Agent's provision**

Any reference in this Agreement or any other Finance Document to (i) the Agent acting reasonably, (ii) a matter being in the reasonable opinion of the Agent, (iii) the Agent's approval or consent not being unreasonably withheld or delayed or (iv) any document, report, confirmation or evidence being required to be reasonably satisfactory to the Agent, are to be construed, unless otherwise specified in this Agreement or such other relevant Finance Document, as a reference to the Agent acting on the instructions of the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, on the instructions of that Lender or group of Lenders) who are acting reasonably, or not being unreasonable in their opinion, or not unreasonably withholding or delaying their consent (as the case may be).

2. THE FACILITIES

2.1 The Facilities

- (a) Subject to the terms of this Agreement, the Lenders make available:
 - (i) a sterling term loan facility in an aggregate amount equal to the Total Term Acquisition Facility Commitments;
 - (ii) a sterling term loan facility in an aggregate amount equal to the Total Capex Facility Commitments; and
 - (iii) a sterling revolving facility in an aggregate amount equal to the Total Revolving Facility Commitments.
- (b) The Term Acquisition Facility will be available to the Company. The Capex Facility and the Revolving Facility will be available to the Borrowers.
- (c) Subject to the terms of this Agreement and the Ancillary Documents, an Ancillary Lender may make available an Ancillary Facility to any of the Borrowers in place of all or part of its Commitment under the Revolving Facility.

2.2 Increase

- (a) The Company may by giving prior notice to the Agent by no later than the date falling 30 days after the effective date of a cancellation of:
 - (i) the Available Commitments of a Defaulting Lender in accordance with Clause 8.6 (*Right of cancellation in relation to a Defaulting Lender*); or
 - (ii) the Commitments of a Lender in accordance with:
 - (A) Clause 8.1 (*Illegality*); or
 - (B) Clause 8.5 (Right of cancellation and repayment in relation to a single Lender),

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

- (iii) the increased Commitments will be assumed by one or more Lenders or other banks, financial institutions, trusts, funds or other entities (each an "Increase Lender") selected by the Company (each of which shall not be a Sponsor Affiliate or a member of the Group) and each of which confirms in writing (whether in the relevant Increase Confirmation or otherwise) its willingness to assume and does assume all the obligations of a Lender corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Lender;
- (iv) each of the Obligors and any Increase Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and the Increase Lender would have assumed and/or acquired had the Increase Lender been an Original Lender;
- (v) 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;
- (vi) the Commitments of the other Lenders shall continue in full force and effect; and
- (vii) any increase in the Commitments relating to a Facility shall take effect on the date specified by the Company in the notice referred to above or any later date on which the conditions set out in paragraph (b) below are satisfied.
- (b) An increase in the 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; and

- (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 Agent being satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Lender. The Agent shall promptly notify the Company and the Increase Lender upon being so satisfied.
- (c) Each Increase Lender, by executing the Increase Confirmation, confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the increase becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as it would have been had it been an Original Lender.
- (d) The Company shall promptly within five Business Days of written demand (containing reasonable details of each of the amounts incurred, including providing documents and invoices evidencing such expense) pay the Agent and the Security Agent the amount of all reasonable third party costs and expenses (including pre-agreed third party legal fees up to the amount of any pre-agreed caps) reasonably incurred by either of them and, in the case of the Security Agent, by any Receiver or Delegate in connection with any increase in Commitments under this Clause 2.2.
- (e) The Increase Lender shall, on the date upon which the increase takes effect, pay to the Agent (for its own account) a fee in an amount equal to the fee which would be payable under Clause 25.3 (Assignment or transfer fee) if the increase was a transfer pursuant to Clause 25.5 (Procedure for transfer) and if the Increase Lender was a New Lender.
- (f) The Company may pay to the Increase Lender a fee in the amount and at the times agreed between the Company and the Increase Lender in a Fee Letter.
- (g) Neither the Agent nor any Lender shall have any obligation to find an Increase Lender and in no event shall any Lender whose Commitment is replaced by an Increase Lender be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents.
- (h) Clause 25.4 (*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**".

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

2.4 **Obligors' Agent**

- (a) Each Obligor (other than the Company) and the Parent by its execution of this Agreement or an Accession Deed irrevocably appoints the Company to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
 - (i) the Company on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including, in the case of a Borrower, Utilisation Requests), to 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 or the Parent notwithstanding that they may affect the Obligor or the Parent, without further reference to or the consent of that Obligor or the Parent; and
 - (ii) each Finance Party to give any notice, demand or other communication to that Obligor or the Parent pursuant to the Finance Documents to the Company,

and in each case the Obligor or the Parent shall be bound as though the Obligor or the Parent itself had given the notices and instructions (including, without

limitation, any Utilisation Requests) or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

(b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors' Agent or given to the Obligors' Agent under any Finance Document on behalf of another Obligor or the Parent or in connection with any Finance Document (whether or not known to any other Obligor or the Parent 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 or the Parent as if that Obligor or the Parent 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 or the Parent, those of the Obligors' Agent shall prevail.

3. **PURPOSE**

3.1 **Purpose**

- (a) The Company or (to the extent it has acceded as an Additional Borrower, the Target) shall apply all amounts borrowed by it in respect of the Term Acquisition Facility towards (in the case of the Target, only in respect of subparagraph (iii) below):
 - (i) to finance a portion of the purchase price for the Target Shares pursuant to the Acquisition (including, if applicable, any squeeze-out procedures);
 - (ii) the payment of fees, commissions and costs and expenses incurred in connection with the Acquisition and the Facilities;
 - (iii) the refinancing of the existing Financial Indebtedness (including, without limitation, any related redemption or prepayment premia, fees, costs and expenses and any hedging termination or other break costs) of the Target Group.
- (b) Each Borrower under the Capex Facility shall apply all amounts borrowed by it under the Capex Facility towards the financing or refinancing of up to 60 per cent. of:
 - (i) the consideration payable in relation to any Permitted Acquisition and the payment of any fees, costs and expenses incurred by the relevant Borrower in connection with such Permitted Acquisition; and
 - (ii) Capital Expenditure of the Group.
- (c) Each Borrower shall apply all amounts borrowed by it under the Revolving Facility and any utilisation of any Ancillary Facility towards the Group's ongoing working capital, general corporate purposes and Maintenance Capital Expenditure (but not, for the avoidance of doubt, Growth 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**

- (a) The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to any Utilisation if, on or before the Utilisation Date for that Utilisation, the Agent has received all of the documents and other evidence listed in Part 1 of Schedule 2 (*Conditions Precedent*), in form and substance satisfactory to the Agent (acting on the instructions of all the Lenders). The Agent shall notify the Company and the Lenders promptly upon being so satisfied.
- (b) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notifications in paragraph (a) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

4.2 Further conditions precedent

- (a) Subject to Clause 4.1 (*Initial conditions precedent*), the Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to a Utilisation other than one to which Clause 4.4 (*Utilisations during the Certain Funds Period*) applies, if:
 - (i) on the date of the Utilisation Request and on the proposed Utilisation Date:
 - (A) in the case of a Rollover Loan, no Acceleration Event has occurred and is continuing or would result from the making of the Rollover Loan and, in the case of any other Utilisation, no Default is continuing or would result from the proposed Utilisation; and
 - (B) in relation to any Utilisation on the Closing Date, all the representations and warranties in Clause 20 (*Representations*) or, in relation to any other Utilisation (other than in respect of a Rollover Loan), the Repeating Representations to be made by each Obligor and, where applicable, the Parent are true by reference to the facts and circumstances then subsisting in all material respects (to the extent not qualified by materiality) or true (to the extent so qualified);
 - (ii) in relation to any Utilisation under the Capex Facility or the Revolving Facility, prior to the proposed Utilisation Date, the Existing Target Facilities Prepayment Date has occurred; and

- (iii) in relation to any Utilisation under the Capex Facility, the relevant Borrower shall deliver to the Agent a certificate confirming that:
 - (A) in respect of a Utilisation to be applied to finance or refinance Capital Expenditure (other than a Permitted Acquisition), the proposed Utilisation would not exceed 60 per cent. of the total amount of such Capital Expenditure; and
 - (B) in respect of a Utilisation to be applied to finance or refinance a Permitted Acquisition, the proposed Utilisation would not exceed 60 per cent of the consideration payable in relation to that Permitted Acquisition (and any related fees, costs and expenses).

4.3 Maximum number of Utilisations

- (a) A Borrower (or the Company) may not deliver a Utilisation Request if as a result of the proposed Utilisation:
 - (i) more than two Term Acquisition Facility Loans would be outstanding;
 - (ii) more than 10 Capex Facility Loans would be outstanding; and
 - (iii) more than 10 Revolving Facility Loans would be outstanding.
- (b) A Borrower (or the Company) may not request that a Term Loan be divided.

4.4 Utilisations during the Certain Funds Period

- (a) Subject to Clause 4.1 (*Initial conditions precedent*), during the Certain Funds Period, the Lenders will be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to a Certain Funds Utilisation if, on the date of the Utilisation Request and on the proposed Utilisation Date:
 - (i) no Major Event of Default has occurred and is continuing or would result from the proposed Utilisation;
 - (ii) all Major Representations are true in all respects or, to the extent that the Major Representations are not qualified by materiality or by way of Material Adverse Effect, are true in all material respects;
 - (iii) no Change of Control has occurred; and
 - (iv) it is not unlawful in any applicable jurisdiction for that Lender to perform its obligations to lend or participate or maintain its participation in the proposed Utilisation.
- (b) During the Certain Funds Period (save in circumstances where, pursuant to paragraph (a) above), a Lender is not obliged to comply with Clause 5.4 (*Lenders' participation*) and subject as provided in Clause 8.1 (*Illegality*), Clause 9.1 (*Change of Control*) and Clause 9.2 (*Sale of assets*)), none of the Finance Parties shall be entitled to:

- (i) cancel any of its Commitments to the extent to do so would prevent or limit the making of a Certain Funds Utilisation;
- (ii) rescind, terminate or cancel this Agreement, any Term Facility or exercise any similar right or remedy or make or enforce any claim under the Finance Documents it may have to the extent to do so would prevent or limit the making of a Certain Funds Utilisation;
- (iii) refuse to participate in the making of a Certain Funds Utilisation;
- (iv) exercise any right of set-off or counterclaim in respect of a Utilisation to the extent to do so would prevent or limit the making of a Certain Funds Utilisation; or
- (v) cancel, accelerate or cause repayment or prepayment of any amounts owing under this Agreement or under any other Finance Document to the extent to do so would prevent or limit the making of a Certain Funds Utilisation,

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

5. UTILISATION

5.1 **Delivery of a Utilisation Request**

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

5.2 Completion of a Utilisation Request for Loans

- (a) Each Utilisation Request for a Loan is irrevocable and will not be regarded as having been duly completed unless:
 - (i) it identifies the Facility to be utilised;
 - (ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
 - (iii) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*); and
 - (iv) the proposed Interest Period complies with Clause 12 (*Interest Periods*).
- (b) Multiple Utilisations may be requested in a Utilisation Request where the proposed Utilisation Date is the Closing Date. Only one Utilisation may be requested in each subsequent Utilisation Request.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be sterling.
- (b) The amount of the proposed Utilisation must be:
 - (i) for the Term Acquisition Facility,
 - (A) in the case of a Utilisation in connection with a Scheme, in an amount not greater than the amount of the Available Facility; or
 - (B) in the case of a Utilisation in connection with an Offer, a minimum amount of £5,000,000 or, if less, the Available Facility;
 - (ii) for the Capex Facility, a minimum of £250,000 or, if less, the Available Facility; or
 - (iii) for the Revolving Facility, a minimum of £250,000 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 7.3 (*Repayment of Revolving Facility Loans*), each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.
- (b) Other than as set out in paragraph (c) below, the amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.
- (c) If a Revolving Facility Loan is made to repay Ancillary Outstandings, 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 Facility Loans then outstanding bearing the same proportion to the aggregate amount of the Revolving Facility Loans then outstanding as its Revolving Facility Commitment bears to the Total Revolving Facility Commitments.

5.5 **Limitation on Utilisations**

- (a) The Capex Facility and the Revolving Facility shall not be utilised unless the Term Acquisition Facility has been (or will simultaneously be) utilised in full.
- (b) The Term Acquisition Facility may only be utilised on the Closing Date.

5.6 Cancellation of Commitment

(a) The Term Acquisition Facility Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for the Term Acquisition Facility.

- (b) The Capex Facility Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for the Capex Facility and at the end of the Availability Period for the Term Acquisition Facility if the Term Acquisition Facility has not been utilised on such date.
- (c) The Revolving Facility Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for the Revolving Facility and at the end of the Availability Period for the Term Acquisition Facility if the Term Acquisition Facility has not been utilised on such date.

5.7 **Agent's calculations**

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

5.8 Clean down

The Company shall ensure that the aggregate of the amounts of:

- (a) all Revolving Facility Loans;
- (b) the cash loan element of Ancillary Outstandings under all Ancillary Facilities; and
- (c) (to the extent not covered in paragraph (a) above), any cash loans covered by a letter of credit or guarantee issued under an Ancillary Facility as contemplated by the definition of "**Permitted Financial Indebtedness**";

LESS

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

shall not exceed zero for a period (the "Clean Down Period") of not less than three (3) successive days in each of its Financial Years. The occurrence of a Clean Down Period shall be certified in the next Compliance Certificate to be delivered after the end of the relevant Clean Down Period. Not less than three (3) months shall elapse between any two such periods.

6. **ANCILLARY FACILITIES**

6.1 **Type of Facility**

An Ancillary Facility may be by way of:

- (a) an overdraft;
- (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 Company with an Ancillary Lender.

6.2 **Availability**

- (a) If the Company 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.
- (b) An Ancillary Facility shall not be made available unless, not later than five Business Days prior to the Ancillary Commencement Date for an Ancillary Facility, the Agent has received from the Company:
 - (i) a notice in writing requesting the establishment of an Ancillary Facility and specifying:
 - (A) the proposed Borrower(s) (or Affiliate 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; and
 - (E) the proposed Ancillary Commitment, the maximum amount of the Ancillary Facility and, in the case of a Multi-account Overdraft, its Designated Gross Amount and its Designated Net Amount: and
 - (ii) any other information which the Agent may reasonably request in connection with the Ancillary Facility.
- (c) The Agent shall promptly notify the Company, the Ancillary Lender and the other Lenders of the establishment of an Ancillary Facility.
- (d) Subject to compliance with paragraph (b) above:
 - (i) the Lender concerned will become an Ancillary Lender; and
 - (ii) the Ancillary Facility will be available,

with effect from the date agreed by the Company and the Ancillary Lender.

6.3 Terms of Ancillary Facilities

(a) Except as provided below, the terms of any Ancillary Facility will be those agreed by the Ancillary Lender and the Company.

- (b) Those terms:
 - (i) must be based upon normal commercial terms at that time (except as varied by this Agreement);
 - (ii) may allow only Borrowers (or Affiliates if Borrowers nominated pursuant to Clause 6.11 (*Affiliates of Borrowers*)) to use the Ancillary Facility;
 - (iii) may not allow the Ancillary Outstandings to exceed the Ancillary Commitment;
 - (iv) may not allow the Ancillary Commitment of a Lender to exceed the Lender's Available Commitment relating to the Revolving Facility (before taking into account the effect of the Ancillary Facility on that Available Commitment); and
 - (v) must require that the Ancillary Commitment is reduced to zero, and that all Ancillary Outstandings are repaid not later than the Termination Date applicable to the Revolving Facility (or such earlier date as the Revolving Facility Commitment of the relevant Ancillary Lender (or its Affiliate) is reduced to zero).
- (c) If there is any inconsistency between any term of an Ancillary Facility and any term of this Agreement, this Agreement shall prevail except for:
 - (i) Clause 34.3 (*Day count convention and interest calculation*) which shall not prevail for the purposes of calculating fees, interest or commission relating to an Ancillary Facility;
 - (ii) an Ancillary Facility comprising more than one account where the terms of the Ancillary Documents shall prevail to the extent required to permit the netting of balances on those accounts; and
 - (iii) where the relevant term of this Agreement would be contrary to, or inconsistent with, the law governing the relevant Ancillary Document, in which case that term of this Agreement shall not prevail.
- (d) Interest, commission and fees on Ancillary Facilities are dealt with in Clause 14.6 (*Interest, commission and fees on Ancillary Facilities*).

6.4 **Repayment of Ancillary Facility**

- (a) An Ancillary Facility shall cease to be available on the Termination Date applicable to the Revolving Facility or such earlier date on which its expiry date occurs or on which it is cancelled in accordance with the terms of this Agreement.
- (b) If an Ancillary Facility expires in accordance with its terms the Ancillary Commitment of the Ancillary Lender shall be reduced to zero (and its (or its Affiliates') Revolving Facility Commitment shall be increased accordingly).

- (c) No Ancillary Lender may demand repayment or prepayment of any Ancillary Outstandings prior to the expiry date of the relevant Ancillary Facility unless:
 - (i) required to reduce the Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Net Outstandings;
 - (ii) the Total Revolving Facility Commitments have been cancelled in full, or all outstanding Utilisations under the Revolving Facility have become due and payable in accordance with the terms of this Agreement;
 - (iii) it becomes unlawful in any applicable jurisdiction for the Ancillary Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in its Ancillary Facility; or
 - (iv) both:
 - (A) the Available Commitments relating to the Revolving Facility; and
 - (B) the notice of the demand given by the Ancillary Lender,

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

- (d) If a Revolving Facility Loan is made to repay Ancillary Outstandings in full or in part, the relevant Ancillary Commitment shall be reduced by the corresponding amount so repaid from the relevant Revolving Facility Loan.
- (e) In relation to an Ancillary Facility which comprises an overdraft facility where a Designated Net Amount has been established, the Ancillary Lender providing that Ancillary Facility shall only be obliged to take into account for the purposes of calculating compliance with the Designated Net Amount those credit balances which it is permitted to take into account by the then current law and regulations in relation to its reporting of exposures to the UK Financial Conduct Authority as netted for capital adequacy purposes.

6.5 Limitation on Ancillary Outstandings

Each Borrower shall procure that:

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

6.6 Adjustment for Ancillary Facilities upon acceleration

- (a) In this Clause 6.6, the following terms have the following meanings:
 - (i) "Revolving Facility Outstandings" means, in relation to a Lender, the aggregate of:
 - (A) its participation in each Revolving Facility Loan then outstanding (together with the aggregate amount of all accrued interest, fees and commission owed to it as a Lender under the Revolving Facility); and
 - (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 Facility Outstandings**" means the aggregate of all Revolving Facility Outstandings.
- (b) If a notice is served by the Agent under Clause 24.17 (*Acceleration*) (other than a notice declaring Utilisations to be due on demand), each Lender and each Ancillary Lender shall promptly adjust (by making or receiving (as the case may be) corresponding transfers of rights and obligations under the Finance Documents relating to Revolving Facility Outstandings) (to the extent necessary) their claims in respect of amounts outstanding to them under the Revolving Facility and each Ancillary Facility to ensure that after such transfers the Revolving Facility Outstandings of each Lender bear the same proportion to the Total Revolving Facility Outstandings as such Lender's Revolving Facility Commitment bears to the Total Revolving Facility Commitments, each as at the date the notice is served by the Agent under Clause 24.17 (*Acceleration*).
- (c) If an amount outstanding under an Ancillary Facility is a contingent liability and that contingent liability becomes an actual liability or is reduced to zero after the original adjustment is made under paragraph (b) above, then each Lender and Ancillary Lender will make a further adjustment (by making or receiving (as the case may be) corresponding transfers of rights and obligations under the Finance Documents relating to the Revolving Facility Outstandings (to the extent necessary)) to put themselves in the position they would have been in had the original adjustment been determined by reference to the actual liability or, as the case may be, zero liability and not the contingent liability.
- (d) Any transfer of rights and obligations relating to the Revolving Facility Outstandings made pursuant to this Clause 6 shall be made for a purchase price in cash, payable at the time of transfer, in an amount equal to those Revolving Facility Outstandings (less any accrued interest, fees and commission to which the transferor will remain entitled to receive notwithstanding that transfer, pursuant to Clause 25.10 (*Pro rata interest settlement*)).

- (e) Prior to the application of the provisions of paragraph (b) above, an Ancillary Lender that has provided a Multi-account Overdraft shall set-off any Available Credit Balance on any account comprised in that Multi-account Overdraft.
- (f) All calculations to be made pursuant to this Clause 6.6 shall be made by the Agent based upon the information provided to it by the Lenders and Ancillary Lenders.
- (g) This Clause 6.6 shall not oblige any Lender to accept the transfer of a claim relating to an amount outstanding under an Ancillary Facility which is not denominated (pursuant to the relevant Finance Document) in sterling or in another currency which is acceptable to the Lender.

6.7 **Information**

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

6.8 Affiliates of Lenders as Ancillary Lenders

- (a) Subject to the terms of this Agreement, an Affiliate of a Lender may become an Ancillary Lender. In such case, the Lender and its Affiliate shall be treated for all purposes of this Agreement other than Clause 15 (*Tax Gross-up and Indemnities*) 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. For the purposes of Clause 15 (*Tax Gross-up and Indemnities*), an Affiliate which accedes to this Agreement shall be treated as a Lender in its own right on the date it becomes an Ancillary Lender under the relevant Ancillary Facility.
- (b) The Company shall specify any relevant Affiliate of a Lender in any notice delivered by the Company to the Agent pursuant to paragraph (b)(i) of Clause 6.2 (Availability).
- (c) An Affiliate of a Lender which becomes an Ancillary Lender shall accede to the Intercreditor Agreement as an Ancillary Lender and any person which so accedes to the Intercreditor Agreement shall, at the same time, become a Party as an Ancillary Lender in accordance with clause 21.5 (*Creditor Accession Undertaking*) of the Intercreditor Agreement.
- (d) If a Lender assigns all of its rights and benefits or transfers all of its rights and obligations to a New Lender, its Affiliates shall cease to have any obligations under this Agreement or any Ancillary Document.
- (e) Where this Agreement or any other Finance Document imposes an obligation on an Ancillary Lender and the relevant Ancillary Lender is an Affiliate of a

Lender which is not a party to that document, the relevant Lender shall ensure that the obligation is performed by its Affiliate.

6.9 **Revolving Facility Commitment amounts**

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

6.10 Amendments and Waivers – Ancillary Facilities

No amendment or waiver of a term of any Ancillary Facility shall require the consent of any Finance Party other than the relevant Ancillary Lender unless such amendment or waiver itself relates to or gives rise to a matter which would require an amendment of or under this Agreement (including, for the avoidance of doubt, under this Clause 6). In such a case, Clause 37 (*Amendments and Waivers*) will apply.

6.11 **Affiliates of Borrowers**

- (a) Subject to the terms of this Agreement, an Affiliate of a Borrower may with the approval of the relevant Lender become a borrower with respect to an Ancillary Facility.
- (b) The Company shall specify any relevant Affiliate of a Borrower in any notice delivered by the Company pursuant to paragraph (b)(i) of Clause 6.2 (Availability).
- (c) If a Borrower ceases to be a Borrower under this Agreement in accordance with Clause 27.3 (*Resignation of a Borrower*), its Affiliate shall cease to have any rights under this Agreement or any Ancillary Document.
- (d) Where this Agreement or any other Finance Document imposes an obligation on a Borrower under an Ancillary Facility and the relevant Borrower is an Affiliate of a Borrower which is not a party to that document, the relevant Borrower shall ensure that the obligation is performed by its Affiliate.
- (e) Any reference in this Agreement or any other Finance Documents to a Borrower being under no obligations (whether actual or contingent) as a Borrower under such Finance Document shall be construed to include a reference to any Affiliate of a Borrower being under no obligations under any Finance Document or Ancillary Document.

7. **REPAYMENT**

7.1 **Repayment of Term Acquisition Facility Loans**

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

7.2 Repayment of Capex Facility Loans

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

7.3 Repayment of Revolving Facility Loans

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

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

- (A) if the amount of the maturing Revolving Facility Loan exceeds the aggregate amount of the new Revolving Facility Loans:
 - (1) the relevant Borrower will only be required to pay an amount in cash under Clause 31.1 (*Payments to the Agent*) equal to that excess; and
 - (2) each Lender's participation in the new Revolving Facility Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender's participation in the maturing Revolving Facility Loan and that Lender will not be required to make its participation in the new Revolving Facility Loans available in cash under Clause 31.1 (*Payments to the Agent*); and

- (B) if the amount of the maturing Revolving Facility Loan is equal to or less than the aggregate amount of the new Revolving Facility Loans:
 - (1) the relevant Borrower will not be required to make any payment in cash under Clause 31.1 (*Payments to the Agent*); and
 - (2) each Lender will be required to make its participation in the new Revolving Facility Loans available in cash only under Clause 31.1 (*Payments to the Agent*) to the extent that its participation (if any) in the new Revolving Facility Loans exceeds that Lender's participation (if any) in the maturing Revolving Facility Loan and the remainder of that Lender's participation in the new Revolving Facility Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender's participation in the maturing Revolving Facility Loan.
- (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 Facility Loans then outstanding will be automatically extended to the Termination Date applicable to the Revolving Facility and will be treated as separate Revolving Facility Loans (the "Separate Loans") denominated in the currency in which the relevant participations are outstanding.
- (d) If the Borrower makes a prepayment of a Revolving Facility Loan pursuant to Clause 8.4 (*Voluntary prepayment of Revolving Facility Loans*), a Borrower to whom a Separate Loan is outstanding may prepay that Loan by giving not less than three Business Days' prior notice to the Agent. The proportion borne by the amount of the prepayment of the Separate Loan to the amount of the Separate Loans shall not exceed the proportion borne by the amount of the prepayment of the Revolving Facility Loan to the Revolving Facility Loans. The Agent will forward a copy of a prepayment notice received in accordance with this paragraph (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 Agent (for the account of that Defaulting Lender) on the last day of each Interest Period of that Loan.
- (f) The terms of this Agreement relating to the Revolving Facility Loans generally shall continue to apply to Separate Loans other than to the extent inconsistent with paragraphs (c) to (e) above, in which case those paragraphs shall prevail in respect of any Separate Loan.

8. ILLEGALITY, VOLUNTARY PREPAYMENT AND CANCELLATION

8.1 **Illegality**

If it becomes unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in any Utilisation or it becomes unlawful for any Affiliate of a Lender for that Lender to do so (an "affected Utilisation"):

- (a) that Lender may promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying the Company, each Available Commitment of that Lender will be immediately cancelled; and
- (c) to the extent that the Lender's participation has not been transferred pursuant to Clause 37.8 (*Replacement of Lender*), each Borrower shall repay that Lender's participation in the affected Utilisations made to that Borrower on the last day of the Interest Period for each Utilisation occurring after the Agent has notified the Company or, if earlier, on the date specified by that Lender in its notice to the Agent pursuant to paragraph (a) above (being no earlier than the last day of any applicable grace period permitted by law),

and that Lender's corresponding Commitment(s) shall be cancelled in the amount of the participations repaid.

8.2 **Voluntary cancellation**

The Company may, if it gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior written notice, cancel:

- (a) the whole or any part (being a minimum amount of £1,000,000) of each Lender's Available Commitments in respect of the Term Acquisition Facility;
- (b) the whole or any part (being a minimum amount of £250,000) of each Lender's Available Commitments in respect of the Capex Facility; or
- (c) the whole or any part (being a minimum amount of £100,000) of each Lender's Available Commitments in respect of the Revolving Facility.

Any cancellation under this Clause 8.2 shall reduce the Commitments of the Lenders rateably under that Facility.

8.3 Voluntary prepayment of Term Loans

- (a) A Borrower to which a Term Loan has been made may, if it or the Company gives the Agent not less than, five RFR Banking Days' (or such shorter period as the Majority Lenders may agree), prior written notice, prepay:
 - (i) the whole or any part of Term Acquisition Facility Loan (but, if in part, being an amount that reduces the Loan by a minimum amount of £1,000,000 and in integral multiples of £100,000); or

- (ii) the whole or any part of a Capex Facility Loan (but, if in part, being an amount that reduces the Loan by a minimum amount of £250,000 and in integral multiples of £100,000).
- (b) A Borrower may not make more than four voluntary prepayments (on a day other than the last day of the relevant Interest Period) per Facility pursuant to this Clause 8.3 in each Financial Year.

8.4 Voluntary prepayment of Revolving Facility Loans

- (a) A Borrower to which a Revolving Facility Loan has been made may, if it or the Company gives the Agent not less than five RFR Banking Days' (or such shorter period as the Majority Lenders may agree) prior written notice, prepay the whole or any part of a Revolving Facility Loan (but if in part, being an amount that reduces the Revolving Facility Loan by a minimum amount of £100,000 and in integral multiples of £100,000).
- (b) A Borrower may not make more than four voluntary prepayments of Revolving Facility Loans (on a day other than the last day of the relevant Interest Period) pursuant to this Clause 8.4 in each Financial Year.

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

- (a) If:
 - (i) any Lender is an Affected Lender;
 - (ii) any Lender becomes a Non-Consenting Lender;
 - (iii) any sum payable to any Lender by an Obligor is required to be increased under paragraph (b) of Clause 15.2 (*Tax gross-up*); or
 - (iv) any Lender claims indemnification from the Company or an Obligor under Clause 15.3 (*Tax indemnity*) or Clause 16.1 (*Increased Costs*),

the Company may, while the circumstance giving rise to (in the case of paragraph (a)(i) above) the notification under Clause 13.2 (*Market Disruption*), (in the case of paragraph (a)(ii) above) the Lender being a Non-Consenting Lender or (in the case of paragraph (a)(iii) or (a)(iv) above) the requirement for that increase or indemnification continues, give the Agent notice of cancellation of the Commitment(s) of that Lender and its intention to procure the repayment of that Lender's participation in the Utilisations.

- (b) On receipt of a notice referred to in paragraph (a) above in relation to a Lender, the Commitment(s) of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Company has given notice under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Company 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.

8.6 Right of cancellation in relation to a Defaulting Lender

- (a) If any Lender becomes a Defaulting Lender, the Company may, at any time whilst the Lender continues to be a Defaulting Lender, give the Agent five 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.

9. **MANDATORY PREPAYMENT**

9.1 **Change of Control**

- (a) Upon the occurrence of a Change of Control under paragraphs (a) or (b) of the definition thereof:
 - (i) a Lender shall not be obliged to fund a Utilisation (other than a Rollover Loan); and
 - (ii) if a Lender so requires and notifies the Agent within 30 days of the earlier of:
 - (A) the Company notifying the Agent of the Change of Control; and
 - (B) the relevant Lender becoming aware of the occurrence of the Change of Control,

the Agent shall, by notice to the Company, cancel the relevant Commitments of that Lender and declare the participation of that Lender in all outstanding Utilisations (including Rollover Loans) and Ancillary Outstandings of that Lender or Affiliate of that Lender, together with accrued interest, and all other amounts accrued under the Finance Documents due and payable, whereupon the Commitment of that Lender and of any such Affiliate will be cancelled and all such outstanding Utilisations (including Rollover Loans) and amounts will become due and payable and will be paid by the Company to the relevant Lender within 20 Business Days of having been declared due and payable.

(b) Upon the occurrence of a Change of Control under paragraphs (c) or (d) of the definition thereof, the Agent shall cancel the Commitments and declare the participations in all outstanding Utilisations and Ancillary Outstandings, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Commitments will be cancelled and all such outstanding Utilisations and amounts will become immediately due and payable.

9.2 **Sale of assets**

Upon the occurrence of the sale of all or substantially all of the business and assets of the Group (whether in a single transaction or a series of related transactions), the Agent shall cancel the Commitments and declare the participations in all outstanding Utilisations and Ancillary Outstandings, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Commitments will be cancelled and all such outstanding Utilisations and amounts will become immediately due and payable.

9.3 **Listing**

Upon the occurrence of a Listing (not resulting in a Change of Control), the Company will:

- (a) promptly notify the Agent upon becoming aware of that event; and
- (b) ensure that a portion of the Listing Proceeds (the "**IPO Prepayment Amount**") shall be applied in prepayment of the Facilities in accordance with Clause 9.5 (*Application of mandatory prepayments*) such that, following the Listing, the Leverage Ratio would have been 3.00:1 or less for the most recent Relevant Period ending prior to the Listing in respect of which a Compliance Certificate has been delivered (but assuming for this purpose that any Borrowings to be repaid with the proceeds of such Listing had been prepaid on the last day of such Relevant Period).

Nothing in this Clause 9.3 shall require the Company to prepay any amount in excess of the IPO Prepayment Amount and any surplus Listing Proceeds may be applied by the Company in its sole discretion.

9.4 Disposal, Insurance, Report, Cure Amount, Excess Cashflow and Refinancing Proceeds

(a) For the purposes of this Clause 9.4 and Clause 9.5 (*Application of mandatory prepayments*) the following words and phrases have the following meanings:

"Cash Sweep Proceeds" means:

- (a) in respect of any Relevant Period beginning on or after the third anniversary of the Closing Date but prior to the fourth anniversary of the Closing Date, an amount equal to 50 per cent. of Excess Cashflow for each Relevant Period; and
- (b) in respect of any Relevant Period beginning on or after the fourth anniversary of the Closing Date, an amount equal to 100 per cent. of Excess Cashflow for that Relevant Period.

"**Disposal Proceeds**" means the cash consideration received by any member of the Group for any Disposal made by any member of the Group except for Excluded Disposal Proceeds and after deducting:

- (a) any reasonable costs and expenses which are incurred by any member of the Group to persons who are not members of the Group with respect to that Disposal (including third party agents' fees and costs, the costs of any closure, reorganisation costs, redundancy programme, reallocation of people or assets);
- (b) any Tax incurred (or properly reserved for in accordance with the relevant Accounting Principles) and required to be paid by a member of the Group in connection with that Disposal (as reasonably determined by the seller on the basis of existing rates and taking account of any available credit, deduction or allowance); and
- (c) any consideration which is to be applied towards discharging any Security over the assets which are the subject of that Disposal in accordance with the terms of that Security or the indebtedness it secures.

"Excluded Disposal Proceeds" means:

- (a) the proceeds of any Disposal which relate to any Disposal under paragraphs (a) to (e) (inclusive) and (g) to (j) (inclusive) of the definition of "**Permitted Disposal**" or to which the Agent (acting on the instructions of the Majority Lenders) has expressly consented to the same being Excluded Disposal Proceeds;
- (b) the proceeds of any Disposal which are to be applied in the purchase of assets for use in the business of the Group, towards Capital Expenditure of any member of the Group, a Permitted Acquisition or a Permitted Joint Venture, in each case, within 12 Months after receipt, or if contractually committed to be used within 12 Months, are actually used within 18 Months of receipt (or such longer period as the Majority Lenders may agree);
- (c) the proceeds of any individual Disposal where the consideration received for such Disposal does not exceed £100,000 (or its equivalent in any other currencies); and
- (d) the proceeds of any Disposal which (when aggregated with any other consideration received for any Disposal in the same Financial Year) does not exceed £1,000,000 (or its equivalent in other currencies).

"Excluded Insurance Proceeds" means:

- (a) any proceeds of an insurance claim which the Company notifies the Agent are, or are to be, applied:
 - (i) to meet a third party claim or to cover operating losses, business interruption, loss of profit or operating losses; or

(ii) in the replacement, reinstatement and/or repair of the assets in respect of which the relevant insurance claim was made or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made (or in reimbursing the expenditure of a member of the Group in replacing, reinstating or repairing such assets or ameliorating such loss),

in each case, within 12 Months of receipt, or contracted to be applied within 12 Months and so applied within 18 Months of receipt, or such longer period as the Majority Lenders may agree; or

(b) any proceeds of an insurance claim which (when aggregated with any other proceeds of an insurance claim received in the same Financial Year) do not exceed £500,000.

"Excluded Refinancing Proceeds" means:

- (a) any reasonable fees, costs and other expenses which are incurred by any member of the Group or the Parent to persons who are not members of the Group in connection with the Permitted Refinancing Indebtedness;
- (b) any amount payable by a member of the Group in connection with the close-out or termination of any hedging arrangements associated with the incurrence of such Permitted Refinancing Indebtedness and the repayment of the Facilities; and
- (d) any Tax incurred (or properly reserved for in accordance with the relevant Accounting Principles) and required to be paid by a member of the Group in connection with a Permitted Refinancing Indebtedness.

"Excluded Report Proceeds" means any proceeds of a Recovery Claim:

(a)

- (i) which are, or are to be, applied to satisfy (or reimburse a member of the Group which has discharged) any liability, charge or claim upon a member of the Group as a result of the relevant Recovery Claim; or
- (ii) which are to be applied in the replacement, reinstatement and/or repair of assets of members of the Group which have been lost, destroyed or damaged,

in each case, as a result of the events or circumstances giving rise to that Recovery Claim, if those proceeds are so applied as soon as possible (but in any event are applied within 12 months of receipt, or if contractually committed to be used within 12 months of receipt, are actually used within 18 months of receipt, or in each case, such longer period as the Majority Lenders may agree) after receipt;

- (b) insofar as such proceeds relate to matters or advice in the Tax Structure Paper which relate to the Initial Investors and any other entities above the Parent; and
- which (when aggregated with the proceeds of any other Recovery Claim received in the same Financial Year) do not exceed £500,000.

"Insurance Proceeds" means the proceeds of any insurance claim received under any insurance maintained by any member of the Group except for Excluded Insurance Proceeds and after deducting:

- (a) any reasonable costs and expenses in relation to that claim which are incurred by any member of the Group to persons who are not members of the Group; and
- (b) any Tax incurred (or properly reserved for in accordance with the relevant Accounting Principles) and required to be paid by a member of the Group in connection with that claim (on the basis of existing rates and taking account of any available credit, deduction or allowance).

"Mandatory Prepayment Amount" means, in relation to any Debt Document, the total outstanding principal amount of indebtedness and/or commitments towards which a member of the Group is required to apply Relevant Proceeds or a Declined Amount in prepayment and/or cancellation of, (but excluding any make whole amount or prepayment premium which would be incurred in connection with any prepayment and/or cancellation).

"Refinancing Proceeds" means the proceeds of any Permitted Refinancing Indebtedness, other than Excluded Refinancing Proceeds, shall be applied in prepayment of Term Loans and any Permitted Refinancing Indebtedness.

"Report Proceeds" means the proceeds of a claim (a "Recovery Claim") against the provider of any Report (in its capacity as a provider of that Report) received by the Company except for Excluded Report Proceeds, and after deducting:

- (a) any reasonable costs and expenses in relation to that Recovery Claim which are incurred by any member of the Group to persons who are not members of the Group; and
- (b) any Tax incurred (or properly reserved for in accordance with the relevant Accounting Principles) and required to be paid by a member of the Group in connection with that Recovery Claim (on the basis of existing rates and taking account of any available credit, deduction or allowance).

"Required Declined Amount" means, in relation to any Declined Amount, the proportion of that Declined Amount which is equal to the proportion borne by (i) the Mandatory Prepayment Amount under a Debt Document to (ii) the aggregate of the Mandatory Prepayment Amount under all the Debt Documents.

- "Required Prepayment Amount" means, in relation to the amount of any Relevant Proceeds, the proportion of those Relevant Proceeds which is equal to the proportion borne by (i) the Mandatory Prepayment Amount under this Agreement to (ii) the aggregate of the Mandatory Prepayment Amount under all the Debt Documents.
- (b) Subject to clause 13.8 (*Application of Mandatory Prepayments*) of the Intercreditor Agreement, the Company shall ensure that the Borrowers prepay Utilisations and cancel Available Commitments in amounts equal to the following amounts at the times and in the order of application contemplated by Clause 9.5 (*Application of mandatory prepayments*):
 - (i) the Required Prepayment Amount of any IPO Prepayment Amount;
 - (ii) the Required Prepayment Amount of Report Proceeds;
 - (iii) the Required Prepayment Amount of Disposal Proceeds;
 - (iv) the Required Prepayment Amount of Insurance Proceeds;
 - (v) any Refinancing Proceeds;
 - (vi) the Required Prepayment Amount of any Cure Amount; and
 - (vii) the Cash Sweep Proceeds.

9.5 Application of mandatory prepayments

- (a) A prepayment and/or cancellation under Clause 9.3 (*Listing*), paragraph (b) of Clause 9.4 (*Disposal, Insurance, Report, Cure Amount, Excess Cashflow and Refinancing Proceeds*) or Clause 9.6 (*Lock-Up*) shall be applied in the following order:
 - (i) *first*, in prepayment of the Term Loans (on a *pro rata* basis);
 - (ii) secondly, in prepayment of Revolving Facility Loans (on a pro rata basis);
 - (iii) *thirdly*, in cancellation of Available Commitments under any Term Facility (and the Available Commitments under any Term Facility will be cancelled rateably);
 - (iv) *fourthly*, in cancellation of Available Commitments under the Revolving Facility (and the Available Commitments of the Lenders under the Revolving Facility will be cancelled rateably); and
 - (v) then, in:
 - (A) repayment of the Ancillary Outstandings (and cancellation of corresponding Ancillary Commitments); and
 - (B) cancellation of Ancillary Commitments,

- on a *pro rata* basis and cancellation, in each case, of the corresponding Revolving Facility Commitments.
- (b) Unless the Company makes an election under paragraph (c) below, the Borrowers shall prepay Loans at the following times:
 - (i) in the case of any prepayment relating to the amounts of Disposal Proceeds, Insurance Proceeds or Report Proceeds, within ten Business Days of receipt of those proceeds by a member of the Group, unless the Company has notified the Agent that the relevant Disposal Proceeds, Insurance Proceeds or Report Proceeds (or a portion thereof) shall be applied or committed to be applied in the relevant period for reinvestment, restatement or repair referred to in the definitions of "Excluded Disposal Proceeds", "Excluded Insurance Proceeds" or "Excluded Report Proceeds", provided that, if such Disposal Proceeds, Insurance Proceeds or Report Proceeds are not so applied or committed within the applicable period set out in the relevant definition, such proceeds shall be applied in prepayment within five (5) Business Days of the last day of such period;
 - (ii) in the case of any prepayment relating to an amount of Cash Sweep Proceeds, within ten Business Days of delivery of the most recent Compliance Certificate delivered pursuant to Clause 21.2 (*Provision and contents of Compliance Certificate*) in respect of the relevant Lock-Up Calculation Date;
 - (iii) in the case of any prepayment relating to a Cure Amount, within ten Business Days of receipt by the Company of such Cure Amount; and
 - (iv) in the case of any prepayment relating to a Lock-Up Amount, within ten Business Days of delivery of the most recent Compliance Certificate delivered pursuant to Clause 21.2 (*Provision and contents of Compliance Certificate*) in respect of the relevant Lock-Up Calculation Date.
- (c) Subject to paragraph (d) below, the Company may, by giving the Agent not less than three (3) Business Days prior written notice, elect that any prepayment under Clause 9.3 (*Listing*), paragraphs (b)(i) to (b)(vii) (inclusive) of Clause 9.4 (*Disposal, Insurance, Report, Cure Amount, Excess Cashflow and Refinancing Proceeds*) or Clause 9.6 (*Lock-Up*) be applied in prepayment of a Loan on the last day of the Interest Period relating to that Loan. If the Company makes that election then a proportion of the Loan equal to the amount of the relevant prepayment will be due and payable on the last day of its Interest Period.
- (d) If the Company has made an election under paragraph (c) above but an Event of Default has occurred and is continuing, that election shall no longer apply and a proportion of the Loan in respect of which the election was made equal to the amount of the relevant prepayment shall be made within five Business Days from the earlier of date the Company becomes aware of the Event of Default occurring and the date it is notified of it by the Agent (unless the Majority Lenders otherwise agree in writing).

9.6 **Lock-Up**

- (a) If a Lock-Up Event has occurred in respect of any Lock-Up Calculation Date, the Company shall promptly, and in any event within ten Business Days of the date of delivery of the Compliance Certificate relating to that Lock-Up Calculation Date, transfer an amount equal to Excess Cashflow (minus, to the extent included in Excess Cashflow, amounts applied or required to be applied in prepayment under Clause 9.3 (*Listing*) or Clause 9.4 (*Disposal, Insurance, Report, Cure Amount, Excess Cashflow and Refinancing Proceeds*)) for the Relevant Period ending on such Lock-Up Calculation Date into the Lock-Up Account.
- (b) Subject to paragraph (c) below, the Company may not withdraw amounts standing to the credit of the Lock-Up Account unless on the subsequent Lock-Up Calculation Date, a Compliance Certificate has been delivered evidencing that no Lock-Up Event has occurred in respect of such Lock-Up Calculation Date. Following delivery of such Compliance Certificate, the Company may make withdrawals from the Lock-Up Account at its discretion.
- (c) The Company shall only be permitted to withdraw any amount from the Lock-Up Account to:
 - (i) pay amounts due in respect of interest, principal or periodic fees, costs and expenses and other payments under the Finance Documents (**provided that** the Group has no or insufficient other funds available to meet such obligations);
 - (ii) make voluntary prepayments of the Facilities or any Permitted Refinancing Indebtedness on a *pro rata* basis (**provided that** such voluntary prepayments are applied in prepayment of the Facilities in the order of application set out in Clause 9.5 (*Application of mandatory prepayments*));
 - (iii) finance Capital Expenditure to the extent required in connection with health and safety requirements or to comply with regulatory and/or Environmental Laws (**provided that** the Group has no or insufficient other funds available to meet such obligations); and
 - (iv) finance operating costs, working capital needs, administrative payments or tax payments of the Group (**provided that** the Group has no or insufficient other funds available to meet such obligations),

and **provided that** the matters referred to in paragraphs (i) to (iv) (inclusive) above have been certified by a director of the Company.

(d) If amounts have been deposited into the Lock-Up Account in accordance with paragraph (a) above, and a Lock-Up Event has occurred in respect of the Lock-Up Calculation Date (the "Second Lock-Up Calculation Date") immediately following the Lock-Up Calculation Date in respect of which such amounts were deposited into the Lock-Up Account, the Company shall apply the Required Prepayment Amount or the Lock-Up Amount in prepayment within ten

Business Days of delivery of the Compliance Certificate delivered pursuant to Clause 21.2 (*Provision and contents of Compliance Certificate*) in relation to the Second Lock-Up Calculation Date and in the order of application set out in Clause 9.5 (*Application of mandatory prepayments*).

9.7 **Limitations**

- (a) All prepayments to be made pursuant to Clause 9.3 (*Listing*), paragraphs (b)(i) to (b)(vii) (inclusive) of Clause 9.4 (*Disposal, Insurance, Report, Cure Amount, Excess Cashflow and Refinancing Proceeds*) and Clause 9.6 (*Lock-Up*) are subject to restrictions under applicable law. The Company is not required to ensure that a prepayment under Clause 9.3 (*Listing*), paragraphs (b)(i) to (b)(vii) (inclusive) of Clause 9.4 (*Disposal, Insurance, Report, Cure Amount, Excess Cashflow and Refinancing Proceeds*) and Clause 9.6 (*Lock-Up*) is made (and the Borrowers are not required to make a prepayment) if and to the extent such prepayment (or making the relevant amount available to a Borrower for the purposes of a prepayment) cannot be made without:
 - (i) breaching a corporate benefit, financial assistance or other legal restriction (including as to lack of distributable reserves) or a legal obligation applicable to the relevant member of the Group to apply the relevant amounts for another purpose; or
 - (ii) the directors of a member of the Group incurring a risk of any civil or criminal liability; or
 - (iii) incurring a Tax or material cost to a member of the Group of more than five per cent. of the amount to be prepaid.
- (b) The Company shall (and shall ensure that each other member of the Group will) use its reasonable endeavours to overcome any restrictions and/or minimise any costs of a prepayment. If at any time those restrictions are removed, any relevant proceeds will be applied in prepayment of the Facilities at the end of the next Interest Period. The Company shall provide the Agent with reasonable details promptly upon becoming aware of any circumstances, restrictions or costs preventing prepayment pursuant to paragraph (a) above.
- (c) If, at any time, the Company has not made (or procured the making of) a prepayment which would, but for this Clause 9.7 otherwise have been required to be made, the Company shall not (and shall ensure that no other member of the Group will) make a payment that constitutes a Permitted Payment under paragraph (a) of the definition of "Permitted Payment" until such time as an amount equal to the relevant prepayment has been applied in prepayment of the Facilities pursuant to paragraph (b) above. For the avoidance of doubt, the Company shall be able to make a payment that constitutes a "Permitted Payment" in all other circumstances.

9.8 **Declining Creditors**

If any Secured Party (a "**Declining Creditor**") notifies the Company that it elects not to accept its *pro rata* share of any Required Prepayment Amount of any Relevant

Proceeds in accordance with the terms of the Debt Documents to which it is a party (the "**Declined Amount**"), the Company shall offer to each Secured Party which is not a Declining Creditor to apply an aggregate amount equal to the Required Declined Amount to each Secured Party which is not a Declining Creditor (each an "**Accepting Creditor**") and, to the extent any Accepting Creditor accepts such offer, the Company shall so apply the Required Declined Amount to each such Accepting Creditor *pro rata*.

10. **RESTRICTIONS**

10.1 Notices of Cancellation or Prepayment

Any notice of cancellation, prepayment, authorisation or other election given by any Party under Clause 8 (*Illegality, Voluntary Prepayment and Cancellation*) or Clause 9.5 (*Application of mandatory prepayments*) shall be irrevocable and, unless a contrary indication appears in this Agreement, any such notice shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

10.2 Interest and other amounts

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, without premium or penalty.

10.3 No reborrowing of a Term Facility

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

10.4 Reborrowing of the Revolving Facility

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

10.5 Prepayment in accordance with Agreement

Subject to the terms of the Intercreditor 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.

10.6 No reinstatement of Commitments

Subject to Clause 2.2 (*Increase*), no amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

10.7 Agent's receipt of notices

If the Agent receives a notice under Clause 8 (*Illegality, Voluntary Prepayment and Cancellation*) or an election under paragraph (c) of Clause 9.5 (*Application of mandatory prepayments*), it shall promptly forward a copy of that notice or election to either the Company or the affected Lender, as appropriate.

10.8 Effect of repayment and prepayment on Commitments

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

10.9 **Application of prepayments**

Any prepayment of a Utilisation (other than a prepayment pursuant to Clause 8.1 (*Illegality*), Clause 8.5 (*Right of cancellation and repayment in relation to a single Lender*) or Clause 8.6 (*Right of cancellation in relation to a Defaulting Lender*)) shall be applied *pro rata* to each Lender's participation in that Utilisation.

10.10 Application of voluntary prepayments

Any prepayment made under Clause 8.3 (*Voluntary prepayment of Term Loans*) or Clause 8.4 (*Voluntary prepayment of Revolving Facility Loans*) shall be applied in the following order:

- (a) first, in prepayment of Term Loans on a *pro rata* basis; and
- (b) secondly, in prepayment of Revolving Facility Loans on a *pro rata* basis.

11. **INTEREST**

11.1 Calculation of interest

- (a) The rate of interest on each Loan for any day during an Interest Period is the percentage rate per annum which is the aggregate of the applicable:
 - (i) Margin; and
 - (ii) Compounded Reference Rate for that day.
- (b) If any day during an Interest Period for a Loan is not an RFR Banking Day, the rate of interest on that Loan for that day will be the rate applicable to the immediately preceding RFR Banking Day.
- (c) If, in relation to any Interest Period for a Loan, the Cumulative Compounded RFR Rate is less than zero, such amount shall be deemed to be zero.
- (d) If, pursuant to this Agreement, any accrued interest on all or any part of a Loan or an Unpaid Sum becomes payable prior to the last day of an Interest Period for that Loan or Unpaid Sum (including but not limited to, as a result of any of Clauses 9 (*Mandatory Prepayment*) and 37.8 (*Replacement of Lender*)), that Interest Period shall:
 - (i) for the purposes of calculating that accrued interest only, and in relation only to such part of that Loan or Unpaid Sum to which that accrued

- interest relates, be treated as ending on the day on which that accrued interest becomes payable pursuant to this Agreement; and
- (ii) for all other purposes under this Agreement, continue to end, and shall be treated as ending, on the last day of that Interest Period.

11.2 **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.

11.3 **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, is one (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 (having the same designation as the Loan or Facility to which the overdue amount is referable) 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 11.3 shall be immediately payable by the Obligor on demand by the Agent.
- (b) 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.

11.4 Notifications

- (a) The Agent shall promptly upon a Compounded Rate Interest Payment being determinable notify:
 - (i) the relevant Borrower of that Compounded Rate Interest Payment;
 - (ii) each relevant Lender of the proportion of that Compounded Rate Interest Payment which relates to that Lender's participation in the relevant Loan; and
 - (iii) the relevant Lenders and the relevant Borrower of:
 - (A) each applicable rate of interest relating to the determination of that Compounded Rate Interest Payment; and
 - (B) to the extent it is then determinable, the Market Disruption Rate (if any) relating to the relevant Loan.

This paragraph (a) shall not apply to any Compounded Rate Interest Payment determined pursuant to Clause 13.3 (*Cost of funds*).

(b) The Agent shall promptly notify the relevant Borrower of each Funding Rate relating to a Loan.

- (c) The Agent shall promptly notify the relevant Lenders and the relevant Borrower of the determination of a rate of interest relating to a Loan to which Clause 13.3 (*Cost of funds*) applies.
- (d) This Clause 11.4 shall not require the Agent to make any notification to any Party on a day which is not a Business Day.

12. **INTEREST PERIODS**

12.1 Selection of Interest Periods and Terms

- (a) A Borrower (or the Company on behalf of a Borrower) may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan is a Term Loan and has already been borrowed) in a Selection Notice.
- (b) Each Selection Notice for a Term Loan is irrevocable and must be delivered to the Agent by the Borrower (or the Company on behalf of the Borrower) to which that Term Loan was made not later than the Specified Time.
- (c) If a Borrower (or the Company) fails to deliver a Selection Notice to the Agent in accordance with paragraph (b) above, the relevant Interest Period will be the period specified in the applicable Reference Rate Terms.
- (d) Subject to this Clause 12, a Borrower (or the Company) may select an Interest Period of any period specified in the applicable Reference Rate Terms or of any other period agreed between the Company and all the Lenders in relation to the relevant Loan.
- (e) An Interest Period for a Loan shall not extend beyond the Termination Date applicable to its Facility.
- (f) Each Interest Period for a Term Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.
- (g) A Revolving Facility Loan has one Interest Period only.
- (h) No Interest Period shall be longer than six Months.

12.2 Non-Business Days

Any rules specified as "**Business Day Conventions**" in the applicable Reference Rate Terms for a Loan or Unpaid Sum shall apply to each Interest Period for that Loan or Unpaid Sum.

13. CHANGES TO THE CALCULATION OF INTEREST

13.1 Calculation if no RFR or Central Bank Rate

If:

- (a) there is no applicable RFR or Central Bank Rate for the purposes of calculating the Daily Non-Cumulative Compounded RFR Rate for an RFR Banking Day during an Interest Period for a Loan; and
- (b) "Cost of funds will apply as a fallback" is specified in the Reference Rate Terms for that Loan,

Clause 13.3 (Cost of funds) shall apply to that Loan for that Interest Period.

13.2 Market Disruption

If:

- (a) a Market Disruption Rate is specified in the Reference Rate Terms for a Loan; and
- (b) before the Reporting Time for that Loan the Agent receives notifications from a Lender or Lenders (whose participations in that Loan exceed 40 per cent. of that Loan) that its cost of funds relating to its participation in that Loan would be in excess of that Market Disruption Rate,

then Clause 13.3 (*Cost of funds*) shall apply to that Loan for the relevant Interest Period.

13.3 **Cost of funds**

- (a) If this Clause 13.3 applies to a Loan for an Interest Period, Clause 11.1 (*Calculation of interest*) shall not apply to that Loan for that Interest Period and the rate of interest on that Loan for that Interest Period shall be the percentage rate per annum which is the sum of:
 - (i) the applicable 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 the Reporting Time for that Loan, to be that which expresses as a percentage rate per annum its cost of funds relating to its participation in that Loan.
- (b) If this Clause 13.3 applies and the Agent or the Company so requires, the Agent and the Company shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.
- (c) Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Company, be binding on all Parties.

- (d) If this Clause 13.3 applies pursuant to Clause 13.2 (*Market Disruption*) and:
 - (i) a Lender's Funding Rate is less than the relevant Market Disruption Rate; or
 - (ii) a Lender does not notify a rate to the Agent by the relevant Reporting Time.

that Lender's cost of funds relating to its participation in that Loan for that Interest Period shall be deemed, for the purposes of paragraph (a) above, to be the Market Disruption Rate for that Loan.

(e) Subject to paragraph (d) above, if this Clause 13.3 applies but any Lender does not notify a rate to the Agent by the Reporting Time the rate of interest shall be calculated on the basis of the rates notified by the remaining Lenders.

13.4 Notification to the Company and replacement

- (a) If Clause 13.2 (*Market Disruption*) or Clause 13.3 (*Cost of funds*) applies to a Lender (an "**Affected Lender**") the Agent shall, as soon as is practicable, notify the Company.
- (b) An Affected Lender shall be subject to the terms of Clause 37.8 (*Replacement of Lender*).

14. **FEES**

14.1 **Commitment fee**

- (a) Subject to paragraph (b) below:
 - (i)
- (A) the Company shall pay (or shall procure that a Borrower pays) to the Agent (for the account of each Lender) a fee computed at the rate of 35 per cent. of the applicable Margin on that Lender's Available Commitment under the Capex Facility for the period from (and including) the Closing Date to (and including) the last day of the Availability Period applicable to the Capex Facility; and
- (B) any such accrued commitment fee is payable on the first Quarter Date that falls after the Closing Date and thereafter on the last day of each successive period of three (3) Months which ends during the Availability Period applicable to the Capex Facility, on the last day of the Availability Period applicable to the Capex Facility and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective; and

(ii)

- (A) the Company shall pay (or shall procure that a Borrower pays) to the Agent (for the account of each Lender) a fee computed at the rate of 35 per cent. of the applicable Margin on that Lender's Available Commitment under the Revolving Facility for the period from (and including) the Closing Date to (and including) the last day of the Availability Period applicable to the Revolving Facility; and
- (B) any such accrued commitment fee is payable on the first Quarter Date that falls after the Closing Date and thereafter on the last day of each successive period of three (3) Months which ends during the Availability Period applicable to the Revolving Facility, on the last day of the Availability Period applicable to the Revolving Facility and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.
- (b) 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.

14.2 Ticking fee

- (a) From the period from and including the date falling 60 days from the Signing Date to and including the Closing Date, the Company shall pay to the Agent (for the account of each Lender under the Term Acquisition Facility), a ticking fee computed at a rate of 0.20 per cent. per annum on that Lender's Available Commitment under the Term Acquisition Facility.
- (b) Any such accrued ticking fee is payable on the Closing Date.

14.3 **Arrangement fee**

The Company shall pay (or shall procure that a Borrower pays) to the Agent (for the account of each Mandated Lead Arranger) an arrangement in the amount and at the times agreed in a Fee Letter.

14.4 Agency fee

The Company shall pay (or shall procure that a Borrower pays) to the Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

14.5 **Security Agent fee**

The Company shall pay (or shall procure that a Borrower pays) to the Security Agent (for its own account) a security agency fee in the amount and at the times agreed in a Fee Letter.

14.6 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.

14.7 No closing, no fee

Notwithstanding any provision of this Clause 14, Clause 19 (*Costs and Expenses*) or any obligation in any Fee Letter, no fees, costs or expenses of the Finance Parties of any kind (other than reasonably incurred third party legal fees up to the amount of any pre-agreed caps) shall be payable unless and until the Closing Date occurs.

15. TAX GROSS-UP AND INDEMNITIES

15.1 **Definitions**

In this Agreement:

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

- (a) where it relates to a UK Treaty Lender that is an Original Lender, contains the scheme reference number and jurisdiction of tax residence stated opposite that 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 Signing Date; 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, 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 (as applicable), and
 - (i) where the Borrower is a Borrower as at the relevant Transfer Date or Increase Date, is filed with HM Revenue & Customs within 30 days of that Transfer Date or Increase Date; or
 - (ii) where the Borrower is not a Borrower as at the relevant Transfer Date or Increase Date, is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower.

"**Protected Party**" means a Finance Party which is or will be subject to any liability or required to make any payment for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"Qualifying Lender" means a Lender which is:

- (a) a UK Treaty Lender; or
- (b) a UK 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 15.2 (*Tax gross-up*) or a payment under Clause 15.3 (*Tax indemnity*).

"UK Lender" means:

- (a) a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:
 - (i) a Lender:
 - (A) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a Finance Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payments apart from section 18A of the CTA; or
 - (B) in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made and within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or
 - (ii) a UK Non-Bank Lender; or
- (b) a Lender which is a building society (as defined for the purpose of section 880 of the ITA) making an advance under a Finance Document.

"UK Non-Bank Lender" means a Lender which is:

- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
- (b) a partnership each member of which is:
 - (i) a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest

payable in respect of that advance that falls to it by reason of Part 17 of the CTA;

(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 Tax Confirmation" means a confirmation by a Lender that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
- (b) a partnership each member of which is:
 - (i) a company resident in the United Kingdom for United Kingdom tax purposes; or
 - (ii) a company not resident in the United Kingdom for United Kingdom tax purposes but which carries on a trade in the United Kingdom through a permanent establishment and is required to bring into account in computing its chargeable profits (for the purposes 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 resident in the United Kingdom for United Kingdom tax purposes which carries on a trade in the UK through a permanent establishment and is required to bring into account interest payable in respect of that advance in computing its chargeable profits (for the purposes of section 19 of the CTA).

"UK Treaty 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) is treated as a resident of a UK Treaty State for the purposes of the UK Treaty;
- (b) does not carry on a business in the United Kingdom through a permanent establishment with which that Lender's participation in the Loan is effectively connected; and
- (c) fulfils any condition that must be fulfilled under the UK Treaty to obtain exemption from Tax imposed by the United Kingdom on interest except that for these purposes it is assumed that there are fulfilled:
 - (i) any condition contained in the Treaty which relates to the amount or terms of that advance or to there not being a special relationship between the Obligor and a Finance Party or between both of them and another person by reason of which the amount of interest paid exceeds the amount which would have been paid in the absence of such relationship; and
 - (ii) any necessary procedural formalities.

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

Unless a contrary indication appears, in this Clause 15 a reference to "**determines**" or "**determined**" means a determination made in the absolute discretion of the person making the determination, acting reasonably and in good faith.

15.2 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 Company shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall promptly notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall promptly notify the Company and that Obligor.
- (c) Except as provided below, 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) An Obligor is not required to make an increased payment under paragraph (c) above by reason of a Tax Deduction on account of Tax imposed by the United Kingdom if on the date on which the payment falls due:
 - (i) the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the administration, or application of) any law or UK Treaty or any published practice or published concession of any relevant taxing authority (a "Change of Tax Law"); or
 - (ii) the relevant Lender is a Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of "**UK 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 Company a certified copy of that Direction; and
 - (B) the payment could have been made to the Lender without any Tax Deduction if that Direction had not been made; or

- (iii) the relevant Lender is a Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of "**UK Lender**" and:
 - (A) the relevant Lender has not given a UK Tax Confirmation to the Company; and
 - (B) the payment could have been made to the Lender without any Tax Deduction if the Lender had given a UK Tax Confirmation to the Company, on the basis that the UK Tax Confirmation would have enabled the Company to have formed a reasonable belief that the payment was an "excepted payment" for the purpose of section 930 of the ITA; or
- (iv) the relevant Lender is a UK Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under paragraph (g), (h) or (i) (as applicable) below.
- (e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (f) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction or the Company shall deliver to the Agent for the Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid or accounted for to the relevant taxing authority.
- (g) Subject to paragraph (h) below, a UK Treaty Lender and each Obligor which makes a payment to which that UK Treaty Lender is entitled must co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction, including making and filing (where appropriate) an application for relief under the relevant UK Treaty.

(h)

- (i) A UK Treaty Lender which becomes a Party on the day on which this Agreement is entered into that holds a passport under the HMRC DT Treaty Passport scheme, and 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
- (ii) a New Lender or an Increase Lender that is a UK Treaty Lender that holds a passport under the HMRC DT Treaty Passport scheme, and 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 or Assignment Agreement or Increase Confirmation which it executes,

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

- (i) If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with paragraph (h) above and:
 - (i) a Borrower making a payment to that Lender has not made a Borrower DTTP Filing in respect of that Lender; or
 - (ii) a Borrower making a payment to that Lender has made a Borrower DTTP Filing in respect of that Lender but:
 - (A) that Borrower DTTP Filing has been rejected by HM Revenue & Customs; or
 - (B) HM Revenue & Customs has not given the Borrower authority to make payments to that Lender without a Tax Deduction within 60 days of the date of the Borrower DTTP Filing,

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

- (j) If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (h) above, no Obligor shall make a Borrower DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Lender's Commitment or its participation in any Utilisation unless the Lender otherwise agrees.
- (k) A Borrower shall, promptly on making a Borrower DTTP Filing, deliver a copy of that Borrower DTTP Filing to the Agent for delivery to the relevant Lender.
- (l) A UK Non-Bank Lender which becomes a Party as a Lender on the day on which this Agreement is entered into provides a UK Tax Confirmation to the Company by entering into this Agreement.
- (m) A UK Non-Bank Lender must promptly notify the Company and the Agent of any change in the position from that set out in the UK Tax Confirmation.

15.3 **Tax indemnity**

(a) The Company shall (or, shall procure that an Obligor will) (within three 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 15.2 (*Tax gross-up*);
 - (B) would have been compensated for by an increased payment under Clause 15.2 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in that Clause applied;
 - (C) is suffered or incurred with respect to any Bank Levy (or any payment attributable to, or liability arising as a consequence of, a Bank Levy);
 - (D) is compensated for by a payment under Clause 15.6 (*Stamp and Transfer taxes*) or would have been compensated by a payment under that clause but was not so compensated solely because one of the exclusions in that clause applied;
 - (E) is attributable to VAT (which shall instead be dealt with pursuant to Clause 15.7 (*VAT*); or
 - (F) relates to a FATCA Deduction required to be made by a Party.
- (c) A Protected Party making, or intending to make, a claim under paragraph (a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim following which the Agent shall promptly notify the Company.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 15.3, notify the Agent.

15.4 Tax Credit

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

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

the Finance Party shall 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.

15.5 Lender status confirmation

- (a) Each Lender that is a Party to this Agreement as at the Signing Date confirms that it is a Qualifying Lender.
- (b) Each Lender which becomes a Party to this Agreement after the Signing Date shall indicate, in the Transfer Certificate, Assignment Agreement or Increase Confirmation (as applicable) which it executes on becoming a Party, and for the benefit of the Agent and without liability to any Obligor, which of the following categories it falls in with regard to each Obligor to which it will make an advance under any Finance Document:
 - (i) not a Qualifying Lender;
 - (ii) a Qualifying Lender (other than a UK Treaty Lender); or
 - (iii) a UK Treaty Lender.
- (c) If a New Lender or Increase Lender fails to indicate its status in accordance with this Clause 15.5 then such New Lender or Increase Lender shall be treated for the purposes of this Agreement (including by each Obligor) as if it is not a Qualifying Lender until such time as it notifies the Agent which category applies (and the Agent, upon receipt of such notification, shall inform the Company). For the avoidance of doubt, a Transfer Certificate, Assignment Agreement or Increase Confirmation shall not be invalidated by any failure of a Lender to comply with this Clause 15.5.

15.6 **Stamp and Transfer taxes**

The Company shall indemnify against and, within three Business Days of demand, pay (or procure payment to) each Finance Party the amount of any cost, loss or liability that Finance Party incurs in relation to all stamp duty, transfer taxes, registration and other similar Taxes payable in respect of any Finance Document, other than (for the avoidance of doubt) in relation to any transfer or assignment of any Finance Party's rights under any Finance Document except for (i) any assignment or transfer during the primary syndication of the Facilities, (ii) where such transfer or assignment is required under the terms of the

Finance Documents or (iv) where such transfer or assignment occurs in circumstances where an Event of Default is continuing.

15.7 **VAT**

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT, subject to such Finance Party having delivered to that Party a proper invoice in respect of that VAT.
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the "Supplier") to any other Finance Party (the "Recipient") under a Finance Document, and any Party other than the Recipient (the "Relevant Party") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
 - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (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 15.7 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 representative member of such group at such time (the term "representative member" to have the same meaning as in the Value Added Tax

Act 1994) or 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 must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

15.8 **FATCA Information**

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

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

15.9 **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 Company and the Agent and the Agent shall notify the other Finance Parties.

16. **INCREASED COSTS**

16.1 **Increased Costs**

- (a) Subject to Clause 16.3 (*Exceptions*) the Company shall (or shall procure that an Obligor will), within five Business Days of a written demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:
 - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation (which has the force of law and/or with which lenders customarily comply) which occurred after the Signing Date;
 - (ii) compliance with any law or regulation (which has the force of law and/or with which lenders customarily comply) made after the Signing Date; or
 - (iii) the implementation or application of, or compliance with, Basel III or CRD IV or any law or regulation that implements or applies Basel III or CRD IV (but not, for the avoidance of doubt, Basel II (as defined in paragraph (a)(ix) of Clause 16.3 (*Exceptions*))) only to the extent that such Increased Costs could not reasonably have been calculated with sufficient accuracy by the relevant Finance Party on the Signing Date and the relevant Finance Party confirms as such to the Company and that it is its general policy to charge such costs to similar borrowers of similar facilities.

(b) In this Agreement:

"Basel III" means:

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

"CRD IV" means EU CRD IV and UK CRD IV.

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

"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 to a member of the Group under any Finance Document.

"UK 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 as it forms part of domestic law of the United Kingdom by virtue of the Withdrawal Act;
- (b) the law of the United Kingdom or any part of it, which immediately before IP completion day (as defined in the Withdrawal Act) implemented Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC; and
- (c) direct EU legislation (as defined in the Withdrawal Act), which immediately before IP completion day (as defined in the Withdrawal Act) implemented EU CRD IV as it forms part of domestic law of the United Kingdom by virtue of the Withdrawal Act.

16.2 **Increased Cost claims**

- (a) A Finance Party intending to make a claim pursuant to Clause 16.1 (*Increased Costs*) shall notify the Agent within 180 days of becoming aware of the event giving rise to the claim, following which the Agent shall promptly notify the Company.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Agent (which the Agent shall make upon the Company's request), provide a certificate confirming the amount of its Increased Costs.

16.3 Exceptions

- (a) Clause 16.1 (*Increased Costs*) does not apply to the extent any Increased Cost is:
 - (i) attributable to a Tax Deduction required by law to be made by an Obligor;
 - (ii) attributable to a FATCA Deduction required to be made by a Party;
 - (iii) compensated for by Clause 15.3 (*Tax indemnity*) (or would have been compensated for under Clause 15.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 15.3 (*Tax indemnity*) applied);
 - (iv) compensated for by Clause 15.6 (*Stamp and Transfer taxes*) or would have been compensated for under Clause 15.6 (*Stamp and Transfer taxes*) but was not so compensated solely because any of the exclusions in Clause 15.6 (*Stamp and Transfer taxes*) applied;
 - (v) compensated for by Clause 15.7 (*VAT*);

- (vi) attributable to any Bank Levy (or any payment attributable to, or liability arising as a consequence of, a Bank Levy);
- (vii) the subject of a claim by a Finance Party pursuant to Clause 16.1 (*Increased Costs*) 180 or more days from the date upon which such Finance Party became aware of such Increased Cost;
- (viii) attributable to the wilful non-compliance by the relevant Finance Party or its Affiliates with any applicable law or regulation; or
- (ix) attributable to the implementation or application of or compliance with the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the Signing Date (but excluding any amendment arising out of Basel III) ("Basel II") or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates).
- (b) In this Clause 16.3 reference to a "**Tax Deduction**" has the same meaning given to the term in Clause 15.1 (*Definitions*).

17. **OTHER INDEMNITIES**

17.1 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,

the Company shall (or shall procure that that Obligor will) 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 (i) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (ii) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) 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.

17.2 Other indemnities

- (a) The Company shall (or shall procure that an Obligor will), within five Business Days of demand, indemnify the Mandated Lead Arrangers and each other Secured Party against any cost, loss or liability incurred by it as a result of:
 - (i) the occurrence of any Event of Default;
 - (ii) a failure by 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 30 (*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); or
 - (iv) a Utilisation (or part of a Utilisation) not being prepaid in accordance with a notice of prepayment given by a Borrower or the Company.
- (b) The Company shall promptly indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party in connection with or arising out of the Acquisition or the funding of the Acquisition (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the Acquisition), unless such loss or liability is caused by the gross negligence or wilful misconduct of that Finance Party.

17.3 **Indemnity to the Agent**

The Company shall (or shall procure that an Obligor will) promptly indemnify the Agent (or its nominee) against:

- (a) any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
 - (i) investigating any event which it reasonably believes is a Default;
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and
- (b) any cost, loss or liability incurred by the Agent (or its nominee) otherwise than by reason of the Agent's (or its nominee's) gross negligence or wilful misconduct (or, in the case of any cost, loss or liability pursuant to Clause 31.11 (*Disruption to Payment Systems etc.*) notwithstanding the Agent's negligence

but not including any claim based on the fraud of the Agent (or its nominee)) in acting as Agent under the Finance Documents.

18. MITIGATION BY THE LENDERS

18.1 **Mitigation**

- (a) Each Finance Party shall, in consultation with the Company, take all reasonable steps to mitigate any circumstances which arise and which would result in any Facility ceasing to be available or any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 8.1 (*Illegality*), Clause 15 (*Tax Gross-up and Indemnities*) or Clause 16 (*Increased Costs*) including (but not limited to) transferring or assigning 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.

18.2 **Limitation of liability**

- (a) The Company shall promptly indemnify each Finance Party (and, in connection with any Scots law Transaction Security, the Agent's nominee) for all costs and expenses reasonably incurred by that Finance Party (and, in connection with any Scots Law Transaction Security, the Agent's nominee) as a result of steps taken by it under Clause 18.1 (*Mitigation*).
- (b) A Finance Party (and, in connection with any Scots law Transaction Security, the Agent's nominee) is not obliged to take any steps under Clause 18.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be reasonably likely to be prejudicial to it.

19. COSTS AND EXPENSES

19.1 **Transaction expenses**

The Company shall (or shall procure that an Obligor will) promptly and within five Business Days of written demand (giving reasonable details of each of the amounts incurred, including providing documents and invoices evidencing such expenses) pay the Agent, the Mandated Lead Arrangers and the Security Agent the amount of all reasonable third party costs and expenses (including pre-agreed third party legal fees, up to the amount of any pre-agreed caps) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and
- (b) any other Finance Documents executed after the Signing Date.

19.2 Amendment costs

In relation to any amendment, waiver or consent of, under or pursuant to the Finance Documents, the Company shall (or shall procure that an Obligor will), within five (5) Business Days of written demand (containing reasonable details of each of the amounts incurred, including providing documents and invoices evidencing such expenses), reimburse each of the Agent and the Security Agent for the amount of all reasonable third party costs and expenses (including pre-agreed third party legal fees, up to the amount of any pre-agreed caps) reasonably incurred by the Agent and the Security Agent (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

19.3 Enforcement and preservation costs

The Company shall, within five (5) Business Days of written demand (containing reasonable details of each of the amounts incurred, including providing documents and invoices evidencing such expenses), pay (or shall procure that an Obligor will pay) to the Mandated Lead Arrangers and each other Secured Party the amount of all costs and expenses (including legal fees):

- (a) properly incurred by it in connection with the enforcement of any rights under any Finance Document and the Transaction Security; and
- (b) incurred by it in connection with the preservation of any rights under any Finance Document and the Transaction Security and any proceedings instituted by or against the Security Agent (save for any proceedings arising from the Security Agent's gross negligence or wilful misconduct) as a consequence of taking or holding the Transaction Security.

20. **REPRESENTATIONS**

20.1 General

- (a) Each Obligor makes the representations and warranties set out in this Clause 20 to each Finance Party and such representations and warranties are made by reference to the circumstances existing at the time such representation or warranty is made.
- (b) The Parent (in respect of itself only) makes the representations and warranties where specified below.
- (c) In relation to the representations and warranties made on the Signing Date and any other date on or before the Closing Date, it is assumed that the Closing Date has occurred.

20.2 Status

(a) The Parent, each Obligor and each of its Subsidiaries is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

- (b) The Parent, each Obligor and each other member of the Group has the power to own its assets and carry on its business as it is now being conducted, save, in respect of a member of the Target Group, to the extent that failure to do so has or is reasonably likely to have a Material Adverse Effect.
- (c) The Parent makes the representations in this Clause 20.2 in respect of itself only.

20.3 **Binding Obligations**

Subject to the Legal Reservations and, in respect of the Transaction Security Documents, the Perfection Requirements:

- (a) the obligations expressed to be assumed by each Obligor and the Parent in each Transaction 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 or the Parent is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective.

The Parent makes the representations in this Clause 20.3 in respect of itself only.

20.4 Non conflict with other Obligations

- (a) The entry into and performance by the Parent and each Obligor of, and the transactions contemplated by, the Transaction Documents to which it is a party and the granting by it of the Transaction Security does not and will not conflict with:
 - (i) any material law or regulation applicable to it;
 - (ii) the constitutional documents of any member of the Group; or
 - (iii) any agreement or instrument binding upon it or any member of the Group or any of its assets or any member of the Group's assets or constitute a default or termination event (however described) under any such agreement or instrument,

and in the case of paragraph (iii) above only, to an extent that has or is reasonably likely to have a Material Adverse Effect

(b) The Parent makes the representations in this Clause 20.4 in respect of itself only.

20.5 **Power and authority**

- (a) The Parent and 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 Transaction Documents to which it is or will be a party and the transactions contemplated by those Transaction Documents.
- (b) The Parent makes the representations in this Clause 20.5 in respect of itself only.

20.6 Validity and admissibility in evidence

- (a) Subject to the Legal Reservations and, in respect of the Transaction Security Documents, the Perfection Requirements, all Authorisations required:
 - (i) to enable the Parent and each Obligor 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 Parent and each Obligor is a party admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect or will be obtained or effected prior to the date on which such Authorisations are required.

- (b) All Authorisations necessary for the conduct of the business of the Parent and any member of the Group have been obtained or effected and are in full force and effect if failure to obtain or effect those Authorisations has or is reasonably likely to have, a Material Adverse Effect.
- (c) The Parent makes the representations in this Clause 20.6 in respect of itself only.

20.7 Governing Law and Enforcement

- (a) Subject to the Legal Reservations, the choice of governing law of the Finance Documents will be recognised and enforced in its Relevant Jurisdictions.
- (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 Relevant Jurisdictions.
- (c) The representations in this Clause 20.7 are made by each Obligor and the Parent (in respect of itself only).

20.8 **Insolvency**

- (a) No:
 - (i) corporate action, legal proceeding or other procedure or step described in paragraph (a) of Clause 24.7 (*Insolvency proceedings*); or
 - (ii) creditors' process described in Clause 24.8 (*Creditors' process*),

has been taken or, to its knowledge, threatened in writing in relation to the Parent, an Obligor or any member of the Group and none of the circumstances described in Clause 24.6 (*Insolvency*) applies to the Parent, an Obligor or any member of the Group.

(b) The Parent makes the representations in this Clause 20.8 in respect of itself only.

20.9 **No Filing or Stamp Taxes**

- (a) Under the laws of its Relevant Jurisdiction it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except any filing, recording, or enrolling or any tax or fee payable in relation to the Transaction Security, which is necessary to perfect the same and which (subject to the Agreed Security Principles) will be made promptly after the date of the relevant Finance Documents. This representation is made by each Obligor and the Parent and does not apply to any transfer or assignment of any Finance Party's rights under any Finance Document.
- (b) The Parent makes the representations in this Clause 20.9 in respect of itself only.

20.10 **Deduction of Tax**

In the case of a Borrower only, as at the date of this Agreement, it is not required to make any Tax Deduction (as defined in Clause 15.1 (*Definitions*)) from any payment it may make under any Finance Document to a Lender which is:

- (a) a Qualifying Lender:
 - (i) which is a UK Lender;
 - (ii) except where a Direction has been given under section 931 of the ITA in relation to the payment concerned, which is a UK Non-Bank Lender; or
- (b) a UK Treaty Lender and the payment is one specified in a direction given by the Commissioners of Revenue & Customs under Regulation 2 of the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 (SI 1970/488) that has not expired or otherwise become ineffective.

20.11 No Default

On the Signing Date and the Closing Date, no Default has occurred and is continuing or is reasonably likely to result from the making of any Utilisation or the entry into or the performance of, or any transaction contemplated by, any Finance Document.

20.12 **No Event of Default**

- (a) No Event of Default has occurred and is continuing or is reasonably likely to result from the making of any Utilisation or the entry into or the performance of, or any transaction contemplated by, any Finance Document.
- (b) No other event or circumstance is outstanding (to the best of its knowledge and belief (having made due and careful enquiry)) which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument

which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which would have, or would be reasonably likely to have, a Material Adverse Effect.

20.13 Taxation

- (a) It is not, and none of its Subsidiaries is, (to the best of its knowledge and belief (having made due and careful enquiry)) overdue in the filing of any Tax returns or in the payment of any Tax (other than Taxes contested in good faith) which, in each case, would have a Material Adverse Effect.
- (b) No claims or investigations are being, or are reasonably likely to be, made or conducted against it (or any of its Subsidiaries) with respect to Taxes such that a liability of, or claim against, any member of the Group would have, or would be reasonably likely to have, a Material Adverse Effect.
- (c) It is resident for Tax purposes only in its jurisdiction of incorporation.

20.14 **No Misleading Information**

- (a) Save as disclosed in writing to the Agent and the Mandated Lead Arrangers prior to the Signing Date, so far as the Company is aware (having made due and careful enquiry):
 - (i) the factual information relating to the Group contained in the Tax Structure Paper and the Reports and the factual information provided to the Mandated Lead Arrangers for the purposes of the preparation of the Information Memorandum was true and accurate in all material respects as at the date the relevant report information was supplied or, if earlier, the date attributed to such factual information:
 - (ii) the financial projections contained in the Base Case Model have been prepared on the basis of recent historical information, are fair and based on assumptions that, in the opinion of the Company, were reasonable as at the date they were made; and
 - (iii) all written factual information provided under this Agreement (excluding any financial projections) prepared by it, the Parent or the Investors in connection with the Finance Documents and provided by it or on its behalf to any Finance Party is accurate in all material respects and not deficient, misleading or deceptive in any material respect as at the date it was provided (whether by its inclusion or by omission of other information).
- (b) The Parent makes the representations in this Clause 20.14 in respect of itself only.

20.15 Financial Statements

(a) The Original Financial Statements were prepared in accordance with the Accounting Principles consistently applied as at the date such Original Financial Statements were prepared unless expressly disclosed to the Agent in writing to

the contrary or unless referred to in such Original Financial Statements (or the notes thereto).

- (b) The audited Original Financial Statements give a true and fair view of the financial condition and the results of operations during the relevant financial year unless expressly disclosed to the Agent in writing to the contrary prior to the Signing Date.
- (c) Its most recent financial statements delivered pursuant to Clause 21.1 (*Financial statements*) give a true and fair view of (if audited) or fairly represent (if unaudited) its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate and, in the case of unaudited accounts, subject to year-end adjustments and only judged by a standard expected of unaudited management accounts.
- (d) The budgets and forecasts (including, for the avoidance of doubt, the Base Case Model) supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied.

20.16 Accounting Reference Date

The Accounting Reference Date of the Company is 31 December.

20.17 No Proceedings Pending or Threatened

Save as disclosed in writing to the Agent and the Mandated Lead Arrangers prior to the Signing Date, no litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which have or are reasonably likely to have a Material Adverse Effect have (to the best of its knowledge and belief (having made due and careful enquiry)) been commenced or threatened against any member of the Group.

20.18 No Breach of Laws

It has not, and none of its Subsidiaries has, (to the best of its knowledge and belief, having made due and careful enquiry) breached any applicable laws or regulations necessary for the conduct of its business, in each case in any respect which breach has or is reasonably likely to have a Material Adverse Effect.

20.19 Environmental Laws

- (a) Each member of the Group is in compliance with Clause 23.3 (*Environmental Compliance*) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has, or is reasonably likely to have, a Material Adverse Effect.
- (b) No Environmental Claim has, to the best of its knowledge and belief (having made due and careful enquiry), been commenced against it or any member of

the Group where that claim is likely to be successful for the claimant and, if successful, has or is reasonably likely to have a Material Adverse Effect.

20.20 Security and Financial Indebtedness

- (a) No:
 - (i) Security or Quasi-Security exists over all or any of the present or future assets of any member of the Group other than as permitted by this Agreement (including any Permitted Security);
 - (ii) Security or Quasi-Security exists over all or any of the Charged Property of the Parent other than as permitted by this Agreement (including any Permitted Security); and
 - (iii) member of the Group or the Parent has any Financial Indebtedness outstanding other than as permitted by this Agreement (including any Permitted Financial Indebtedness).
- (b) The Parent makes the representations in this Clause 20.20 in respect of itself only.

20.21 Ranking

- (a) Subject to the Legal Reservations and the Perfection Requirement, the Transaction Security granted in respect of the Facilities has first ranking priority and it is not subject to any prior ranking or *pari passu* ranking Security.
- (b) Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for claims mandatorily preferred by law applying to companies generally.

20.22 Good Title to Assets

Save as disclosed in the Reports and other than to an extent which would not have a Material Adverse Effect, it and each of its Subsidiaries has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on the Permitted Business.

20.23 Legal and Beneficial Ownership

- (a) The Parent or any Obligor (as applicable) is the sole legal and beneficial owner of the respective assets over which it purports to grant Transaction Security.
- (b) The Parent makes the representations in this Clause 20.23 in respect of itself only.

20.24 Shares

(a) The shares of any member of the Group which are subject to the Transaction Security are fully paid.

- (b) There are no agreements in force in respect of the shares which are subject to Transaction Security which restrict or could restrict (other than a restriction in favour of another Obligor) or inhibit any transfer of those shares on creation or enforcement of the Transaction Security.
- (c) There are no agreements in force which provide for the issue or allotment of or grant any person the right to call for the issue or allotment of, any share or loan capital of any member of the Group.
- (d) The constitutional documents of companies whose shares are subject to Transaction Security do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security.
- (e) The representations in this Clause 20.24 are made by the Parent (in respect of itself only) and each Obligor.

20.25 **Intellectual Property**

It and each of its Subsidiaries:

- (a) is the sole legal and beneficial owner of or has licensed to it on normal commercial terms all the Intellectual Property which is required by it in order to carry on its business as it is being conducted where failure to do so has or would be reasonably expected to have a Material Adverse Effect;
- (b) does not, in carrying on its businesses, to the best of its knowledge and belief (having made due and careful enquiry) infringe any Intellectual Property of any third party in any respect which has, or would be reasonably expected to have, a Material Adverse Effect; and
- (c) has taken all formal or procedural actions (including payment of fees) required to maintain any material Intellectual Property owned by it, where failure to do so has, or would be reasonably expected to have, a Material Adverse Effect.

20.26 **Group Structure Chart**

On the Signing Date only, to the best of its knowledge and belief insofar as the Group Structure Chart relates to the Target Group and having made such enquiry as it is reasonably able to make in the circumstances, 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, **provided that** the Group Structure Chart shall not be inaccurate if code-names are used to preserve the confidentiality of the Target Group.

20.27 Holding Companies

- (a) Except as may arise under the Transaction Documents, prior to the Closing Date, the Parent and the Company had not traded or incurred any liabilities or commitments (actual or contingent, present or future) other than any Permitted Holding Company Activity.
- (b) The Parent makes the representations in this Clause 20.27 in respect of itself only.

20.28 Anti-corruption law

- (a) The Parent and each member of the Group has, to the best of their knowledge and belief, conducted its business in compliance with anti-corruption laws and Money Laundering Laws.
- (b) The Parent and each member of the Group has instituted and maintained policies and procedures designed to promote and achieve compliance with Sanctions.
- (c) The Parent makes the representations in this Clause 20.28 in respect of itself only.

20.29 Sanctions

- (a) None of the Parent, any Obligor or any member of the Group nor, to the best of their knowledge and belief, any of their respective directors or officers:
 - (i) has violated or is violating any Sanctions;
 - (ii) is subject to any claim, proceeding, formal notice, investigation or other actions by any regulator, governmental agency or enforcement authority or third party with respect to Sanctions or any anti-corruption or anti-bribery laws;
 - (iii) is a Restricted Party or is engaging in any transaction or conduct (directly or indirectly) that could result in it becoming a Restricted Party or any relevant person becoming a subject of Sanctions; or
 - (iv) is engaging or has engaged in any transaction that evades or avoids, or has the purpose of evading or avoiding, or breaches or attempts to breach, directly or indirectly, any Sanctions applicable to it,

provided that, this paragraph (a) shall not apply to, or in favour of, any person if, and to the extent that, it would result in any violation by or liability of or in respect of that person of any Blocking Regulation (where such person is a Lender, a "**Restricted Lender**").

- (b) No Loan, nor the proceeds from any Loan, has been used, directly or indirectly, to lend, contribute, provide or has otherwise been made available to fund any activity or business in any Sanctioned Country or to fund any activity of or business with any Restricted Party, or in any other manner that resulted in any violation by any Finance Party of Sanctions and for any purpose that would cause a breach of Money Laundering Laws.
- (c) In connection with any waiver, determination or direction relating to any part of this Clause 20.29 of which a Restricted Lender does not have the benefit, the Commitment of that Restricted Lender will be excluded for the purpose of determining whether the consent of the requisite majority of the Lenders has been obtained or whether the determination or direction by the requisite majority of Lenders has been made.

(d) The Parent makes the representations in this Clause 20.29 in respect of itself only.

20.30 Acquisition Documents

The Announcement, the Scheme Circular (if any) and the Offer Document (if any) delivered to the Agent contain all the material terms and conditions of the Scheme or, as the case may be, the Offer as at the date of publication and the Acquisition Documents reflect the Announcement in all material respects.

20.31 Times When Representations are Made

- (a) All the representations and warranties in this Clause 20 are made by each Original Obligor on the Signing Date and on the Closing Date.
- (b) The Repeating Representations are deemed to be made by each Obligor and, where applicable, the Parent on the date of each Utilisation Request, on each Utilisation Date and on the first day of each Interest Period.
- (c) The Repeating Representations are deemed to be made by each Additional Obligor on the day on which it becomes an Additional Obligor, but only, in each case, with respect to itself and (if applicable), its Subsidiaries.
- (d) Each representation or warranty deemed to be made after the Signing Date 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.

21. **INFORMATION UNDERTAKINGS**

The undertakings in this Clause 21 remain in force from the Signing Date for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

In this Clause 21, the following terms have the following meanings:

"Annual Financial Statements" means the financial statements for a Financial Year delivered pursuant to paragraph (a) of Clause 21.1 (*Financial statements*).

"Semi-Annual Financial Statements" means the financial statements for a Financial Half-Year delivered pursuant to paragraph (b) of Clause 21.1 (*Financial statements*).

21.1 Financial statements

The Company shall supply to the Agent:

- (a) as soon as they are available, but in any event within 150 days after the end of each Financial Year, the audited consolidated financial statements of the Company for that Financial Year;
- (b) as soon as they are available, but in any event within 90 days after the end of each Financial Half-Year ending on or about 30 June in each Financial Year,

- the unaudited consolidated financial statements of the Company for that Financial Half-Year; and
- (c) to the extent they are prepared, as soon as they are available, but in any event within 150 days after the end of each of its Financial Years, the audited consolidated financial statements of each Obligor for that Financial Year **provided that**, for the avoidance of doubt, nothing in this paragraph (c) shall require any Obligor to prepare audited financial statements to the extent that such Obligor does not otherwise prepare audited financial statements.

21.2 Provision and contents of Compliance Certificate

- (a) The Company shall supply a Compliance Certificate to the Agent with each set of Annual Financial Statements and Semi-Annual Financial Statements.
- (b) The Compliance Certificate shall set out, amongst other things:
 - (i) compliance and computations (including details of the relevant adjustments included in *Pro Forma* Consolidated EBITDA) as to compliance with the Default Ratios and in respect of each Relevant Period ending on a Lock-Up Calculation Date, the Lock-Up Tests and any Cash Sweep Proceeds;
 - (ii) the identity of any Material Companies;
 - (iii) a confirmation as to compliance with the requirements of Clause 23.26 (*Guarantors*);
 - (iv) a confirmation of the calculation of Excess Cashflow in respect of the Relevant Period and Retained Excess Cashflow as at the end of that Relevant Period; and
 - (v) a confirmation as to whether a Clean Down Period occurred during the Relevant Period to which the Compliance Certificate relates.
- (c) Each Compliance Certificate shall be signed by an authorised officer of the Company.

21.3 Requirements as to financial statements

- (a) Each set of Annual Financial Statements and Semi-Annual Financial Statements shall be certified by a director of the Company as fairly presenting its financial condition and operations as at the date at which those financial statements were drawn up.
- (b) The Company shall procure that each set of Annual Financial Statements includes a balance sheet, a profit and loss account and a cashflow statement.
- (c) The Company shall procure that each set of Annual Financial Statements and Semi-Annual Financial Statements is accompanied with information to determine whether the Default Ratios have been complied with, to determine whether a Lock-Up Event has occurred, to determine the amount of any

prepayments to be made from Excess Cashflow under Clause 9.4 (*Disposal*, *Insurance*, *Report*, *Cure Amount*, *Excess Cashflow and Refinancing Proceeds*).

- (d) The Company shall procure that each set of Annual Financial Statements and Semi-Annual Financial Statements is prepared using the Accounting Principles, accounting practices and financial reference periods consistent with those applied in the preparation of the Base Case Model unless in relation to any set of financial statements, it notifies the Agent that there has been a material change in the Accounting Principles, the accounting practices or reference periods and the Company delivers to the Agent, in respect of the subsequent Calculation Date only:
 - (i) a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices upon which the Base Case Model was prepared;
 - (ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether the Default Ratios have been complied with and to determine whether a Lock-Up Event has occurred and to determine the amount of any prepayment required to be made from Excess Cashflow; and
 - (iii) in respect of the Semi-Annual Financial Statements, such financial statements shall be accompanied by a statement of an authorised signatory of the Company commenting on the performance of the Group for the Financial Half-Year which such financial statements relate and the Financial Year to date and any material developments.
- (e) If the Company notifies the Agent of a change in accordance with paragraph (d) above, then at the option of the Company, the Company and the Agent (acting on the instructions of the Majority Lenders) may enter into negotiations in good faith with a view to agreeing:
 - (i) any amendments to the financial covenant levels to preserve the then applicable headroom; and

(ii)

- (A) whether or not the change might result in any material alteration in the commercial effect of any of the terms of this Agreement; and
- (B) if so, any amendments to this Agreement which may be necessary to ensure that the change does not result in any material alteration in the commercial effect of those terms,

and, if any amendments are agreed, they shall take effect and be binding on each of the Parties in accordance with their terms.

(f) Any reference in this Agreement to any financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon

- which the Base Case Model or, as the case may be, the Original Financial Statements were prepared.
- (g) Notwithstanding any other term of this Agreement no Event of Default shall occur, or be deemed to occur, as a result of any restriction on the identity of the Company's Auditors contained in this Agreement being prohibited, unlawful, ineffective, invalid or unenforceable pursuant to the Audit Laws.

21.4 Budget

- (a) The Company shall supply to the Agent, as soon as the same becomes available but in any event within 45 days of the start of each of its Financial Years (from the Financial Year commencing on 1 January 2022), an annual budget with respect to the Group for that Financial Year, which has been approved by the board of directors of the Company.
- (b) The Company shall ensure that each Budget includes a business update and a projected consolidated balance sheet, income statement and cashflow statement for the Group for the period to which the Budget relates.
- (c) Commencing with the Financial Year ending 31 December 2022, the Company shall, once in each Financial Year (and **provided that** there shall be no more than an 18 month gap between the delivery of two such reports) promptly after the same becomes available, supply to the Agent a report on corporate social responsibility.

21.5 **Presentations**

- (a) Once in every Financial Year (other than in respect of the Financial Year ending on 31 December 2021), if so requested by the Agent, at least one director or officer of the Company shall give a presentation in person or by conference call to the Finance Parties about the on-going business and financial performance of the Group.
- (b) On request of the Agent not more than twice in each Financial Year, the Company shall use reasonable endeavours to arrange a conference call where management of the relevant members of the Group shall update the Finance Parties on any material pollution, contamination, spillage or leakage of any hazardous substance, any material health & safety incident / accident or other material event or circumstance reported as part of group customary internal arrangements.

21.6 Information: miscellaneous

The Company shall supply to the Agent:

(a) subject to any relevant confidentiality restrictions imposed by law or regulation, at the same time as they are dispatched, copies of all material documents dispatched by any member of the Group to its creditors generally (or any class of them) other than any Holding Company or Investor;

- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings (including details of any penalties or fees imposed on a member of the Group), which are current, threatened in writing or pending against any member of the Group, and which, if adversely determined, would have, or would be reasonably likely to have, a Material Adverse Effect; and
- (c) promptly on request, such material information as the Agent may reasonably require regarding the financial condition assets and operations of the Group (other than where the request requires the Group to do or omit to do anything it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty of confidentiality), **provided that**, in each case, the Agent reasonably suspects the occurrence of a Default.

21.7 **Notification of default**

The Company shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence and (if applicable) the steps taken or proposed to be taken to remedy it, **provided that** where such Default relates to compliance with the Default Ratios and would otherwise be set out in the Compliance Certificate (delivered in respect of the Relevant Period in which the Default occurs), no such notification under this Clause 21.7 is required to be given to the Agent prior to the delivery of the Compliance Certificate.

21.8 "Know your customer" checks

- (a) If:
 - (i) the introduction of or any change in (or in the administration or application of) any law or regulation made after the Signing Date; or
 - (ii) any change in the status of an Obligor or the Parent or the composition of the shareholders of an Obligor or the Parent after the Signing Date; 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 (a)(iii) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor (and the Company in respect of the Parent) 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 (a)(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 (a)(iii) above, any prospective new Lender to carry out and be satisfied it has complied with all

necessary "**know your customer**" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of the Agent or Security Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) or Security Agent in order for the Agent to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
- (c) The Company shall, by not less than 10 Business Days' prior written notice to the Agent and the Security Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Obligor pursuant to Clause 27 (*Changes to the Obligors*).
- (d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Obligor obliges the Agent, the Security Agent or any Lender to comply with "know your customer" or similar identification procedures in respect of such Additional Obligor in circumstances where the necessary information is not already available to the Agent, the Security Agent or such Lender, the Company 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 the Security Agent or any Lender), the Security Agent or any Lender (for itself or on behalf of any prospective New Lender) and is available to it 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.

21.9 **Disclosure restrictions**

Subject to the requirement to notify of a Default in Clause 21.7 (*Notification of default*) and **provided that** the Company has used its reasonable endeavours to overcome and/or minimize the extent to which disclosure is restricted by this Clause 21.9, nothing in the Finance Documents (including pursuant to the information undertakings in this Clause 21) shall oblige the Parent, the Company or any other member of the Group to disclose any information regarding any proposal, plan, contract, agreement, arrangement, notice or approval which is, in the reasonable opinion of such person, material to the business and interests of the Parent, the Company, any member of the Group or the Group taken as a whole and which is, in the reasonable opinion of the Parent, the Company or the relevant member of the Group of significant commercial sensitivity such that the disclosure of such information might reasonably be expected to be materially prejudicial to the business and interests of the Parent, the Company, the member of the Group or the Group taken as a whole unless and until such time as:

(a) the relevant proposal, plan, contract, notice, agreement or arrangement or any modification thereto has been concluded or the relevant approval obtained or declined or the relevant notice withdrawn; or

(b) if earlier, the Parent, the Company or any other member of the Group is required by law, regulation or any rule of any applicable listing authority to publish details regarding the status of such contract, agreement or approval,

and the provision of any information is subject in each case to any binding duty of confidentiality which has been negotiated by the Group in good faith or other applicable legal or regulatory restrictions or restrictions imposed by law, **provided that** this Clause 21.9 shall not affect any obligation under the Finance Documents on the Parent, the Company or any other member of the Group to provide financial statements or budgets or, to the extent it can do so without breaching any such duty of confidentiality or other applicable legal or regulatory restrictions or restrictions imposed by law, to provide redacted or anonymised copies or versions of such restricted information.

22. FINANCIAL COVENANTS

22.1 Financial definitions

In this Clause 22 and where used elsewhere in this Agreement, the following terms have the following meanings (and in each case, such terms are calculated on the basis of amounts attributable to members of the Group):

"Borrowings" means, at any time, the aggregate outstanding principal, capital or nominal amount of any Financial Indebtedness of any member of the Group:

- (a) excluding any Financial Indebtedness in respect of a Permitted Treasury Transaction (and, when calculating the value of that Permitted Treasury Transaction, only the marked to market value as at the relevant date (or, if any actual amount is due as a result of a termination or close-out of that Permitted Treasury Transaction, that amount) shall be taken into account);
- (b) excluding any Intra-Group Debt;
- (c) excluding pension liabilities and liabilities in respect of other provisions which are treated as borrowings under the Accounting Principles;
- (d) excluding any environmental liabilities under paragraph of the definition of Permitted Financial Indebtedness;
- (e) excluding the Loan Notes;
- (f) excluding any Subordinated Debt; and
- (g) excluding the deferred or advance purchase price of assets or services acquired in the ordinary course of business (other than by way of a Permitted Acquisition) or otherwise arising from normal trade credit, in each case to the extent such arrangements are not entered into primarily as a method of raising finance and do not have the primary commercial effect of a borrowing but including any deferred consideration payable and any amounts in respect of Earn-Out Liabilities which are classified as borrowings under the Accounting Principles (and for the avoidance of doubt any amount of deferred consideration or payment in respect of Earn-Out Liabilities which has been paid shall be excluded) in respect of a Permitted Acquisition; and

- (h) including, in the case of Finance Leases, only the capitalised value thereof.
- "Calculation Date" means the Company's accounting dates falling on or around 30 June and 31 December in each Financial Year, commencing with the First Testing Date.
- "Consolidated Cashflow" means, for any Relevant Period, *Pro Forma* Consolidated EBITDA for that period (without double counting):
- (a) **plus** the amount of any rebate, refund or credit in respect of any Tax on profits, gains or income actually received in cash by any member of the Group during such period and **minus** all amounts of Tax on profits, gains or income actually paid or payable during such Relevant Period;
- (b) **plus** (to the extent not taken into account in calculating *Pro Forma* Consolidated EBITDA) the amount (net of any applicable withholding tax) of any dividends or other profit distributions in respect of share or other ownership interests received in cash by any member of the Group during such Relevant Period from any entity which is not itself a member of the Group;
- (c) **minus** all Capital Expenditure and any related Tax actually paid by members of the Group during such Relevant Period except to the extent financed or refinanced (directly or indirectly) by:
 - (i) New Equity;
 - (ii) Retained Excess Cashflow;
 - (iii) Permitted Financial Indebtedness permitted to be used for this purpose;
 - (iv) Listing Proceeds permitted to be used for this purpose;
 - (v) Excluded Report Proceeds permitted to be used for this purpose;
 - (vi) Excluded Disposal Proceeds permitted to be used for this purpose; or
 - (vii) Excluded Insurance Proceeds permitted to be used for this purpose;
- (d) **minus** the aggregate of all consideration paid for any Permitted Acquisitions, and investments in Permitted Joint Ventures, and in each case any related Tax and any fees, costs or expenses in respect of such acquisition paid in cash to the extent, in each case, not included in *Pro Forma* Consolidated EBITDA and, in each case, except to the extent funded by:
 - (i) New Equity;
 - (ii) Retained Excess Cashflow; or
 - (iii) Permitted Financial Indebtedness permitted to be used for this purpose;
- (e) **minus** the amount of any increase or plus the amount of any decrease in Working Capital between the dates at the beginning and end of such Relevant

- Period in each case to the extent not resulting from one-off consolidation effects of an acquisition or disposal;
- (f) **minus** the amount of all dividends or other profit distributions in respect of its shares or other ownership interests paid in cash by any member of the Group in that Relevant Period to any minority shareholders in members of the Group unless funded by Retained Excess Cashflow;
- (g) **minus** all non-cash credits and plus all non-cash debits and other non-cash charges included in establishing *Pro Forma* Consolidated EBITDA for such period (to the extent not deducted in calculating Working Capital as at the date on which such Relevant Period ends);
- (h) **minus** any fees, cash costs or charges of a non-recurring nature related to any equity offering, acquisitions, compensation payments to departing management, investments, Pension Items or Financial Indebtedness (in each case, whether or not successful) except to the extent financed or refinanced from:
 - (i) Retained Excess Cashflow;
 - (i) the proceeds raised on an equity or debt securities offering; or
 - (ii) Permitted Financial Indebtedness;
- (i) **deducting** (to the extent paid and to the extent not deducted in calculating *Pro Forma* Consolidated EBITDA) any Permitted Payments, but only to the extent not funded by Retained Excess Cashflow;
- (j) **plus** any Retained Tax Claim Proceeds which are received by any member of the Group during such Relevant Period;
- (k) **plus** any positive and minus any negative Exceptional Items (including restructuring costs and transaction costs) which are actually received or which are actually paid or fall due for payment by any member of the Group in each case in cash during such Relevant Period to the extent not included in *Pro Forma* Consolidated EBITDA, but only to the extent, in the case of the payment of such Exceptional Items, not financed or refinanced from Retained Excess Cashflow; and
- (l) **minus** Pension Items to the extent not included in *Pro Forma* Consolidated EBITDA.

and there shall be excluded the effect of all cash movements associated with the Acquisition and the Acquisition Costs.

"Consolidated EBITDA" means, for any Relevant Period, the consolidated operating profit of the Group for such period (without double counting):

(a) **before** deducting any interest, fees, commission, discounts, prepayment fees, premiums or charges and other finance payments whether paid, payable, amortised, paid in kind, accrued or capitalised by any member of the Group (calculated on a consolidated basis) in respect of that Relevant Period;

- (b) **before** deducting any amount of Tax on profits, gains or income paid or payable by the Group and before adding any amount of any rebate or credit in respect of Tax on profits, gains or income received or receivable by the Group in each case during such Relevant Period;
- (c) **before** deducting any depreciation, amortisation (including amortisation of any goodwill arising on any Permitted Acquisition) or impairment charges (including impairment charges of any intangible assets (which, for the avoidance of doubt, shall include goodwill));
- (d) **before** taking into account any Exceptional Items (whether positive or negative);
- (e) **after** deducting lease expenses incurred under any Operating Leases;
- (f) **after** adding back (to the extent otherwise deducted) any non-recurring fees, costs or charges in each case related to any actual or attempted equity or debt offering, financing, investments, acquisitions or incurrence of Permitted Financial Indebtedness (including any make whole amount or prepayment or redemption premium);
- (g) **after** adding back (to the extent otherwise deducted) any loss against book value incurred by the Group on the disposal of any asset (other than the sale of trading stock or the sale of any Cash Equivalent Investments held by the Group in the ordinary course of business) during such Relevant Period and any loss arising on any revaluation of any asset during such Relevant Period;
- (h) **after** deducting (to the extent otherwise included) any gain over book value arising in favour of the Group on the disposal of any asset (other than the sale of trading stock or the sale of any Cash Equivalent Investments held by the Group in the ordinary course of business) during such Relevant Period and any gain arising on any revaluation of any asset during such period;
- (i) **after** deducting (to the extent otherwise included) the amount of profit (or adding back the amount of loss) of any member of the Group which is attributable to the interests of any shareholder of or, as the case may be, partner in such member of the Group held by persons other than the Parent or any member of the Group;
- (j) **after** deducting the amount of any profit (or adding back any loss) of any Non-Group Entity to the extent included in the operating profit of the Group but after including the amount actually received in cash by members of the Group through dividends or other profit distributions from any Non-Group Entity;
- (k) **before** taking into account any unrealised gains or losses (including those arising on conversion of non-sterling denominated Financial Indebtedness) on any financial instrument (other than any derivative instrument which is accounted for on a hedge accounting basis);
- (l) **excluding** any charge to profit represented by the expensing of stock options and any other payments, costs or expenses referable to share option schemes,

- employee profit sharing, management equity programme, or post-employment benefit schemes;
- (m) **after** adding back, to the extent not already included, any amounts received in respect of such Relevant Period under loss of profit, business interruption or equivalent insurance;
- (n) **excluding** any non-trading and non-cash adjustments required as a result of acquisition accounting;
- (o) **before** taking into account any Permitted Payments;
- (p) **before** taking account of any Pension Items;
- (q) **before** deducting (to the extent paid) annual monitoring fees and any rating agency fee; and
- (r) **after** deducting any royalty payment in connection with the assets transferred by the relevant authority to the Company's Affiliates under a concession contract to the extent not already deducted from the consolidated operating profit of the Company,

in each case, to the extent added, deducted or taken into account, as the case may be, for the purpose of determining the operating profit of the Group.

"Current Assets" means the aggregate (on a consolidated basis) of all inventory, work in progress, trade and other receivables of each member of the Group including prepayments in relation not operating items, accrued retail and other income and sundry debtors (but excluding Cash and Cash Equivalent Investments) maturing within 12 months from the date of computation but excluding amounts in respect of:

- (a) receivables in relation to tax on profits, gains or income;
- (b) Exceptional Items and other non-operating items;
- (c) receivables sold, factored or discounted on a de-recognition basis as determined in accordance with the Accounting Principles;
- (d) insurance claims;
- (e) any accrued interest owing to any member of the Group; and
- (f) receivables under any Treasury Transaction; and
- (g) amounts due from a vendor or seller in connection with the Acquisition or a Permitted Acquisition (except working capital adjustments).

"Current Liabilities" means the aggregate (on a consolidated basis) of all liabilities (including trade creditors and other current liabilities and accrued expenses) of each

member of the Group falling due within 12 months from the date of computation but excluding amounts in respect of:

- (a) liabilities for tax on profits, gains or income;
- (b) Exceptional Items and other non-operating items;
- (c) liabilities for Borrowings and Finance Charges;
- (d) liabilities under any Treasury Transaction;
- (e) amounts owed to a vendor or seller in connection with the Acquisition or a Permitted Acquisition (including working capital adjustments); and
- (f) liabilities in relation to dividends declared but not paid by the Company.

"Debt Service" means, in respect of any Relevant Period, the aggregate of:

- (a) Net Finance Charges for that Relevant Period;
- (b) the aggregate of all scheduled payments of principal of any Borrowings (and in the case of the Facilities, as reduced by any voluntary or mandatory prepayments or redemptions (as applicable)) falling due for payment but excluding:
 - (i) any amounts falling due under the Revolving Facility, any overdraft or revolving facility (including without limitation any Ancillary Facility) and which were available for simultaneous redrawing according to the terms of such facility; and
 - (ii) any repayment of Permitted Financial Indebtedness to the extent repaid or refinanced with other Permitted Financial Indebtedness; and
- (c) the amount of the capital element of any payments in respect of that Relevant Period payable under any Finance Lease entered into by any member of the Group,

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

"Exceptional Items" means any exceptional, one off, non-recurring or extraordinary items incurred by any member of the Group which in each case are not normal running costs of the business including, without limitation, those arising on:

- (a) the fees, costs and expenses associated with the Acquisition;
- (b) the restructuring of the activities of an entity and reversals of any provisions for the cost of restructuring;
- (c) disposals, revaluations or impairment of non-current assets;
- (d) disposals of assets associated with discontinued operations;

- (e) compensation payments to departing directors or employees and payments to directors or employees triggered by the Transaction (including any related Taxes);
- (f) redundancy costs which are not normal running costs of the business; and
- (g) the receipt by any member of the Group of any amounts with respect to the Outstanding Tax Claims.

"Excess Cashflow" means, for any Relevant Period, Consolidated Cashflow for that Relevant Period after:

- (a) deducting Debt Service for that Relevant Period;
- (b) adding any cash profit and deducting any cash loss on any hedging terminations;
- deducting the aggregate amount of all amounts applied (or to be applied on the next Interest Payment Date) in mandatory prepayment under the Debt Documents (except for Equity Cure Amounts, Cash Sweep Proceeds and amounts to be prepaid from the Lock-Up Account) during that Relevant Period;
- (d) adding any amounts released from the Lock-Up Account during that Relevant Period;
- (e) deducting any Permitted Payments pursuant to paragraphs (c) and (d) of that definition; and
- (f) deducting the amount of any voluntary prepayments made under the Debt Documents during that period where the amount prepaid cannot be redrawn,

provided that no amount shall be added (or deducted) as part of the calculation of Excess Cashflow to the extent that it has already been added (or deducted) in calculating Consolidated Cashflow.

"Finance Charges" means, for any Relevant Period, the aggregate amount of the accrued interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments (excluding any repayments or prepayments of principal, whether voluntary or mandatory, including any associated hedge termination payments) in respect of Borrowings whether paid or payable by any member of the Group (calculated on a consolidated basis) in respect of that Relevant Period:

- (g) excluding any amortisation of fees, costs and expenses incurred in connection with the raising of any Borrowings;
- (h) excluding any capitalised interest, the amount of any discount amortised and other non-cash interest charges during the Relevant Period;
- (i) including the interest (but not the capital) element of payments in respect of Finance Leases;

- (j) including any commission, fees, discounts and other finance payments payable by (and deducting any such amounts payable to) any member of the Group under any interest rate hedging arrangement;
- (k) excluding any interest cost or expected return on plan assets in relation to any post-employment benefit schemes;
- (l) excluding any Acquisition Costs, costs and expenses incurred in connection with raising Permitted Refinancing Indebtedness (including any make whole amount or prepayment premium) and any costs and expenses relating to any Permitted Acquisition;
- (m) if a Joint Venture is accounted for on a proportionate consolidation basis, after adding the Group's share of the finance costs or interest receivable of the Joint Venture;
- (n) taking no account of any unrealised gains or losses on any derivative instruments other than any derivative instruments which are accounted for on a hedge accounting basis; and
- (o) excluding interest, fees, premiums or charges in respect of Subordinated Debt and Intra-Group Debt and, to the extent they constitute Borrowings, any Permitted Equity Injections or Equity Cure Amounts,

and so that no amount shall be added (or deducted) more than once.

"Financial Year" means each period of 12 Months ending on or about 31 December in each year.

"Growth Capital Expenditure" means Capital Expenditure other than Maintenance Capital Expenditure.

"Interest Cover Ratio" means, for any Relevant Period, the ratio of (a) *Pro Forma* Consolidated EBITDA to (ii) Net Finance Charges.

"Leverage Ratio" means, for any Relevant Period, the ratio of (a) Total Net Debt on the Calculation Date; to (b) *Pro Forma* Consolidated EBITDA for that Relevant Period.

"Maintenance Capital Expenditure" means maintenance or replacement capital expenditure.

"Net Finance Charges" means, in respect of any Relevant Period, the Finance Charges for that Relevant Period after netting off or deducting any interest payable in that Relevant Period to any member of the Group (other than by another member of the Group) on any Cash or Cash Equivalent Investments.

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

"**Operating Leases**" means any lease or hire purchase contract, a liability under which would, in accordance with the Accounting Principles in force prior to 1 January 2019 have been treated as an operating lease.

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

"Pro Forma Acquisition Cost Savings" means, cost savings or costs synergies reasonably anticipated by a director of the Company or the chief financial officer of the Group in good faith to be achievable within 12 months of a Permitted Acquisition as a result of that Permitted Acquisition (whether in relation to the Group, the relevant acquired entity, business or its fixed assets) calculated and taken into account in accordance with paragraphs (j) and (k) of Clause 22.3 (Financial testing).

"Pro Forma Consolidated EBITDA" means, for any Relevant Period, Consolidated EBITDA as adjusted in accordance with Clause 22.3 (Financial testing) including as adjusted to take into account Pro Forma Acquisition Cost Savings.

"Relevant Period" means:

- (a) in respect of the Default Ratios as at any Calculation Date, the period of twelve Months ending on such Calculation Date;
- (b) in respect of any Backward Looking Lock-Up Tests as at any Lock-Up Calculation Date, the period of twelve Months ending on such Lock-Up Calculation Date:
- (c) in respect of any Forward Looking Lock-Up Test as at any Lock-Up Calculation Date, the period of twelve Months commencing the date immediately after such Lock-Up Calculation Date;
- (d) when calculating Excess Cashflow, each period of six Months ending on the relevant Lock-Up Calculation Date (or, in the initial period, from and including the Closing Date to the initial Lock-Up Calculation Date); and
- (e) for any other purpose, the 12 month period ending on the most recent Calculation Date.

"Retained Excess Cashflow" means the aggregate of (without double counting):

- (a) accumulated unspent Excess Cashflow (for each previous Relevant Period) not required to be applied in prepayment of the Facilities, but excluding any amounts required to be transferred to the Lock-Up Account;
- (b) Disposal Proceeds, Insurance Proceeds and Report Proceeds received by the Group which it is permitted to retain and which are not required to be reinvested or applied in mandatory prepayment of the Facilities;
- (c) accumulated unspent cash proceeds from any Permitted Equity Injections (excluding any Cure Amounts); and

(d) amounts released from the Lock-Up Account which are designated by the Company as Retained Excess Cashflow,

to the extent not already designated or applied for any other purpose permitted by the Finance Documents.

"Subordinated Debt" means any loans made to the Company by the Parent which by their terms:

- (a) are subordinated to the Facilities pursuant to the terms of the Intercreditor Agreement as "**Subordinated Liabilities**" (as defined therein) or otherwise on terms acceptable to the Majority Lenders; and
- (b) the rights to receivables of which are secured by Transaction Security.

"Total Net Debt" means, at any time, the aggregate amount of all obligations of the Group for or in respect of Borrowings but deducting the amount of Cash and Cash Equivalent Investments held by any member of the Group.

"Working Capital" means on any date Current Assets less Current Liabilities.

22.2 Financial condition

The Company shall ensure:

(a) the Leverage Ratio in respect of the Relevant Period ending on a Calculation Date specified in column 1 below shall not be higher than the ratio set out in column 2 below opposite that Calculation Date:

Column 1 Calculation Date	Column 2 Leverage Ratio
June 2022	5.75:1
December 2022	5.75:1
June 2023	5.75:1
December 2023	5.50:1
June 2024	5.50:1
December 2024	5.25:1
June 2025	5.00:1
December 2025	4.75:1
June 2026	4.75:1

(b) the Interest Cover Ratio on each Calculation Date in respect of the Relevant Period ending on such Calculation Date shall not be less than 1.50:1.

22.3 Financial testing

- (a) Subject to the paragraphs below in this Clause 22.3, the Default Ratios and as applicable, the Lock-Up Tests, shall be calculated in accordance with the Accounting Principles in force as at the Closing Date commencing with the Relevant Period ending on 30 June 2022 (or, in the case of the Forward Looking Lock-Up Tests, commencing on the date falling immediately after 30 June 2022) and tested by reference to each of the Annual Financial Statements, Semi-Annual Financial Statements or each Compliance Certificate delivered pursuant to Clauses 21.1 (*Financial statements*), 21.2 (*Provision and contents of Compliance Certificate*) and 21.3 (*Requirements as to financial statements*).
- (b) No item shall be taken into account more than once in any calculation.
- (c) For any Relevant Period ending on a Calculation Date which is less than 12 months after the Closing Date, Net Finance Charges for the period which has elapsed since the Closing Date, shall be annualised by multiplying Net Finance Charges by 365 and dividing by the number of days elapsed in the period from and including the Closing Date to and including the relevant Calculation Date (and Net Finance Charges in respect of the period prior to the Closing Date shall be ignored).
- (d) For any Relevant Period ending less than 12 months after the Closing Date, *Pro Forma* Consolidated EBITDA for the purposes of calculating compliance with the Leverage Ratio shall be calculated by reference to the actual historic data over the previous 12 months as though the Target Group was consolidated with the Company in the Group during such period.
- (e) If a Default Ratio is complied with on the last day of the Relevant Period as evidenced by the applicable Compliance Certificate, any breach of such Default Ratio existing in respect of the immediately preceding Relevant Period shall be deemed to have been cured (a "Deemed Cure"). Pending receipt of such Compliance Certificate, this provision shall not restrict the Agent's rights (on the instructions of the Majority Lenders) in respect of the breach of such Default Ratio existing in respect of the previous Relevant Period and such rights that have been exercised by the Agent prior to the Deemed Cure may continue to be exercised and if any notice of acceleration is given prior to receipt of such Compliance Certificate, the Deemed Cure shall not apply.
- (f) Subject to paragraphs (j) and (k) below, for the purposes of calculating *Pro Forma* Consolidated EBITDA:
 - (i) the aggregate earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA but on an unconsolidated basis (except to the extent that the entity or business acquired itself has Subsidiaries)) of any entity, business or material fixed assets which are acquired (and not subsequently sold) during a Relevant Period; and

(ii) the *pro forma* increase or decrease in such *Pro Forma* Consolidated EBITDA reasonably anticipated in good faith and certified, in each case in accordance with paragraph (k) below as a result of any *Pro Forma* Acquisition Cost Savings in respect of such entity, business or material fixed assets,

shall be included for the full Relevant Period (not double counting for any cost savings already achieved and not including, for the avoidance of doubt, cost savings realisable in respect of any portion of a Relevant Period which is more than 12 months after the relevant Permitted Acquisition).

- (g) For the purposes of calculating:
 - (i) *Pro Forma* Consolidated EBITDA, the aggregate earnings before interest, tax, depreciation and amortisation, calculated on the same basis as Consolidated EBITDA but on an unconsolidated basis (except to the extent that the entity or business sold itself has Subsidiaries) of any entity, business or material fixed assets that is sold during a Relevant Period shall be excluded for the full Relevant Period (not double counting for any cost savings already achieved and not including, for the avoidance of doubt, cost savings realisable in respect of any portion of a Relevant Period which is more than 12 months after the relevant sale, transfer or disposition); and
 - (ii) Consolidated Cashflow (for the purposes of calculating Excess Cashflow), the cashflow (calculated on the same basis as Consolidated Cashflow but on an unconsolidated basis (except to the extent that the entity or business sold itself has Subsidiaries)) of any entity, business or material fixed assets that is sold at any time shall be excluded, from the date on which it is agreed that the cashflow of the relevant entity, business or material fixed assets is transferred to or held for the benefit of the buyer (including without limitation under any lock-box arrangements involving an economic transfer occurring prior to a legal transfer of the relevant entity, business or assets).
- (h) Total Net Debt shall be adjusted to give *pro forma* effect to any incurrence, assumption or repayment of Financial Indebtedness (including any reduction in Total Net Debt from the proceeds of any asset sales) arising from any acquisitions, investments and any disposition if a related adjustment has been made to *Pro Forma* Consolidated EBITDA.
- (i) To the extent a financial covenant ratio or any financial definition is used as the basis (in whole or part) for permitting any transaction or making any determination under this Agreement other than compliance with the Default Ratios (subject to the exercise of any Equity Cure Rights) (including on a proforma basis) at any time after a Calculation Date, Total Net Debt shall be reduced to take into account any repayment of Financial Indebtedness made on or before the relevant date and after the relevant Calculation Date or Lock-Up Calculation Date and shall be increased to take into account any incurrence or assumption of Financial Indebtedness made on or before the relevant date and after the relevant Calculation Date (in each case without double counting).

- (j) The aggregate cost synergies and cost savings related to *Pro Forma* Acquisition Cost Savings shall be capped for any Relevant Period at 10 per cent. of *Pro Forma* Consolidated EBITDA for that Relevant Period.
- (k) Where any *Pro Forma* Acquisition Cost Savings is included in any calculations:
 - (i) the Company shall deliver to the Agent a certificate, signed by two directors of the Company or a director of the Company and the chief financial officer of the Group, verifying that such *Pro Forma* Acquisition Cost Savings have been identified in good faith and in a reasonable manner (in each case by reference to the Company's knowledge with regard to the information reasonably available to it at such time); and
 - (ii) in the case of *Pro Forma* Acquisition Cost Savings in excess of 5 per cent. of *Pro Forma* Consolidated EBITDA for that Relevant Period, such *Pro Forma* Acquisition Cost Savings shall be supported by an extract from third party financial or commercial due diligence or other third party verification supporting such projections.

22.4 Equity Cure Right

- (a) If the Company fails to comply with the Default Ratios and no later than 10 Business Days after the date on which the relevant Compliance Certificate is required to be delivered, the Company confirms to the Agent in writing that the Parent is committed to provide cash proceeds by way of a Permitted Equity Injection (the total amount being, the "Equity Cure Right") in an amount which is at least sufficient to cure such Default Ratio (the "Cure Amount") and no later than 20 Business Days after such confirmation the Company receives cash proceeds of such Permitted Equity Injection (the "Cure Right") then the Default Ratio shall be recalculated for that Relevant Period (and calculated for the next subsequent Relevant Period) giving effect to the following *pro forma* adjustments:
 - (i) for the Interest Cover Ratio, *Pro Forma* Consolidated EBITDA shall be increased by an amount equal to the Cure Amount on the first day of the Relevant Period and *Pro Forma* Consolidated EBITDA resulting from such increase shall be used in the calculation of the Interest Cover Ratio; and
 - (ii) for the Leverage Ratio, *Pro Forma* Consolidated EBITDA shall be increased by an amount equal to the Cure Amount and *Pro Forma* Consolidated EBITDA resulting from such increase shall be used in the calculation of the Leverage Ratio; and
 - (iii) if, after giving effect to the foregoing recalculations, the Company shall then be in compliance with the requirements of the Default Ratios, the Company shall be deemed to have satisfied the requirements of the Default Ratios as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of the Default Ratios which

had occurred shall be deemed cured for all purposes of the Finance Documents.

- (b) If the Company has elected to procure any Permitted Equity Injection and notified the Agent of the same in accordance with paragraph (a) above, the Agent shall not exercise (and shall instruct the Security Agent to refrain from exercising) any right pursuant to Clause 24.17 (*Acceleration*) solely as a consequence of such breach of the Default Ratios until after the last date on which such Permitted Equity Injection may be made pursuant to this Clause 22.4. Until such time as the proceeds of such Permitted Equity Injection are received by the Agent, a Default shall be construed as continuing for the purposes of the conditions required to be met for the making of further Utilisations under the Capex Facility and the Revolving Facility (other than a Rollover Loan).
- (c) An amount equal to 100 per cent. of the Cure Amount shall be applied in prepayment pursuant to the order set out in Clause 9.5 (*Application of mandatory prepayments*).
- (d) The payment of a Cure Amount may only be made three times and not in respect of consecutive Calculation Dates prior to the Termination Date.
- (e) An authorised signatory of the Company shall provide a revised Compliance Certificate setting out the adjustments upon the injection of any Cure Amount.
- (f) There shall be no restriction on the amount of the Cure Amount **provided that** such amount is applied in prepayment of the Facilities in accordance with paragraph (c) above.
- (g) Any Cure Amount shall be disregarded for all other purposes, including the Lock-Up Tests.

23. GENERAL UNDERTAKINGS

The undertakings in this Clause 23 remain in force from the Signing Date for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

23.1 Authorisations

Each Obligor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect any Authorisation (and supply certified copies to the Agent of any such Authorisation) required under any law or regulation of a Relevant Jurisdiction to:

- enable it to perform its obligations under the Transaction Documents to which it is a party;
- (b) ensure the legality, validity, enforceability or admissibility in any Relevant Jurisdiction in evidence of any Transaction Document; and
- (c) carry on its business,

and in the case of paragraph (c) above only, where failure to do so has, or is reasonably likely to have, a Material Adverse Effect.

23.2 Compliance with Laws

Each Obligor shall (and the Company shall ensure that each member of the Group will) comply in all respects with all laws (including, in respect of financial assistance laws and regulations in relation to the Finance Documents and payments of any amounts under this Agreement) to which it may be subject, if failure so to comply has, or is reasonably likely to have, a Material Adverse Effect.

23.3 **Environmental Compliance**

Each Obligor shall (and the Company shall ensure that each member of the Group will):

- (a) comply with all Environmental Law;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Permits; and
- (c) implement procedures to monitor compliance with and to prevent liability under Environmental Law,

where failure to do so has, or is reasonably likely to have, a Material Adverse Effect.

23.4 Environmental Claim

Each Obligor shall (and the Company shall procure that each member of the Group will), promptly upon becoming aware of the same, inform the Agent in writing of:

- (a) any Environmental Claim against any member of the Group which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,

where the claim, if determined against that member of the Group, has, or is reasonably likely to have, a Material Adverse Effect.

23.5 Taxation

- (a) Each Obligor shall (and the Company shall ensure that each member of the Group will) pay and discharge when due all Taxes imposed on it or its assets within the time period allowed without incurring penalties, unless and only to the extent that:
 - (i) such payment is being contested in good faith;
 - (ii) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect; and

- (iii) where the quantum of such payment is material in the context of the Group as a whole (after taking into consideration any Tax assets), adequate reserves on balance sheet are being or will be at the next Calculation Date maintained for those Taxes in accordance with and to the extent required under applicable Accounting Principles.
- (b) No member of the Group may change its residence for Tax purposes.

23.6 Merger

- (a) Except as permitted under paragraph (b) below, neither the Parent nor any Obligor shall (and the Company shall ensure that no other member of the Group will) enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction.
- (b) Paragraph (a) above does not apply to any amalgamation, demerger, merger, consolidation or corporate reconstruction which is:
 - (i) a Permitted Transaction (other than pursuant to paragraph (c) of the definition of Permitted Transaction); or
 - (ii) a Permitted Disposal.

23.7 Change of Business

The Company shall (and the Company shall procure that each other member of the Group will) carry on only the Permitted Business.

23.8 Acquisitions

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall ensure that no other member of the Group will):
 - (i) acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or
 - (ii) incorporate a company.
- (b) Paragraph (a) above does not apply to an acquisition of a company, shares, securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company which is:
 - (i) a Permitted Acquisition;
 - (ii) a Permitted Joint Venture; or
 - (iii) a Permitted Transaction.

23.9 **Joint Ventures**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall ensure that no member of the Group will):
 - (i) enter into, invest in or acquire (or agree to acquire) any shares, stocks, securities or other interest in any Joint Venture; or
 - (ii) transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture (or agree to do any of the foregoing).
- (b) Paragraph (a) above does not apply to any entry into, investment in or acquisition of (or agreement to acquire) any interest in a Joint Venture or transfer of assets (or agreement to transfer assets) to a Joint Venture or loan made to or guarantee given in respect of the obligations of a Joint Venture if such transaction falls under paragraph (j) of the definition of "Permitted Disposal", paragraph (e) of the definition a "Permitted Guarantee", paragraph (c) of the definition of "Permitted Loan" or is a Permitted Joint Venture.

23.10 Holding Companies

Neither the Parent nor the Company shall trade, carry on any business, own any assets or incur any liabilities except for Permitted Holding Company Activity.

23.11 **Preservation of Assets**

Each Obligor shall (and the Company shall ensure that each other member of the Group will) maintain in good working order and condition (ordinary wear and tear excepted) all of its assets necessary in the conduct of its business where failure to do so would have, or would be reasonably likely to have, a Material Adverse Effect.

23.12 Pari Passu Ranking

Each Obligor shall ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except those creditors whose claims are mandatorily preferred by laws of general application to companies.

23.13 **Negative Pledge**

In this Clause 23.13, "Quasi-Security" means an arrangement or transaction described in paragraph (b) below.

Except as permitted under paragraph (c) below:

(a) no Obligor shall (and the Company shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets.

- (b) no Obligor shall (and the Company shall ensure that no other member of the Group will):
 - (i) sell, transfer or otherwise dispose to any person who is not a member of the Group of any of its assets on terms whereby they are or may be leased to or re acquired by an Obligor or any other member of the Group;
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms:
 - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; or
 - (iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

- (c) Paragraphs (a) and (b) above do not apply to any Security or (as the case may be) Quasi-Security, which is:
 - (i) Permitted Security; or
 - (ii) a Permitted Transaction.
- (d) The Parent shall not grant Security or Quasi-Security over any of its assets which are subject to the Transaction Security (other than pursuant to the Transaction Security Documents to which it is a party)

23.14 **Disposals**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall ensure that no other member of the Group will) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, transfer or otherwise dispose of any asset.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal which is:
 - (i) a Permitted Disposal;
 - (ii) a Permitted Transaction;
 - (iii) permitted by the Intercreditor Agreement; or
 - (iv) a Permitted Payment.

23.15 Arm's Length Basis

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall procure no other member of the Group will) enter into any transaction with any person except on arm's length terms.
- (b) The following transactions shall not be a breach of this Clause 23.15:
 - (i) any loan, credit or other financial arrangement having similar effect made between members of the Group;
 - (ii) any Subordinated Debt;
 - (iii) any other transaction or arrangement entered into between an Obligor and another Obligor, or a Non-Obligor and another Non-Obligor;
 - (iv) fees, costs and expenses payable under the Finance Documents in the amounts set out in the Finance Documents or as agreed by the Agent;
 - (v) any Permitted Transaction;
 - (vi) any Permitted Payment; and
 - (vii) any transaction as permitted by the Intercreditor Agreement.

23.16 Loans or Credit

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall ensure that no other member of the Group will) be a creditor in respect of any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
 - (i) a Permitted Loan:
 - (ii) a Permitted Payment; or
 - (iii) a Permitted Transaction.

23.17 No Guarantees or Indemnities

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall ensure that no other member of the Group will) incur or allow to remain outstanding any guarantee in respect of any obligation of any person.
- (b) Paragraph (a) above does not apply to a guarantee which is:
 - (i) a Permitted Guarantee; or
 - (ii) a Permitted Transaction.

23.18 Dividends, Share Redemption and Restricted Payments

- (a) Except as permitted under paragraph (b) below, the Company shall not (and the Company will ensure that no other member of the Group will):
 - (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
 - (ii) repay or distribute any dividend or share premium reserve;
 - (iii) repay or prepay any amount (in cash or kind) (including, without limitation, in respect of principal, interest, capitalised interest, commission, charges and fees) outstanding or owing to the Parent (or any Affiliate of the Parent (other than a member of the Group));
 - (iv) make a loan to the Parent (or any Affiliate of the Parent, other than a member of the Group);
 - (v) pay or allow any member of the Group to pay any management, advisory or other fee to or to the order of the Parent (or any Affiliate of the Parent (other than a member of the Group)); or
 - (vi) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.

(each, a "Restricted Payment").

- (b) Paragraph (a) above does not apply to:
 - (i) a Permitted Payment; or
 - (ii) a Permitted Transaction.

23.19 Financial Indebtedness

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and the Company shall ensure that no other member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to Financial Indebtedness which is:
 - (i) Permitted Financial Indebtedness; or
 - (ii) a Permitted Transaction.

23.20 Insurance

The Company shall on and from the Acquisition Closing Date, except to the extent that failure to do so has, or is reasonably likely to have, a Material Adverse Effect, ensure that the Group takes out and maintains insurance with reputable counterparties on and

in relation to its business and assets as is usual and commercially prudent for companies carrying on the same or substantially similar business.

23.21 Access

If an Event of Default is continuing, each Obligor shall (and the Company shall ensure that each other member of the Group will) permit the Agent and/or the Security Agent and/or accountants or other professional advisers and contractors of the Agent or Security Agent access at reasonable times and on reasonable notice to (a) the premises, assets, books, accounts and records of the Group and (b) meet and discuss matters with the senior management team of the Group.

23.22 **Intellectual Property**

- (a) Each Obligor shall (and the Company shall procure that each other member of the Group will):
 - (i) preserve and maintain the subsistence and validity of Intellectual Property materially necessary for the business of the relevant member of the Group;
 - (ii) use reasonable endeavours to prevent any infringement in any material respect of Intellectual Property;
 - (iii) make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property in full force and effect and record its interest in that Intellectual Property; and
 - (iv) not use or permit the Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Intellectual Property which may materially and adversely affect the existence or value of the Intellectual Property or imperil the right of any member of the Group to use such Intellectual Property,

where failure to do so, in the case of paragraphs (i), (ii) and (iii) above, or, in the case of paragraph (iv) above, such use, permission to use, omission or discontinuation, has, would have, or would be reasonably likely to have, a Material Adverse Effect.

(b) Failure to comply with any part of paragraph (a) above shall not be a breach of this Clause 23.22 to the extent that any dealing with Intellectual Property which would otherwise be a breach of paragraph (a) above is contemplated by the definition of "**Permitted Transaction**" or "**Permitted Disposal**".

23.23 **Hedging**

- (a) No Obligor shall (and the Company shall ensure that no other member of the Group will) enter into any Treasury Transaction, other than any Permitted Treasury Transaction.
- (b) The Company shall ensure that all hedging arrangements required by the Hedging Letter are implemented in accordance with the terms of the Hedging

Letter and that such arrangements are not terminated, varied or cancelled without the consent of the Agent (acting on the instructions of the Majority Lenders), save as permitted by the Intercreditor Agreement.

23.24 Share Capital

No Obligor shall (and the Company shall ensure that no other member of the Group will) issue any shares except pursuant to:

- (a) a Permitted Share Issue; or
- (b) a Permitted Transaction.

23.25 Persons with Significant Control Register Regime

Any member of the Group incorporated in England and Wales which is required to comply with Part 21A of the Companies Act 2006 and which is granting Transaction Security over its shares will not issue a "warning notice" or "restrictions notice" (in each case as defined in paragraph 1(2) of Schedule 1B of Part 21A of the Companies Act 2006) in respect of its shares unless it is required by law to do so and each Obligor shall (and the Company shall procure that each other member of the Group will) within the relevant timeframe, comply with any such notice it receives.

23.26 Guarantors

- (a) The Company shall ensure that:
 - (i) as soon as reasonably practicable and, in any event, no later than 90 days after the Acquisition Closing Date; and
 - (ii) thereafter annually at the end of each Financial Year,

the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA) and the aggregate of gross tangible assets of the Guarantors (calculated by reference to the most recent Annual Financial Statements delivered to the Agent in accordance with this Agreement, on an unconsolidated basis and excluding all intra-group items and investments in Subsidiaries of any member of the Group) represents not less than 85 per cent. of Consolidated EBITDA and gross tangible assets of members of the Group (calculated by reference to the most recent Annual Financial Statements delivered to the Agent in accordance with this Agreement, on an unconsolidated basis and excluding all intra-group items and investments in Subsidiaries of any member of the Group) (the "Guarantor Coverage Requirement").

(b) If the Guarantor Coverage Requirement is not complied with as at the time of delivery of the Annual Financial Statements, no Default will occur **provided that** (subject to paragraph (c) below and the Agreed Security Principles) the Company shall procure that additional Subsidiaries accede as Guarantors within 45 days of the delivery of those Annual Financial Statements so that, when retested at the end of such 45 day period (or, if earlier, the date upon which all the relevant additional Subsidiaries have become Guarantors) by reference to

those Annual Financial Statements, the Guarantor Coverage Requirement is complied with (**provided that** failure to comply with the Guarantor Coverage Requirement after the expiry of such 45 day period (or, if earlier, the date upon which all the relevant additional Subsidiaries have become Guarantors) shall result in an Event of Default).

- (c) For the purposes of the calculations contemplated by paragraph (a) above, the earnings before interest, tax, depreciation and amortisation of a Guarantor will, if less than zero, be treated as zero and the earnings before interest, tax, depreciation and amortisation of any member of the Group that is not required to accede as a Guarantor due to the operation of paragraph (d) below shall be ignored.
- (d) The Company needs only perform its obligations under paragraph (a) above if:
 - (i) it is not unlawful for the relevant Subsidiary to become a Guarantor;
 - (ii) that Subsidiary becoming a Guarantor would not result in personal liability for that Subsidiary's directors or other management;
 - (iii) that Subsidiary becoming a Guarantor would not result in material Tax costs for that Subsidiary; and
 - (iv) that Subsidiary becoming a Guarantor does not breach the Agreed Security Principles.
- (e) Each Obligor must use, and must procure that the relevant Subsidiary uses, all reasonable endeavours lawfully available to avoid any such unlawfulness, personal liability, material Tax costs or breach of the Agreed Security Principles contemplated by paragraph (d) above. This includes agreeing to a limit on the amount guaranteed. The Agent may (but shall not be obliged to) agree to such a limit if, in its opinion, to do so would avoid the relevant unlawfulness or personal liability.
- (f) The calculations contemplated by paragraph (a) above shall be determined by reference to each Compliance Certificate for a Relevant Period ending on the last day of a Financial Year, or following the occurrence of an Event of Default which is continuing, if so requested by the Agent (acting reasonably).

23.27 Further Assurance

- (a) Subject to the Agreed Security Principles, the Parent and each Obligor shall (and the Company shall procure that each other member of the Group will) promptly do all such acts or execute all such documents (including assignments, assignations, transfers, dispositions, mortgages, standard securities, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
 - (i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, assignment, ratification or other

Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;

- (ii) to confer on the Security Agent or confer on the Finance Parties Security over any property and assets of the Parent or that Obligor (as applicable) located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or
- (iii) after an Acceleration Event, 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, the Parent and each Obligor shall (and the Company shall procure that each other member of the Group will) take all such action as is available to it (including making all filings and registrations and ratifying any Transaction Security) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Transaction Security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.

23.28 Anti-corruption law

The Parent and each Obligor shall (and the Company shall ensure that each other member of the Group will):

- (a) conduct its operations at all times in compliance with anti-corruption and Money Laundering Laws; and
- (b) maintain policies and procedures designed to promote and achieve compliance with Sanctions.

23.29 Sanctions

- (a) Neither the Parent nor any Obligor shall (and the Company shall ensure that no other member of the Group will):
 - (i) use, lend, contribute or otherwise make available, directly or indirectly, any part of the proceeds of any Utilisation:
 - (A) for the purpose of financing any trade, business or other activities involving, or for the benefit of, any Restricted Party;
 - (B) for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or similar legislation in applicable jurisdictions; or
 - (C) in any other manner that would result in any member of the Group or a Finance Party being in breach of any Sanctions or becoming a Restricted Party;

- (ii) engage in any transaction or conduct its business in a way that evades or avoids, or breaches directly or indirectly, any Sanctions applicable to it;
- (iii) route any proceeds from any activity from a Restricted Party through bank accounts held by the Finance Parties or any of their Affiliates; or
- (iv) fund all or part of any payment in connection with a Finance Document out of proceeds derived from business or transactions with a Restricted Party, or from any action which is in breach of any Sanctions,

provided that, this paragraph (a) shall not apply to, or in favour of, any person if, and to the extent that, it would result in any violation by or liability of or in respect of that person of any Blocking Regulation (where such person is a Lender, a "**Restricted Lender**").

- (b) Without prejudice to the generality of paragraph (a) above, no Obligor shall (and the Company shall ensure that no other member of the Group will):
 - (i) take any action, make any omission or use (directly or indirectly) any proceeds of the Loan, in a manner that causes (or will cause) a breach of Sanctions by any Finance Party;
 - (ii) transact or facilitate any transactions (directly or indirectly) or otherwise take any action or make any omission that results in or is reasonably likely to result in any member of the Group or a Finance Party becoming a Restricted Party; or
 - (iii) take any action or omit to take any action which would result in any Finance Party transacting or facilitating any transaction in or linked to any jurisdiction which the Agent has notified to the Company in writing from to time to time is a prohibited or restricted jurisdiction or territory and/or is a Sanctioned Country.
- (c) In connection with any waiver, determination or direction relating to any part of this Clause 23.29 of which a Restricted Lender does not have the benefit, the Commitment of that Restricted Lender will be excluded for the purpose of determining whether the consent of the requisite majority of the Lenders has been obtained or whether the determination or direction by the requisite majority of Lenders has been made.

23.30 Constitutional documents

Neither the Parent nor the Company shall amend, vary, novate, supplement or otherwise change (or agree to do any of the foregoing in respect of) the form of its constitutional documents delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*) or the constitutional documents of the Target except:

- (a) in writing; and
- (b) in the case of:

- (i) the constitutional documents of the Company and the Target, in a manner or the extent that the taking of such action or the terms of such agreement or relevant constitutional documents would restrict or inhibit any transfer of shares which are subject to the Transaction Security on creation or enforcement of that Transaction Security; and
- (ii) the constitutional documents of the Parent, the Company and/or the Target, without prejudice to paragraph (a) above, in a manner or to an extent that could not reasonably be expected to be materially adverse to the interests of the Lenders (taken as a whole) under the Finance Documents.

23.31 Accounting Reference Date

The Company shall procure that the end of each of its annual accounting periods falls on 31 December.

23.32 Financial Assistance

Each Obligor shall (and the Company shall procure each other member of the Group will) comply in all respects with sections 678 and 679 of the Companies Act 2006 including in relation to the execution of the Transaction Security Documents and payment of amounts due under this Agreement.

23.33 Acquisition Documents

- (a) The Company shall comply in all material respects with the City Code, subject to waivers granted by or requirements of the Takeover Panel or the requirements of the Court, and all relevant laws and regulations relating to the Acquisition, save where non-compliance would not be materially prejudicial to the interests of the Lenders (taken as a whole) under this Agreement.
- (b) The Company will not amend or waive any material term of any Announcement or any Acquisition Document in a manner or to an extent that would be materially prejudicial to the interests of the Lenders (taken as a whole) under this Agreement other than any amendment or waiver:
 - (i) made with the consent of the Majority Lenders (not to be unreasonably withheld or delayed);
 - (ii) required (or consented to) by the Takeover Panel, the City Code, the Court or any other applicable law, regulation, court or regulatory body (or reasonably determined by the Company as being necessary to comply with any of the foregoing);
 - (iii) increasing the price to be paid for the Target Shares (including by way of the issue of a contingent entitlement to Loan Notes by way of a contingent value right linked to the outcome of the Outstanding Tax Claims) to the extent permitted under paragraph (d) below;
 - (iv) extending the period in which holders of the Target Shares may accept the terms of the Offer or, as the case may be, approve the Scheme; or

- (v) without prejudice to paragraph (f) below, reducing the Acceptance Conditions to no lower than the Minimum Acceptance Condition.
- (c) The Company shall obtain the prior written consent of the Majority Lenders and (to the extent it or its Affiliate is a Lender) each Mandated Lead Arranger (such approval not to be unreasonably withheld or delayed), prior to any switch of the Acquisition from being effected by way of a Scheme to an Offer or, as the case may be, from an Offer to a Scheme.
- (d) The Company shall not (without the prior consent of the Agent, not to be unreasonably withheld or delayed) increase the price to be paid for any Target Shares pursuant to a Scheme or, as the case may be, an Offer, other than by way of (i) an increase funded with Subordinated Debt; (ii) an increase funded with any Permitted Equity Injections; or (iii) the issue of a contingent entitlement to Loan Notes by way of a contingent value right linked to the outcome of the Outstanding Tax Claims.
- (e) The Company shall not prior to the end of the Offer Period (as defined in the City Code) make any press release or other public statement in relation to the Acquisition which refers to any Finance Document, any Finance Party and/or the financing of the Scheme or Offer, as the case may be, which would be materially prejudicial to the interests of the Lenders (taken as a whole) under this Agreement (other than pursuant to any Announcement, any Scheme Document or any Offer Document), without the consent of the Majority Lenders (not to be unreasonably withheld or delayed) unless required to do so by law or regulation or by the City Code, the Takeover Panel, the Court or any other court or regulatory body (or reasonably determined by the Company as being necessary to comply with any of the foregoing). For the avoidance of doubt, this paragraph (e) shall not restrict the Company from making any disclosure that is required, permitted or customary in relation to this Agreement or of the identity of the Finance Parties in any Announcement, any Scheme Document or any Offer Document or making any filings as required by law or its auditors or in its audited financial statements or in accordance with or in order to satisfy or comply with the terms of this Agreement.
- (f) If the Acquisition is effected by way of an Offer, the Company shall not reduce the Acceptance Condition to lower than the Minimum Acceptance Condition, other than with the consent of all of the Lenders (not to be unreasonably withheld or delayed).
- (g) The Company shall not issue any Offer Document or, as the case may be, shall (to the extent permitted by the Takeover Code) use its reasonable endeavours to request that the Target does not issue any Scheme Circular without any sections describing the financing arrangements under the Finance Documents being approved in advance by the Agent unless required to do so by law or regulation or by the Takeover Code, the Takeover Panel or the Court.
- (h) The Company shall not take any action which would result in any member of the Group being required to make a mandatory offer for the Target Shares in accordance with Rule 9 of the City Code.

- (i) In the case of an Offer, where becoming entitled to do so, the Company shall promptly give notice under Section 979 of the Companies Act 2006 and shall promptly (and in any event within the maximum time period prescribed for such actions) complete squeeze-out procedures.
- (j) The Company shall, upon reasonable request and to the extent that it is able to do so in compliance with the requirements of the City Code, the Takeover Panel and the requirements of the Court, applicable law, regulation and confidentiality obligations to which it is subject, keep the Agent informed as to the status and progress of the Scheme or, as the case may be, the Offer, including any switch from a Scheme to an Offer or, as the case may be, from an Offer to a Scheme (and, in the case of an Offer, the current level of acceptances in respect of that Offer, **provided that** any information on the current level of acceptances may only be provided to the Mandated Lead Arrangers).
- (k) The Company shall, to the extent that it is able to do so in compliance with the requirements of the City Code, the Takeover Panel or the requirements of the Court, applicable law, regulation and confidentiality or other obligations to which it is subject, promptly supply to the Agent copies of all documents, certificates, notices or announcements received or issued by any member of the Group (or on their behalf) in relation to a Scheme or an Offer (as the case may be) to the extent material to the interests of the Lenders (taken as a whole) under this Agreement.
- (1) Subject always to the Companies Act 2006 and any applicable listing rules, in the case of a Scheme the Company shall, within 60 days after the Scheme Effective Date, or, in relation to an Offer, within 60 days after the date upon which the Company (directly or indirectly) owns shares in the Target (excluding any shares held in treasury), which, when aggregated with all other shares in the Target owned directly or indirectly by the Company, represent not less than 75 per cent. of all shares in the Target (excluding any shares held in treasury), ensure that such action as is necessary is taken to procure (i) the application by the Target for the cancellation of trading in the shares in the Target on the Main Market of the London Stock Exchange and the cancellation of listing of the shares in the Target from the Official List of the Financial Conduct Authority and (ii) as soon as reasonably practicable thereafter, the passing of the necessary shareholder resolution to approve the re-registration of the Target as a private limited company and the making of relevant filings at the Registrar of Companies in connection with such re-registration.

23.34 Ring-Fenced Account

- (a) To the extent it receives any Target Shareholder Tax Claim Proceeds, the Company shall transfer such amounts to the Ringfenced Account.
- (b) The Company shall not, and shall procure that no other member of the Group shall, transfer or deposit any funds into the Ringfenced Account other than the Target Shareholder Tax Claim Proceeds.

23.35 Offer Account

- (a) In the event that the Acquisition is implemented by way of an Offer, any amount drawn under the Term Acquisition Facility and any amount of the Minimum Equity Contribution which, immediately following the date falling 14 days after the Offer Unconditional Date, have not been applied towards one of the purposes set out in paragraph (a) of Clause 3.1 (*Purpose*), shall be credited to a bank account in the name of the Company and secured in favour of the Security Agent (the "Offer Account").
- (b) Prior to the Offer Repayment Date (as defined below), withdrawals from the Offer Account shall only be permitted in order to finance any squeeze-out procedures or any purchases of further shares in the Target or Acquisition Costs and/or in order to prepay amounts outstanding under the Existing Target Facilities Agreement.
- (c) Following the Offer Repayment Date, the Company may make withdrawals from the Offer Account freely **provided that** if paragraph (d)(ii) applies, no such withdrawals may be made (other than in order to prepay Utilisations under the Term Acquisition Facility) until such time as the Equity Contribution represents 55 per cent. or more of the Total Funding Requirements.
- (d) If:
 - (i) on the date falling three Months after the Offer Unconditional Date (the "Offer Repayment Date"), amounts are standing to the credit of the Offer Account; and
 - (ii) the amount of equity and subordinated debt contributed to the Company by the Parent on or before such date (the "**Equity Contribution**") represents less than 55 per cent. of the total aggregate of:
 - (A) the cash purchase price for the shares in the Target then owned by the Company or which the Company has committed to acquire;
 - (B) the principal amount of Financial Indebtedness outstanding under the Existing Target Facilities Agreement as at the Acquisition Closing Date, less Cash and Cash Equivalent Investments of the Target Group on the Acquisition Closing Date; and
 - (C) the aggregate amount of Acquisition Costs incurred by the Company and the Parent,

(the aggregate of amounts under paragraphs (A) to (C) above being, the "Total Funding Requirements"),

the Company shall prepay Utilisations under the Term Acquisition Facility to the extent required such that the Equity Contribution represents 55 per cent. or more of the Total Funding Requirements (including by applying amounts which are standing to the credit of the Offer Account). (e) Any amounts required to be prepaid pursuant to paragraph (d) above shall be applied in the order of application set out in Clause 9.5 (*Application of mandatory prepayments*).

23.36 Conditions Subsequent

- (a) The Company shall, subject to the Agreed Security Principles and no later than 90 days after the Acquisition Closing Date:
 - (i) subject to Clause 23.26 (*Guarantors*), ensure that the Guarantor Coverage Test is satisfied by acceding members of the Group as Additional Guarantors; and
 - (ii) grant security over the shares it holds in each Material Subsidiary (including, for the avoidance of doubt, the Target).
- (b) The Company shall procure that within 15 Business Days of the Acquisition Closing Date, all amounts under the Existing Target Facilities Agreement are repaid in full, any available commitments thereunder are cancelled, and all security granted by any member of the Target Group in connection therewith shall be released (such date being, the "Existing Target Facilities Prepayment Date"). The Company shall notify the Agent promptly upon the occurrence of the Existing Target Facilities Prepayment Date.

23.37 More Favourable Covenants

(a) For the purposes of this Clause 23.37:

"Financial Covenant" means, in respect of a Debt Document, any financial covenant or other provision that measures indebtedness, net income, cash flow, loan to value, total capitalisation, interest expense, net worth, net assets or other substantively similar cash-based financial requirements or financial requirements under the Accounting Principles (in each case however expressed and whether stated as a ratio, as a fixed threshold, as an event of default or otherwise but excluding any excess cashflow sweep or lock up sweep).

"More Favourable Event of Default" means, in respect of a Debt Document (such Debt Document being, a "Relevant Debt Document"), any event of default which relates to a member of the Group which is in addition to those set out in (and is not substantially equivalent to an Event of Default set out in) Clause 24 (*Events of Default*) (and for the purpose of determining substantial equivalence for these purposes, any differences in terminology and drafting between this Agreement and the Relevant Debt Document shall be disregarded) and excluding any events of default in the Relevant Debt Document which relate to representations, covenants or lock-up events included in that Relevant Debt Document.

"More Favourable Financial Covenant" means, in respect of a Debt Document, a Financial Covenant which is more restrictive on the Company than, or operates in addition to, the Financial Covenants set out in this Agreement.

- (b) If any Debt Document contains any More Favourable Covenant or More Favourable Event of Default (such document being a "Relevant Debt Document"), the Company shall, within 10 Business Days of the relevant More Favourable Covenant being included in the Relevant Debt Document, provide the Agent with a copy of such More Favourable Covenant or More Favourable Event of Default (as applicable) including all relevant definitions and related cure rights.
- (c) Unless the Majority Lenders agree otherwise, within 20 Business Days of receipt by the Agent of a copy of a More Favourable Covenant or More Favourable Event of Default (as applicable) pursuant to paragraph (b) above, the relevant More Favourable Financial Covenant and related cure rights or More Favourable Event of Default (as applicable) (in each case, with such amendments as are agreed between the Company and the Majority Lenders) shall be deemed to be incorporated into this Agreement, as if set out in full in this Agreement, in each case, effective as of the last day of such 20 Business Day period, and if the Majority Lenders so request, the Company will promptly upon request by the Majority Lenders enter into documentation to reflect the incorporation of the More Favourable Covenant into this Agreement.
- (d) Unless a Default or Event of Default is continuing, a More Favourable Covenant incorporated into this Agreement pursuant to this Clause 23.37 shall:
 - (i) be deemed automatically amended to reflect any subsequent amendments or waivers agreed and implemented in relation to such More Favourable Covenant or More Favourable Event of Default (as applicable) under the Relevant Debt Document; and
 - (ii) be deemed deleted from this Agreement at such time as such More Favourable Covenant or More Favourable Event of Default (as applicable) is deleted or otherwise removed from or is no longer in effect under or pursuant to the Relevant Debt Document or no amounts are outstanding under the Relevant Debt Document,

provided that, (x) a More Favourable Financial Covenant shall not, without prejudice to Clause 37 (*Amendments and Waivers*), be amended or deleted by virtue of this paragraph (d) if following such amendment or waiver, the financial covenants set out in Clause 22.2 (*Financial condition*) would be less restrictive on the Company than as at the date of this Agreement; and (y) a More Favourable Event of Default shall not, without prejudice to Clause 37 (*Amendments and Waivers*), be amended or deleted by virtue of this paragraph (d) if following such amendment or waiver, the relevant Event of Default under Clause 24.1 (*Non-payment*), Clause 24.5 (*Cross default*), Clause 24.6 (*Insolvency*), Clause 24.7 (*Insolvency proceedings*) or Clause 24.8 (*Creditors' process*) (as applicable) would be less restrictive on the Group than as at the date of this Agreement.

(e) The Company shall promptly notify the Agent of any amendment, waiver or deletion of a More Favourable Financial Covenant or More Favourable Event of Default pursuant to paragraph (d) above.

24. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 24 is an Event of Default (save for Clause 24.17 (*Acceleration*) and Clause 24.18 (*Clean-Up Period*)).

24.1 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 failure to pay is caused by:

- (a) administrative or technical error; or
- (b) a Disruption Event; and

such payment is made within five (5) Business Days of its due date.

24.2 Financial covenants

The Default Ratios are not complied with and such non-compliance (if capable of being cured) is not cured pursuant to Clause 22.4 (*Equity Cure Right*).

24.3 Other obligations

- (a) An Obligor or the Parent does not comply with any provision of the Finance Documents (other than those referred to in Clause 24.1 (*Non-payment*) and Clause 24.2 (*Financial covenants*)).
- (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 Company, the relevant Obligor or the Parent and (ii) the Company, the relevant Obligor or the Parent becoming aware of the failure to comply.

24.4 Misrepresentation

- (a) Any representation, warranty or written statement made or deemed to be made by any Obligor or the Parent in any of the Finance Documents or any other document delivered by or on behalf of any Obligor or the Parent under or pursuant to any of the Finance Documents is or proves to be incorrect or misleading in any material respect (or, where such representation, warranty or written statement is already qualified by materiality, in any respect) when made or deemed to be made (or when repeated or deemed to be repeated) by reference to the facts and circumstances then existing.
- (b) No Event of Default under paragraph (a) above will occur if the circumstances giving rise to the representation or statement being incorrect or misleading are capable of remedy and are remedied within 20 Business Days of the earlier of (i) the Agent giving notice to the Company, the relevant Obligor or the Parent (as applicable) and (ii) the Company, the relevant Obligor or the Parent (as applicable) becoming aware of such circumstances.

24.5 Cross default

- (a) Any Financial Indebtedness (other than Subordinated Debt or Intra-Group Debt) of the Parent, any Obligor or any Material Company is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness (other than Subordinated Debt or Intra-Group Debt) of the Parent, any Obligor or any Material Company is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness (other than Subordinated Debt or Intra-Group Debt) of the Parent, any Obligor or any Material Company is cancelled or suspended by a creditor of the Parent, any Obligor or any Material Company as a result of an event of default (however described).
- (d) Any creditor of any member of the Parent, any Obligor or any Material Company becomes entitled to declare any Financial Indebtedness of the Parent, any Obligor or any Material Company due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) No Event of Default will occur under this Clause 24.5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than £5,000,000 (or its equivalent in other currencies).

24.6 **Insolvency**

- (a) Any Obligor, any Material Company or the Parent:
 - (i) is unable or admits inability to pay its debts as they fall due;
 - (ii) is deemed to, or is declared to, be unable to pay its debts under applicable law;
 - (iii) suspends or threatens to suspend making payments on any of its debts;
 - (iv) by reason of actual financial difficulties, commences negotiations with one or more of its creditors (excluding any Secured Party in its capacity as such) with a view to rescheduling any of its indebtedness.
- (b) A moratorium is declared in respect of any indebtedness of any Obligor, any Material Company or the Parent. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

24.7 **Insolvency proceedings**

- (a) Any corporate action or any legal proceedings or any other formal step are taken in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, examinership, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Obligor, any Material Company or the Parent;
 - (ii) a composition, compromise, assignment or arrangement with any creditor of any Obligor, any Material Company or the Parent;
 - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, examiner, compulsory manager or other similar officer in respect of any Obligor, any Material Company or the Parent or any of their respective assets; or
 - (iv) enforcement of any Security over any assets of any Obligor, any Material Company or the Parent in aggregate, which have a value exceeding £5,000,000 (or its equivalent in other currencies),

or any analogous procedure or step is taken in any jurisdiction or any analogous procedure or step is taken in any jurisdiction.

- (b) Paragraph (a) above shall not apply to:
 - (i) any winding up petition which is frivolous or vexatious and which is discharged, stayed or dismissed within 21 Business Days of commencement; or
 - (ii) any corporate action or any legal proceedings in connection with a Permitted Reorganisation.

24.8 Creditors' process

- (a) Any expropriation, attachment, sequestration, distress, diligence or execution or any analogous process in any jurisdiction affects any asset or assets of an Obligor, any Material Company or the Parent having an aggregate value of more than £5,000,000 (or its equivalent in other currencies).
- (b) No Event of Default will occur under paragraph (a) above if any such proceedings are contested in good faith and are frivolous or vexatious in nature and are discharged, stayed or dismissed within 21 Business Days of commencement.

24.9 Unlawfulness and invalidity

(a) It is or becomes unlawful for the Parent, an Obligor or any other member of the Group that is a party to the Intercreditor Agreement to perform any of its obligations under the Finance Documents.

- (b) Any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective or is or becomes unlawful.
- (c) Any subordination created under the Intercreditor Agreement ceases to be effective or is alleged by a party to it (other than a Finance Party) to be ineffective or unlawful.
- (d) Any obligation or obligations of any Obligor or the Parent under any Finance Document to which it is a party or any other member of the Group under the Intercreditor Agreement or any subordination created under the Intercreditor Agreement are not or cease to be, subject to the Legal Reservations, legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Finance Parties under the Finance Documents.
- (e) Any Finance Document ceases to be in full force and effect or any material provision of any Transaction Security ceases to be legal, valid, enforceable or is alleged by a party to it (other than a Finance Party) to be ineffective.

24.10 Intercreditor Agreement

- (a) Any party to the Intercreditor Agreement (other than a Finance Party) fails to comply with any provisions of, or does not perform its obligations under, the Intercreditor Agreement; or
- (b) a representation or warranty given by that party in the Intercreditor Agreement is incorrect in any material respect (to the extent not qualified by materiality) or incorrect (to the extent not so qualified),

and, if the non-compliance or circumstances giving rise to the misrepresentation are capable of remedy, it is not remedied within 20 Business Days of the earlier of the Agent giving notice to that party or that party becoming aware of the non-compliance or misrepresentation.

24.11 Cessation of business

The Parent, any Obligor or any Material Company suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business which has or would reasonably be likely to have a Material Adverse Effect, except as a result of a Permitted Disposal or a Permitted Transaction.

24.12 Expropriation

The authority or ability of any Obligor, the Parent or any Material Company to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any Obligor, the Parent or any Material Company or any of its assets and such limitation or curtailment has or would be reasonably likely to have a Material Adverse Effect.

24.13 Repudiation and rescission of agreements

- (a) An Obligor or the Parent:
 - (i) rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or any of the Transaction Security; or
 - (ii) evidences an intention to rescind or repudiate a Finance Document or any Transaction Security.
- (b) Any party (other than an Obligor or the Parent) to the Intercreditor Agreement rescinds or purports to rescind or repudiates or purports to repudiate the Intercreditor Agreement in whole or in part where to do so has or is likely to have a material adverse effect on the interests of the Lenders under the Finance Documents.

24.14 Litigation

Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced against the Parent, any Obligor or any Material Company or their respective assets or in relation to the Finance Documents which, in each case, is reasonably likely to be adversely determined and, if adversely determined, would have, or would be reasonably likely to have, a Material Adverse Effect.

24.15 Change in Landfill Tax

Any change in landfill tax or any change in relation to treatment of air pollution control residues or dredging in connection with landfill tax occurs which, in each case, has a Material Adverse Effect.

24.16 Audit Qualification

The Company's Auditors qualify the financial statements of the Company and such qualification has, or is reasonably likely to be materially adverse to the interests of the Lenders as a whole.

24.17 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Agent may (and shall if so directed by the Majority Lenders):

- (a) cancel the Total Commitments and/or Ancillary Commitments at which time they shall immediately be cancelled;
- (b) declare that all or part of the Utilisations, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable;

- (c) declare that all or part of the 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;
- (d) declare that all or part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities is to be immediately due and payable, at which time they shall become immediately due and payable;
- (e) 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
- (f) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

24.18 Clean-Up Period

Notwithstanding any other provision of any Finance Document, during the Clean-Up Period:

- (a) any breach of a Clean-Up Representation or a Clean-Up Undertaking; or
- (b) any Event of Default constituting a Clean-Up Default,

will be deemed not to be a breach of representation or warranty, a breach of covenant or an Event of Default (as the case may be) if:

- (i) it would have been (if it were not for this Clause 24.18) a breach of representation or warranty, a breach of covenant or an Event of Default only by reason of circumstances relating exclusively to:
 - (A) in the case of a breach or Event of Default which occurs during the Clean-Up Period relating to the Acquisition, any member of the Target Group (or any obligation to procure or ensure in relation to any member of the Target Group); or
 - (B) in the case of a breach or Event of Default which occurs during the Clean-Up Period relating to any Permitted Acquisition, the assets which are the target of such acquisition (or any obligation to procure or ensure in relation to such assets), or in either case, any action taken by a member of the Group solely to remedy such circumstances for the purpose of ensuring compliance with this Agreement;
- (ii) it is capable of remedy and reasonable steps are being taken to remedy it;
- (iii) the circumstances giving rise to it have not been procured by or approved by the Company, the Parent or any other member of the Group; and

(iv) it is not reasonably likely to have a Material Adverse Effect.

If the relevant circumstances are continuing after the Clean-Up Period, there shall be a breach of representation or warranty, breach of covenant or Event of Default, as the case may be notwithstanding the above (and without prejudice to the rights and remedies of the Finance Parties).

25. CHANGES TO THE LENDERS

25.1 Assignments and transfers by the Lenders

- (a) Subject to this Clause 25 and to Clause 26 (*Restriction on Debt Purchase Transactions*), a Lender (the "**Existing** Lender") may:
 - (i) assign, sub-participate or sub-contract any of its rights; or
 - (ii) transfer by novation any of its rights and obligations,

under any Finance Document to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the "**New Lender**").

(b) Subject to this Clause 25 and to Clause 26 (*Restriction on Debt Purchase Transactions*), an Existing Lender may also enter into a sub-participation in respect of any of its rights 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 and for the avoidance of doubt, any other references to sub-participations in this Clause 25 are references to voting subparticipation arrangements in connection with a Lender's Commitment and shall be construed accordingly

25.2 Conditions of assignment or transfer

- (a) During the Certain Funds Period, the prior written consent of the Company is required for an assignment, transfer or sub-participation by an Existing Lender in accordance with Clause 25.1 (Assignments and transfers by the Lenders) unless the assignment or transfer is:
 - (i) made at a time when a Major Event of Default is continuing.
 - (ii) to an Affiliate of a Lender that has a credit rating of A- or higher by Standard & Poor's or Fitch or A3 or higher by Moody's.
- (b) Following the Certain Funds Period, the prior written consent of the Company is required for an assignment, transfer or sub-participation by an Existing Lender in accordance with Clause 25.1 (Assignments and transfers by the Lenders) unless the assignment, transfer or sub-participation is:
 - (i) to another Lender;

- (ii) to an Affiliate of a Lender;
- (iii) if the Existing Lender is a fund, to a fund which is a Related Fund of such Existing Lender;
- (iv) subject to paragraph (c) below, to a bank or financial institution or other entity named on the Lender Approved List (including any Affiliate or fund or securitisation vehicle controlled or managed by such bank or financial institution or other entity listed on the Lender Approved List; or
- (v) made at a time when an Event of Default is continuing.
- (c) Notwithstanding paragraph (b) above (except with respect of paragraph (b)(v) above), no assignment, transfer or sub-participation is permitted without the prior written consent of the Company where the proposed transferee, assignee or sub-participant is:
 - (i) a Distressed Debt Fund;
 - (ii) a Hedge Fund;
 - (iii) a Defaulting Lender; or
 - (iv) in the case of a transfer or assignment of the Capex Facility Commitments and Revolving Facility Commitments, to an entity that has a credit rating of BBB- or lower by Standard & Poor's or Fitch or Baa3 or lower by Moody's.

The provisions of paragraph (e) below shall not apply to any transfer, assignment or sub-participation under this paragraph (c).

- (d) Notwithstanding paragraphs (b) and (c) above, no transfer, assignment or sub-participation is permitted without the prior written consent of the Company where the proposed transferee, assignee or sub-participant is a Competitor. The provisions of paragraph (e) below shall not apply to any transfer, assignment or sub-participation under this paragraph (d).
- (e) The consent of the Company may not be unreasonably withheld or delayed and will be deemed to be given if the Company has not responded within 10 Business Days of being requested in writing to do so.
- (f) An assignment, transfer or sub-participation of part of a Lender's participation in a Facility shall not be permitted (other than in circumstances where an Event of Default is continuing) if it would result in the aggregate commitments of that Lender's remaining participation in the Facilities, or any New Lender's participation in the Facilities, being less than £3,000,000 unless that Lender is transferring the whole of its participation in the Facilities.

- (g) An assignment will only be effective on:
 - (i) receipt by the Agent (whether in the Transfer Certificate, the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Finance Parties and the other Secured Parties as it would have been under if it was an Original Lender;
 - (ii) the New Lender entering into the documentation required for it to accede as a party to the Intercreditor Agreement; and
 - (iii) the performance by the Agent of all necessary "**know your customer**" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.
- (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 25.5 (*Procedure for transfer*) is complied with.
- (i) If:
 - (i) a Lender assigns, sub-participates, sub-contracts or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
 - (ii) as a result of circumstances existing at the date the assignment, sub-participation, sub-contract, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 15 (*Tax Gross-up and Indemnities*) or Clause 16 (*Increased Costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under that Clause to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

(j) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.

25.3 Assignment or transfer fee

Unless the Agent otherwise agrees and excluding an assignment or transfer in connection with any amendment, consent or waiver process permitted by the relevant

group of Lenders in accordance with Clause 37 (*Amendments and Waivers*), 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 £3,500.

25.4 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 Transaction Documents, the Transaction Security or any other documents;
 - (ii) the financial condition of any Obligor;
 - (iii) the performance and observance by the Parent, any Obligor or any other member of the Group of its obligations under the Transaction Documents or any other documents; or
 - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Transaction Document or any other document,

and any representations or warranties implied by law are excluded.

- (b) Each New Lender confirms to the Existing Lender, the other Finance Parties and the Secured Parties that it:
 - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Transaction Document or the Transaction Security; and
 - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
 - (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 25; or
 - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Transaction Documents or otherwise.

25.5 **Procedure for transfer**

(a) Subject to the conditions set out in Clause 25.2 (*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 (c) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.

- (b) The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "**know your customer**" or similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) Subject to Clause 25.10 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security 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 Mandated Lead Arrangers, the Security Agent, the New Lender and the other Lenders and any relevant Ancillary Lender shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Mandated Lead Arrangers, the Security Agent and any relevant Ancillary Lender and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
 - (iv) the New Lender shall become a Party as a "**Lender**".

25.6 **Procedure for assignment**

(a) Subject to the conditions set out in Clause 25.2 (Conditions of assignment or transfer) an assignment may be effected in accordance with paragraph (iii) 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 (ii) below, as soon as reasonably practicable

after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.

- (i) The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (ii) Subject to Clause 25.10 (*Pro rata interest settlement*), on the Transfer Date:
 - (A) 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;
 - (B) 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
 - (C) the New Lender shall become a Party as a "**Lender**" and will be bound by obligations equivalent to the Relevant Obligations.
- (iii) Lenders may utilise procedures other than those set out in this Clause 25.6 to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with Clause 25.5 (*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 25.2 (*Conditions of assignment or transfer*).

25.7 Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Company

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

25.8 Accession of Hedge Counterparties

Any person which enters into a hedging transaction with an Obligor and which becomes a party to the Intercreditor Agreement as a Hedge Counterparty shall, at the same time, become a Party to this Agreement as a Hedge Counterparty in accordance with clause 21 (*Changes to the Parties*) of the Intercreditor Agreement.

25.9 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 25, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (b) any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or other Security for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by an Obligor or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

25.10 *Pro rata* interest settlement

- (a) If the Agent has notified the Lenders that it is able to distribute interest payments on a "*pro rata* basis" to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 25.5 (*Procedure for transfer*) or any assignment pursuant to Clause 25.6 (*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; 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 25.10,

have been payable to it on that date, but after deduction of the Accrued Amounts.

- (b) In this Clause 25.10 references to "**Interest Period**" shall be construed to include a reference to any other period for accrual of fees.
- (c) An Existing Lender which retains the right to the Accrued Amounts pursuant to this Clause 25.10 but which does not have a Commitment shall be deemed not to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents.

26. RESTRICTION ON DEBT PURCHASE TRANSACTIONS

26.1 Prohibition on Debt Purchase Transactions by the Group

The Company shall not, and shall procure that each other member of the Group shall not, enter into any Debt Purchase Transaction or 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**".

26.2 Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates

- (a) For so long as a Sponsor Affiliate (i) beneficially owns a Commitment or (ii) has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated:
 - (i) in ascertaining the Majority Lenders or Super Majority Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments or the agreement of any specified group of Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents such Commitment shall be deemed to be zero; and
 - (ii) such Sponsor Affiliate or the person with whom it has entered into such sub- participation, other agreement or arrangement shall be deemed not to be a Lender for the purposes of paragraph (i) above (unless in the case of a person not being a Sponsor Affiliate it is a Lender by virtue otherwise than by beneficially owning the relevant Commitment).
- (b) Each Lender shall, unless such Debt Purchase Transaction is an assignment or transfer, promptly notify the Agent in writing if it knowingly enters into a Debt Purchase Transaction with a Sponsor Affiliate (a "Notifiable Debt Purchase Transaction"), such notification to be substantially in the form set out in Part 1 of Schedule 10 (Forms of Notifiable Debt Purchase Transactions Notice).

- (c) A Lender shall promptly notify the Agent if a Notifiable Debt Purchase Transaction to which it is a party:
 - (i) is terminated; or
 - (ii) ceases to be with a Sponsor Affiliate,

such notification to be substantially in the form set out in Part 2 of Schedule 10 (Forms of Notifiable Debt Purchase Transactions Notice).

- (d) Each Sponsor Affiliate that is a Lender agrees that:
 - (i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, it shall not attend or participate in the same if so requested by the Agent or, unless the Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and
 - (ii) in its capacity as Lender, unless the Agent otherwise agrees, it shall not be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Agent or one or more of the Lenders.

26.3 Sponsor Affiliate's notification to other Lenders of Debt Purchase Transactions

Any Sponsor Affiliate which is or becomes a Lender and which enters into a Debt Purchase Transaction as a purchaser or a participant shall, by 11.00 am on the Business Day following the day on which it entered into that Debt Purchase Transaction, notify the Agent of the extent of the Commitment(s) or amount outstanding to which that Debt Purchase Transaction relates. The Agent shall promptly disclose such information to the Lenders.

27. CHANGES TO THE OBLIGORS

27.1 Assignment and transfers by Obligors

No Obligor, nor the Parent, nor any other member of the Group may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

27.2 Additional Borrowers

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 21.8 ("Know your customer" checks), the Company may request that any of its Subsidiaries becomes a Borrower. That Subsidiary shall become a Borrower if:
 - (i) it is (A) incorporated in the United Kingdom or the same jurisdiction as an existing Borrower under the relevant Facility, or (B) incorporated elsewhere but in a jurisdiction which has been consented to by all of the Lenders participating in the relevant Facility (acting reasonably);
 - (ii) the Company and that Subsidiary deliver to the Agent a duly completed and executed Accession Deed:

- (iii) the Subsidiary is (or becomes) a Guarantor on or prior to becoming a Borrower (or, in the case of the Target, it becomes a Guarantor promptly upon reregistering as a private limited company);
- (iv) the Company confirms that no Event of Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and
- (v) the Agent has received all of the documents and other evidence listed in Part 2 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 Company and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part 2 of Schedule 2 (*Conditions Precedent*).
- (c) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (b) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

27.3 **Resignation of a Borrower**

- (a) In this Clause 27.3 and Clause 27.5 (*Resignation of a Guarantor*), "**Third Party Disposal**" means the disposal of an Obligor (other than the Company) to a person which is not a member of the Group where that disposal is permitted under Clause 23.14 (*Disposals*) or made with the approval of the Majority Lenders (and the Company has confirmed this is the case).
- (b) The Company may request that such Borrower ceases to be a Borrower by delivering to the Agent a Resignation Letter if:
 - (i) that Borrower is being disposed of by way of a Third Party Disposal, is the subject of a Permitted Reorganisation or a Permitted Transaction and the Company has confirmed this is the case; or
 - (ii) all the Lenders have consented to the resignation of that Borrower.
- (c) The Agent shall accept a Resignation Letter and notify the Company and the other Finance Parties of its acceptance if:
 - (i) the Company has confirmed that no Event of Default is continuing or would result from the acceptance of the Resignation Letter;
 - (ii) the Borrower is under no actual or contingent obligations as a Borrower under any Finance Documents; and
 - (iii) where the Borrower is also a Guarantor (unless its resignation has been (or will, at the same time as the Agent's acceptance of the Resignation

Letter be) accepted in accordance with Clause 27.5 (*Resignation of a Guarantor*)), its obligations in its capacity as Guarantor continue to be legal, valid, binding and enforceable and in full force and effect (subject to the Legal Reservations) and the amount guaranteed by it as a Guarantor is not decreased (and the Company has confirmed this is the case) and the Company has confirmed that it shall not be in breach of its obligations pursuant to Clause 23.26 (*Guarantors*) as a result of the resignation by the Borrower.

- (d) Upon notification by the Agent to the Company of its acceptance of the resignation of a Borrower, that company shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents as a Borrower except that the resignation shall not take effect (and the Borrower will continue to have rights and obligations under the Finance Documents) until the date on which the Third Party Disposal, the Permitted Reorganisation or the Permitted Transaction (as applicable) takes effect.
- (e) The Agent may, at the cost and expense of the Company, require a legal opinion from counsel to the Agent confirming the matters set out in paragraph (c)(iii) above and, subject to paragraph (c) above, the Agent shall be under no obligation to accept a Resignation Letter until it has obtained such opinion in form and substance satisfactory to it, acting reasonably.

27.4 Additional Guarantors

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 21.8 ("Know your customer" checks), the Company may request that any of its Subsidiaries becomes a Guarantor.
- (b) Subject to the Agreed Security Principles, the Company shall ensure that any member of the Group which is required to become a Guarantor pursuant to Clause 23.26 (*Guarantors*) shall, at the same time as it becomes a Guarantor, accede to the Intercreditor Agreement and grant such Security as the Agent may require acting reasonably and this requirement shall be satisfied if such Additional Guarantor grants Transaction Security over the relevant asset classes described in the Agreed Security Principles.
- (c) Subject to the Agreed Security Principles, the Company shall ensure that any member of the Group which is a Material Company shall, as soon as reasonably practicable after becoming a Material Company and in any event within 45 days thereafter become an Additional Guarantor, accede to the Intercreditor Agreement and grant such Security as the Agent may require acting reasonably and this requirement shall be satisfied if such Additional Guarantor grants Transaction Security over the relevant asset classes described in the Agreed Security Principles.
- (d) A Subsidiary of the Company shall become an Additional Guarantor if:
 - (i) the Company and the proposed Additional Guarantor deliver to the Agent a duly completed and executed Accession Deed; and

- (ii) the Agent has received all of the documents and other evidence listed in Part 2 of Schedule 2 (*Conditions Precedent*) in relation to that Additional Guarantor, each in form and substance satisfactory to the Agent, acting reasonably.
- (e) The Agent shall notify the Company and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part 2 of Schedule 2 (*Conditions Precedent*).
- (f) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (e) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

27.5 **Resignation of a Guarantor**

- (a) The Company may request that a Guarantor (other than the Company) ceases to be a Guarantor by delivering to the Agent a Resignation Letter if:
 - (i) that Guarantor is being disposed of by way of a Third Party Disposal (as defined in Clause 27.3 (*Resignation of a Borrower*)), is the subject of a Permitted Reorganisation or is a Permitted Transaction and the Company has confirmed this is the case; or
 - (ii) all the Lenders have consented to the resignation of that Guarantor.
- (b) The Agent shall accept a Resignation Letter and notify the Company and the Lenders of its acceptance if:
 - (i) the Company has confirmed that no Event of Default is continuing or would result from the acceptance of the Resignation Letter;
 - (ii) no payment is due from the Guarantor under clause 15 (*Guarantee and Indemnity*) of the Intercreditor Agreement;
 - (iii) where the Guarantor is also a Borrower, it is under no actual or contingent obligations as a Borrower and has resigned and ceased to be a Borrower (or will resign and cease to be a Borrower at the same time as the Agent's acceptance of the Resignation Letter) under Clause 27.3 (*Resignation of a Borrower*); and
 - (iv) the Company has confirmed that it shall not be in breach of its obligations pursuant to Clause 23.26 (*Guarantors*) as a result of the resignation by the Guarantor; and
 - (v) any Disposal Proceeds, to the extent received, will be applied in accordance with Clause 9.4 (*Disposal, Insurance, Report, Cure Amount, Excess Cashflow and Refinancing Proceeds*).

(c) Upon the later of the date the Agent notifies its acceptance of a Resignation Letter under paragraph (b) above and, where the resigning Guarantor is being disposed of by way of a Third Party Disposal, is the subject of a Permitted Reorganisation or is resigning pursuant to a Permitted Transaction, the date of the relevant Third Party Disposal, the Permitted Reorganisation or the Permitted Transaction (as applicable), that company shall cease to be a Guarantor and shall have no further rights or obligations under the Finance Documents as a Guarantor.

27.6 **Repetition of Representations**

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in paragraph (c) of Clause 20.31 (*Times When Representations are Made*) as being made upon such Subsidiary becoming an Additional Obligor 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.

28. ROLE OF THE AGENT, THE MANDATED LEAD ARRANGERS AND OTHERS

28.1 Appointment of the Agent

- (a) Each of the Mandated Lead Arrangers and the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Mandated Lead Arrangers and the Lenders authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

28.2 **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.

28.3 **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 25.7 (*Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Company*), paragraph (b) above shall not apply to any Transfer Certificate, any Assignment Agreement or any Increase Confirmation.
- (d) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy 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, a Mandated Lead Arranger or the Security Agent) under this Agreement it shall promptly notify the other Finance Parties.
- (g) The Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

28.4 Role of the Mandated Lead Arrangers

Except as specifically provided in the Finance Documents, no Mandated Lead Arranger has any obligations of any kind to any other Party under or in connection with any Finance Document.

28.5 **No fiduciary duties**

- (a) Nothing in any Finance Document constitutes the Agent or any Mandated Lead Arranger as a trustee or fiduciary of any other person.
- (b) None of the Agent, any Mandated Lead Arranger or any Ancillary Lender shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

28.6 **Business with the Group**

The Agent, each Mandated Lead Arranger and each Ancillary Lender may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

28.7 Rights and discretions

- (a) The Agent may:
 - (i) rely on any representation, communication, notice or document (including, without limitation, any notice given by a Lender pursuant to Clause 26.2 (*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 terms of the Finance Documents; and
 - (B) unless it has received notice of revocation, that those instructions have not been revoked: and

- (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.

- (b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
 - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 24.1 (*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 Company (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) Subject to Clauses 17.3 (*Indemnity to the Agent*), 19.1 (*Transaction expenses*) and 19.2 (*Amendment costs*), 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 necessary.
- (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 may:
 - (i) disclose; and
 - (ii) on the written request of the Company or the Majority Lenders shall, as soon as reasonably practicable after it becomes aware that a Lender is a Defaulting Lender, disclose,

the identity of a Defaulting Lender to the Company and to the other Finance Parties.

- (i) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor any Mandated Lead Arranger is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (j) Notwithstanding any provision of any Finance Document to the contrary, the 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.

28.8 **Responsibility for documentation**

None of the Agent, any Mandated Lead Arranger or any Ancillary Lender is responsible or liable for:

(a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, a Mandated Lead Arranger, an Ancillary Lender, an Obligor or any other person in or in connection with any Finance Document, the Tax Structure Paper or the Reports or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

28.9 **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.

28.10 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent or any Ancillary Lender), none of the Agent nor any Ancillary Lender will not be liable (including without limitation, for negligence or any other category of liability whatsoever) for:
 - 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 Transaction Document or the Transaction Security; 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 or an Ancillary Lender) may take any proceedings against any officer, employee or agent of the Agent or any Ancillary Lender, in respect of any claim it might have against the Agent or an Ancillary Lender or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent or any Ancillary Lender may rely on this Clause 28 subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Acts.
- (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 any Mandated Lead Arranger or any Affiliate of a Lender to carry out:
 - (i) any "know your customer" or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender,

on behalf of any Lender and each Lender confirms to the Agent and the Mandated Lead Arrangers that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or any Mandated Lead Arranger.

(e) Without prejudice to any provision of any Finance Document excluding or limiting the Agent's liability, any liability of the Agent arising under or in connection with any Finance Document or the Transaction Security shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent at any time which increase the amount of that loss. In no event shall the Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent has been advised of the possibility of such loss or damages.

28.11 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 31.11 (*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 Company shall within three (3) Business Days of demand reimburse any Lender for any payment that Lender makes to the Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Agent to an Obligor.

28.12 Resignation of the Agent

- (a) The Agent may resign and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving notice to the Lenders and the Company.
- (b) If the Agent (or its Affiliate) ceases to hold any Commitments under the Facilities, the Company may at its option require the Agent to resign as Agent under this Agreement on no less than 20 days' written notice. Upon receipt of such notice from the Company, the Agent will be required to resign and shall promptly notify the Lenders. The Majority Lenders (after consultation with the Company) may appoint a successor Agent. If the Majority Lenders have not appointed a successor Agent within 10 days after notice of resignation was given, the Company may designate a successor Agent for the Lenders to appoint.
- (c) Alternatively the Agent may resign by giving 30 days' notice to the Lenders and the Company, in which case the Majority Lenders (after consultation with the Company) may appoint a successor Agent.
- (d) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (c) above within 20 days after notice of resignation was given, the retiring Agent (after consultation with the Company) may appoint a successor Agent (acting through an office in the United Kingdom).
- (e) 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 (d) above, the Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade

the proposed successor Agent to become a party to this Agreement as Agent) agree with the proposed successor Agent amendments to this Clause 28.12 and any other term of this Agreement dealing with the rights or obligations of the Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this Agreement which are consistent with the successor Agent's normal fee rates and those amendments will bind the Parties.

- (f) The retiring Agent shall make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents. The Borrower shall, within three (3) Business Days of demand, reimburse the retiring Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (g) The Agent's resignation notice shall only take effect upon the appointment of a successor.
- (h) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (f) above) but shall remain entitled to the benefit of this Clause 28.12 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (i) The Agent shall resign in accordance with paragraph (c) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (d) above) if on or after the date which is three Months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:
 - (i) the Agent fails to respond to a request under Clause 15.8 (FATCA Information) and the Company or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
 - (ii) the information supplied by the Agent pursuant to Clause 15.8 (*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 Company and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) the Company or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and the Company or that Lender, by notice to the Agent, requires it to resign.

(j) Any entity retiring as Agent pursuant to this Clause 28.12 which is also acting in a separate capacity as Security Agent for the Secured Parties, shall resign as Security Agent in accordance with clause 19.11 (*Resignation of the Security Agent*) of the Intercreditor Agreement.

28.13 Replacement of the Agent

- (a) After consultation with the Company, 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 28.13 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).
- (d) Any successor Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (e) Any entity replaced as Agent pursuant to this Clause 28.13 which is also acting in a separate capacity as Security Agent for the Secured Parties, shall resign as Security Agent in accordance with clause 19.11 (*Resignation of the Security Agent*) of the Intercreditor Agreement.

28.14 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.

28.15 Relationship with the Lenders

(a) Subject to Clause 25.10 (*Pro rata interest settlement*), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:

- (i) entitled to or liable for any payment due under any Finance Document on that day; and
- (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

(b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address and (where communication by electronic mail or other electronic means is permitted under Clause 33.6 (*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, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 33.2 (*Addresses*) and Clause 33.6 (*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.

28.16 Credit appraisal by the Lenders and Ancillary Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender and Ancillary Lender confirms to the Agent, each Mandated Lead Arranger and each Ancillary Lender that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (c) whether that Lender or Ancillary Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security or the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (d) the adequacy, accuracy and/or completeness of the Tax Structure Paper or Reports and any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the

transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; 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.

28.17 Agent's management time

Any amount payable to the Agent under Clause 17.3 (*Indemnity to the Agent*), Clause 19 (*Costs and Expenses*) and Clause 28.11 (*Lenders' indemnity to the Agent*) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Company and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause.14 (*Fees*).

28.18 Deduction from amounts payable by the Agent

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

28.19 Reliance and engagement letters

Each Finance Party and Secured Party confirms that each of the Mandated Lead Arrangers and the Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by a Mandated Lead Arranger or the Agent) the terms of any reliance letter or engagement letters (in each case, in the form agreed by each Finance Party and Secured Creditor) relating to the Tax Structure Paper or Reports or any reports or letters provided by accountants in connection with the Finance Documents or the transactions contemplated in the Finance Documents and to bind it in respect of the Tax Structure Paper and those Reports, reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

29. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

Subject to Clause 15 (*Tax Gross-up and Indemnities*), no provision of this Agreement or any other Finance Document 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.

30. SHARING AMONG THE FINANCE PARTIES

30.1 Payments to Finance Parties

Subject to Clause 30.2 (*Ancillary Lenders*), if a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 31 (*Payment Mechanics*) (a "**Recovered Amount**") and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;
- (b) 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 31 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- 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 31.6 (*Partial payments*).

30.2 **Ancillary Lenders**

Clause 30.1 (*Payments to Finance Parties*) shall not apply to any amount received or recovered by an Ancillary Lender in respect of any cash cover provided for the benefit of that Ancillary Lender.

30.3 **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 31.6 (*Partial payments*) towards the obligations of that Obligor to the Sharing Finance Parties.

30.4 Recovering Finance Party's rights

On a distribution by the Agent under Clause 30.3 (*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.

30.5 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.

30.6 Exceptions

- (a) This Clause 30 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause 30, 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.

30.7 Ancillary Lenders

- (a) This Clause 30 shall not apply to any receipt or recovery by a Lender in its capacity as an Ancillary Lender at any time prior to the Agent exercising any of its rights under Clause 24.17 (*Acceleration*).
- (b) Following the exercise by the Agent of any of its rights under Clause 24.17 (*Acceleration*), this Clause 30 shall apply to all receipts or recoveries by Ancillary Lenders except to the extent that the receipt or recovery represents a reduction of the Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Net Outstandings.

31. PAYMENT MECHANICS

31.1 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 the terms of an

Ancillary Document, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payment shall be made to such account in the principal financial centre of the country of that currency and with such bank as the Agent, in each case, specifies.

31.2 **Distributions by the Agent**

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 31.3 (*Distributions to an Obligor*) and Clause 31.4 (*Clawback and pre-funding*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency.

31.3 **Distributions to an Obligor**

The Agent may (with the consent of the Obligor or in accordance with Clause 32 (*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.

31.4 Clawback and pre-funding

- (a) Where a sum is to be paid to the Agent or, as relevant, the Security Agent under the Finance Documents for another Party, the Agent or, as relevant, the Security Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) Unless paragraph (c) below applies, if the Agent or, as relevant, the Security Agent pays an amount to another Party and it proves to be the case that the Agent or, as relevant, the Security 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 or, as relevant, the Security Agent shall on demand refund the same to the Agent or, as relevant, the Security Agent together with interest on that amount from the date of payment to the date of receipt by the Agent or, as relevant, the Security Agent, calculated by the Agent or, as relevant, the Security Agent to reflect its cost of funds.
- (c) If the Agent has notified the Lenders that it is willing to make available amounts for the account of a Borrower before receiving funds from the Lenders then if and to the extent that the Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to a Borrower:

- (i) the Agent shall notify the Company of that Lender's identity and the Borrower to whom that sum was made available shall on demand refund it to the Agent; and
- (ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower to whom that sum was made available, shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

31.5 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 31.1 (*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 31.5 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 28.13 (*Replacement of the Agent*), each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with Clause 31.2 (*Distributions by the Agent*).

- (e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:
 - (i) that it has not given an instruction pursuant to paragraph (d) above; and
 - (ii) that it has been provided with the necessary information by that Recipient Party,

give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

31.6 **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 amount owing to the Agent and the Security Agent under the Finance Documents;
 - (ii) secondly, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under those Finance Documents;
 - (iii) thirdly, in or towards payment *pro rata* of any principal due but unpaid under those Finance Documents; and
 - (iv) fourthly, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (a)(iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

31.7 No 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.

31.8 **Business Days**

(a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

31.9 **Currency of account**

- (a) Subject to paragraphs (b) to (e) below, sterling 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, pursuant to this Agreement, on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated, pursuant to this Agreement, when that interest accrued.
- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than sterling shall be paid in that other currency.

31.10 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Company); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Company) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.

31.11 **Disruption to Payment Systems etc.**

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Company that a Disruption Event has occurred:

(a) the Agent may, and shall if requested to do so by the Company, consult with the Company with a view to agreeing with the Company such changes to the

operation or administration of the Facilities as the Agent may deem necessary in the circumstances;

- (b) the Agent shall not be obliged to consult with the Company in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Agent and the Company shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 37 (*Amendments and Waivers*);
- (e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 31.11; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

31.12 Amounts paid in error

- (a) If the Agent pays an amount to another Party and the Agent notifies that Party that such payment was an Erroneous Payment then the Party to whom that amount was paid by the Agent shall on demand refund the same to the Agent.
- (b) Neither:
 - (i) the obligations of any Party to the Agent; nor
 - (ii) the remedies of the Agent,

(whether arising under this Clause 31.12 or otherwise) which relate to an Erroneous Payment will be affected by any act, omission, matter or thing which, but for this paragraph (b), would reduce, release or prejudice any such obligation or remedy (whether or not known by the Agent or any other Party).

(c) All payments to be made by a Party to the Agent (whether made pursuant to this Clause 31.12 or otherwise) which relate to an Erroneous Payment shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

(d) In this Agreement, "**Erroneous Payment**" means a payment of an amount by the Agent to another Party which the Agent determines (in its sole discretion) was made in error.

32. **SET-OFF**

- (a) If an Event of Default is continuing, any Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.
- (b) Any credit balances taken into account by an Ancillary Lender when operating a net limit in respect of any overdraft under an Ancillary Facility shall on enforcement of the Finance Documents be applied first in reduction of the overdraft provided under that Ancillary Facility in accordance with its terms.

33. **NOTICES**

33.1 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 letter or in accordance with Clause 33.6 (*Electronic communication*).

33.2 Addresses

The address and email address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of the Company, that identified with its name below;
- (b) in the case of each Lender, each Ancillary Lender or any other Obligor, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and
- (c) in the case of the Agent or the Security Agent, that identified with its name below,

or any substitute address, email address or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

33.3 **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 email address, 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 33.2 (*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 Company in accordance with this Clause 33.3 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 paragraph (a) to (d) above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

33.4 Notification of address and email address

Promptly upon receipt of notification of an address and email address or change of address or email address pursuant to Clause 33.2 (*Addresses*) or changing its own address or email address, the Agent shall notify the other Parties.

33.5 Communication when Agent is an 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.

33.6 Electronic communication

- (a) Any communication or document to be made or delivered by one Party to another under or in connection with the Finance Documents may be made or delivered by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and

- (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication or delivery as specified in paragraph (a) above to be made between an Obligor and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication or delivery.
- (c) Any such electronic communication or document as specified in paragraph (a) above made or delivered by one Party to another will be effective only when actually received (or made available) in readable form and in the case of any electronic communication or document made or delivered by a Party to the Agent or the Security Agent only if it is addressed in such a manner as the Agent or Security Agent shall specify for this purpose.
- (d) Any electronic communication or document which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the Party to whom the relevant communication or document is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in a Finance Document to a communication being sent or received or a document is being delivered shall be construed to include that communication being made available in accordance with this Clause 33.

33.7 Use of websites

- (a) 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 this information onto an electronic website designated by 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) both 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 Company and the Agent,

and in such circumstances a single copy of any information posted to the Designated Website will satisfy the requirement for supplying copies of such information to the Website Lenders.

(b) If any Lender (a "Paper Form Lender") does not agree to the delivery of information electronically then the Agent shall notify the Company accordingly and the Company 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 Company shall at its own cost supply the Agent with at least one copy in paper form of any information required to be provided by it upon the Agent's request.

- (c) 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 Company and the Agent.
- (d) The Company 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 Company 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 Company notifies the Agent under paragraphs (d)(i) to (d)(v) above, all information to be provided to the Company under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

(e) 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 Company shall at its own cost comply with any such request within 10 Business Days.

33.8 English language

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

34. CALCULATION AND CERTIFICATES

34.1 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.

34.2 Certificates and determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

34.3 Day count convention and interest calculation

- (a) Any interest, commission or fee accruing under a Finance Document will accrue from day to day and the amount of any such interest, commission or fee is calculated:
 - (i) on the basis of the actual number of days elapsed and a year of 365 days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice; and.
 - (ii) Subject to paragraph (b) below, without rounding.
- (b) The aggregate amount of any interest, commission or fee which is, or becomes, payable by an Obligor under a Finance Document shall be rounded to 2 decimal places.

35. PARTIAL INVALIDITY

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

36. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Secured Creditor, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document. No election to affirm any Finance Document on the part of any Finance Party or Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

37. AMENDMENTS AND WAIVERS

37.1 Intercreditor Agreement

This Clause 37 is subject to the terms of the Intercreditor Agreement.

37.2 Required consents

- (a) Subject to Clause 37.3 (*All Lender matters*), Clause 37.4 (*Super Majority Lender Matters*) and Clause 37.5 (*Other exceptions*), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Company and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 37.
- (c) Without prejudice to the generality of paragraphs (c), (d) and (e) of Clause 28.7 (*Rights and discretions*), the Agent may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.
- (d) Each Obligor agrees to any such amendment or waiver permitted by this Clause 37 which is agreed to by the Company. This includes any amendment or waiver which would, but for this Clause 37, require the consent of all of the Guarantors.
- (e) Paragraph (c) of Clause 25.10 (*Pro rata interest settlement*) shall apply to this Clause 37.2.

37.3 All Lender matters

- (a) Subject to Clause 37.6 (*Changes to reference rates*), an amendment, waiver or (in the case of a Transaction Security Document) a consent of, or in relation to, any term of any Finance Document that has the effect of changing or which relates to:
 - (i) the definition of "Blocking Regulation", "Change of Control", "Majority Lenders", "Minimum Acceptance Condition", "Restricted Party", "Sanctioned Country", "Sanctions", "Sanctions Authority", "Sanctions List" or "Super Majority Lenders" in Clause 1.1 (Definitions);
 - (ii) an extension to the date of payment of any amount under the Finance Documents (other than in relation to paragraph (c) of Clause 9.5 (Application of mandatory prepayments));
 - (iii) a reduction in the Margin applicable to a Facility or a reduction in the amount of any payment of principal, interest, fees or commission payable;
 - (iv) a change in currency of payment of any amount or any Commitment under the Finance Documents:

- (v) an increase in or an extension of any Commitment or the Total Commitments, an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under the relevant Facility;
- (vi) a change to the Borrowers or Guarantors other than in accordance with Clause 27 (*Changes to the Obligors*);
- (vii) any provision which expressly requires the consent of all the Lenders;
- (viii) Clause 8.1 (*Illegality*), Clause 9.1 (*Change of Control*), Clause 9.2 (*Sale of assets*), Clause 9.5 (*Application of mandatory prepayments*), Clause 10.9 (*Application of prepayments*), Clause 20.28 (*Anti-corruption law*), Clause 20.29 (*Sanctions*), Clause 23.28 (*Anti-corruption law*), Clause 23.29 (*Sanctions*), Clause 31.7 (*No set-off by Obligors*), Clause 43 (*Governing Law*) or Clause 44 (*Enforcement*);
- (ix) Clause 2.3 (Finance Parties' rights and obligations), Clause 25 (Changes to the Lenders) or this Clause 37;
- (x) any amendment to the order of priority or subordination under the Intercreditor Agreement; or
- (xi) the manner in which proceeds of enforcement of any Transaction Security are distributed, unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document,

shall not be made, or given, without the prior consent of all the Lenders.

37.4 **Super Majority Lender Matters**

An amendment or waiver that has the effect of changing or which relates to:

- (a) (save as contemplated by Clause 37.5 (*Other exceptions*)) or as expressly permitted by the provisions of any Finance Document) the nature or scope of:
 - (i) the guarantee and indemnity granted under clause 15 (*Guarantee and Indemnity*) of the Intercreditor Agreement; or
 - (ii) the Charged Property;
- (b) subject to Clause 27 (*Changes to the Obligors*), the release of any guarantee and indemnity granted under clause 15 (*Guarantee and Indemnity*) of the Intercreditor Agreement or of any Transaction Security unless permitted under this Agreement or any other Finance Document insofar as it is in connection with a transaction which is otherwise permitted under this Agreement or any other Finance Document; or

(c) any provision which expressly requires the consent of the Super Majority Lenders,

shall not be made, or given without the prior consent of the Super Majority Lenders.

37.5 Other exceptions

- (a) An amendment or waiver which relates to the rights or obligations of the Agent, any Mandated Lead Arranger, the Security Agent, any Ancillary Lender or a Hedge Counterparty (each in their capacity as such) may not be effected without the consent of the Agent, that Mandated Lead Arranger, the Security Agent, that Ancillary Lender or that Hedge Counterparty, as the case may be.
- (b) An amendment or waiver which relates to the jurisdiction requirement in any of paragraph (a) of the definition of "Permitted Business", paragraph (a) of the definition of "Permitted Joint Venture" and paragraphs (e) and (h)(iv) of the definition of "Permitted Acquisition" may not be effected without the consent of the Majority Lenders and (to the extent it or its Affiliate is a Lender) each Mandated Lead Arranger.

37.6 Changes to reference rates

- (a) Subject to Clause 37.5 (*Other exceptions*), if an RFR Replacement Event has occurred, any amendment or waiver which relates to:
 - (i) providing for the use of a Replacement Reference Rate in place of the RFR; and

(ii)

- (A) aligning any provision of any Finance Document to the use of that Replacement Reference Rate;
- (B) enabling that Replacement Reference Rate to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Reference Rate to be used for the purposes of this Agreement);
- (C) implementing market conventions applicable to that Replacement Reference Rate;
- (D) providing for appropriate fallback (and market disruption) provisions for that Replacement Reference Rate; or
- (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Reference Rate (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment

shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Company.

- (b) An amendment or waiver that relates to, or has the effect of, aligning the means of calculation of interest on a Loan under this Agreement to any recommendation of a Relevant Nominating Body which:
 - (i) relates to the use of a risk-free reference rate on a compounded basis in the international or any relevant domestic syndicated loan markets; and
 - (ii) is issued on or after the Signing Date,

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Company.

(c) In this Clause 37.6:

"RFR Replacement Event" means:

- (a) the methodology, formula or other means of determining the RFR has, in the opinion of the Majority Lenders and the Obligors, materially changed;
- (b)

(i)

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

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

- (ii) the administrator of the RFR publicly announces that it has ceased or will cease to provide the RFR permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the RFR;
- (iii) the supervisor of the administrator of the RFR publicly announces that the RFR has been or will be permanently or indefinitely discontinued;

- (iv) the administrator of the RFR or its supervisor announces that the RFR may no longer be used; or
- (c) the administrator of the RFR determines that the RFR 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) temporary; or
 - (ii) the RFR is calculated in accordance with any such policy or arrangement for a period no less than the period specified as the "RFR Contingency Period" in the Reference Rate Terms; or
- (d) in the opinion of the Majority Lenders and the Obligors, the RFR is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

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

"Replacement Reference Rate" means a reference rate which is:

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

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

- (f) in the opinion of the Majority Lenders and the Obligors, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to the RFR; or
- (g) in the opinion of the Majority Lenders and the Obligors, an appropriate successor to the RFR.

37.7 Excluded Commitments

If any Lender fails to respond to a request for a consent, waiver or amendment of or in relation to any term of any Finance Document or any other vote of Lenders under the terms of this Agreement within 15 Business Days of that request being made, (unless the Company and the Agent agree to a longer time period in relation to any request):

- (a) its Commitment(s) shall not be included for the purpose of calculating the Total Commitments under the relevant Facility/ies when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request; and
- (b) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

37.8 Replacement of Lender

- (a) Without prejudice to Clause 8.5 (*Right of cancellation and repayment in relation to a single Lender*), if at any time:
 - (i) an Obligor becomes obliged to repay any amount in accordance with Clause 8.1 (*Illegality*) or to pay additional amounts pursuant to Clause 16.1 (*Increased Costs*), Clause 15.2 (*Tax gross-up*) or Clause 15.3 (*Tax indemnity*) to any Lender; or
 - (ii) any Lender becomes a Defaulting Lender;
 - (iii) any Lender becomes an Affected Lender; or
 - (iv) any Lender becomes a Non-Consenting Lender,

then the Company may, on 10 Business Days' prior written notice to the Agent and that Lender, replace that Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) assign or transfer pursuant to Clause 25 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement and under any Ancillary Document to which it is a party to a Lender or other bank, financial institution, trust, fund or other entity (a "**Replacement Lender**") selected by the Company and which is acceptable to the Agent (acting reasonably) and which confirms its willingness to assume and does assume all the obligations of the transferring or assigning Lender in accordance with Clause 25 (*Changes to the Lenders*) for a purchase price in cash payable at the time of transfer or assignment in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Utilisations and Ancillary Outstandings and all accrued interest and other amounts payable in relation thereto under the Finance Documents.

- (b) The replacement of a Lender pursuant to this Clause 37 shall be subject to the following conditions:
 - (i) the Company shall have no right to replace the Agent or Security Agent (unless such right arises as a result of the operation of paragraph (b) of Clause 28.12 (*Resignation of the Agent*));
 - (ii) neither the Agent nor the Lender shall have any obligation to the Company to find a Replacement Lender;

- (iii) in no event shall the Lender replaced under this Clause 37.8 be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents; and
- (iv) the Lender shall only be obliged to transfer or assign its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer or assignment.
- (c) Without prejudice to paragraph (b)(ii) above, in the event of a replacement of a Defaulting Lender, Affected Lender or Non-Consenting Lender such replacement must take place no later than 60 days after the date on which that Lender is deemed a Defaulting Lender, Affected Lender or Non-Consenting Lender (as applicable).
- (d) A Lender shall perform the checks described in paragraph (b)(iv) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Company when it is satisfied that it has complied with those checks.

37.9 Disenfranchisement of Defaulting Lenders

- (a) For so long as a Defaulting Lender has any Available Commitment, in ascertaining:
 - (i) the Majority Lenders or the Super Majority Lenders; or
 - (ii) whether:
 - (A) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments under the relevant Facility/ies; or
 - (B) the agreement of any specified group of Lenders,

has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents,

that Defaulting Lender's Commitments under the relevant Facility/ies will be reduced by the amount of its Available Commitments under the relevant Facility/ies and, to the extent that that reduction results in that Defaulting Lender's Total Commitments being zero, that Defaulting Lender shall be deemed not to be a Lender for the purposes of paragraphs (i) and (ii) above.

- (b) For the purposes of this Clause 37.9 the Agent may assume that the following Lenders are Defaulting Lenders:
 - (i) any Lender which has notified the Agent that it has become a Defaulting Lender;

(ii) any Lender in relation to which it is aware that any of the events or circumstances referred to in paragraph (a), (b) or (c) of the definition of "**Defaulting Lender**" has occurred,

unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

38. **CONFIDENTIALITY**

38.1 **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 38.2 (*Disclosure of Confidential Information*) and Clause 38.3 (*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.

38.2 Disclosure of Confidential Information

Any Finance Party may disclose:

(a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners, service provider and Representatives and (in case of a Finance Party that is a debt fund) its investors such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information:

(b) to any person:

- (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent or Security Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
- (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
- (iii) appointed by any Finance Party or by a person to whom paragraphs (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 Clause 28.15 (*Relationship with the Lenders*));
- (iv) by (or through) whom policies of insurance or reinsurance in favour of that Finance Party are provided in connection with the obligations of the Obligors under the Finance Documents;
- (v) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (i) or (ii) above and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
- (vi) 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;
- (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 25.9
 (Security over Lenders' rights) and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
- (viii) 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;
- (ix) who is a Party; or
- (x) with the consent of the Company,

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to paragraphs (i), (ii) and (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 paragraphs (iii) and (iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
- (C) in relation to paragraphs (v), (vi) and (vii), the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there

shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances; and

- (c) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Company and the relevant Finance Party; and
- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the 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,

provided that nothing in any Finance Document shall prevent disclosure of any Confidential Information or other matter to the extent that preventing that disclosure would otherwise cause any transaction contemplated by the Finance Documents or any transaction carried out in connection with any transaction contemplated by the Finance Documents to become an arrangement described in Part II A 1 of Annex IV of Directive 2011/16/EU.

38.3 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) the Signing Date;
 - (v) Clause 43 (Governing Law);
 - (vi) the names of the Agent and the Mandated Lead Arrangers;
 - (vii) date of each amendment and restatement of this Agreement;
 - (viii) amounts of, and names of, the Facilities (and any tranches);

- (ix) amount of Total Commitments;
- (x) currency of the Facilities;
- (xi) type of Facilities;
- (xii) ranking of Facilities;
- (xiii) Termination Date for Facilities;
- (xiv) changes to any of the information previously supplied pursuant to paragraphs (i) to (xiii) above; and
- (xv) such other information agreed between such Finance Party and the Company,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/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 Company 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.
- (d) The Company represents that none of the information set out in paragraphs (a)(i) to (a)(xv) above is, nor will at any time be, unpublished price-sensitive information.

38.4 Entire agreement

This Clause 38 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.

38.5 **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.

38.6 **Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Company:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(vi) of Clause 38.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 38.

38.7 **Continuing obligations**

The obligations in this Clause 38 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve Months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with the Finance Documents have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

39. CONFIDENTIALITY OF FUNDING RATES

39.1 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 11.4 (*Notifications*); and
 - (ii) 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 Investors, 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 or regulation 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;
 - (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.

39.2 **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)(ii) of Clause 39.1 (*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 39.

39.3 **No Event of Default**

No Event of Default will occur under Clause 24.3 (*Other obligations*) by reason only of an Obligor's failure to comply with this Clause 39.

40. DISCLOSURE OF LENDER DETAILS BY AGENT

40.1 Supply of Lender details to the Company

The Agent shall provide to the Company, within five Business Days of a request by the Company (but no more frequently than once per calendar month), a list (which may be in electronic form) setting out the names of the Lenders as at that Business Day, their respective Commitments, the address (and the department or officer, if any, for whose attention any communication is to be made) of each Lender for any communication to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the transmission of information by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the Finance Documents may be made by that means and the account details of each Lender for any payment to be distributed by the Agent to that Lender under the Finance Documents.

40.2 Supply of Lender details at Company's direction

- (a) The Agent shall, at the request of the Company, disclose the identity of the Lenders and the details of the Lenders' Commitments to any:
 - (i) other Party or any other person if that disclosure is made to facilitate, in each case, a refinancing of the Financial Indebtedness arising under the Finance Documents or a material waiver or amendment of any term of any Finance Document; and
 - (ii) member of the Group.
- (b) Subject to paragraph (c) below, the Company shall procure that the recipient of information disclosed pursuant to paragraph (a) above shall keep such information confidential and shall not disclose it to anyone and shall ensure that all such information is protected with security measures and a degree of care that would apply to the recipient's own confidential information.
- (c) The recipient may disclose such information to any of its officers, directors, employees, professional advisers, auditors and partners as it shall consider appropriate if any such person is informed in writing of its confidential nature, except that there shall be no such requirement to so inform if that person is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by duties of confidentiality in relation to the information.

40.3 Supply of Lender details to other Lenders

- (a) If a Lender (a "**Disclosing Lender**") indicates to the Agent that the Agent may do so, the Agent shall disclose that Lender's name and Commitment to any other Lender that is, or becomes, a Disclosing Lender.
- (b) The Agent shall, if so directed by the Requisite Lenders, request each Lender to indicate to it whether it is a Disclosing Lender.

40.4 Lender enquiry

If any Lender believes that any entity is, or may be, a Lender and:

- (a) that entity ceases to have an Investment Grade Rating; or
- (b) an Insolvency Event occurs in relation to that entity,

the Agent shall, at the request of that Lender, indicate to that Lender the extent to which that entity has a Commitment.

40.5 Lender details definitions

In this Clause 40.

"Investment Grade Rating" means, in relation to an entity, a rating for its long-term unsecured and non-credit-enhanced debt obligations of BBB- or higher by Standard & Poor's or Fitch or Baa3 or higher by Moody's or a comparable rating from an internationally recognised credit rating agency.

"Requisite Lenders" means a Lender or Lenders whose Commitments aggregate 15 per cent. (or more) of the Total Commitments (or if the Total Commitments have been reduced to zero, aggregated 15 per cent. (or more) of the Total Commitments immediately prior to that reduction).

41. CONTRACTUAL RECOGNITION OF BAIL-IN

41.1 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.

41.2 **Bail-in definitions**

In this Clause 41:

"Article 55 BRRD" means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

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

"Bail-In Legislation" means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time:
- (b) in relation to any state other than such an EEA Member Country and the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation; and
- (c) in relation to the United Kingdom, the UK Bail-In Legislation.

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

"EU Bail-In Legislation Schedule" means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

"Resolution Authority" means any body which has authority to exercise any Writedown and Conversion Powers.

"UK Bail-In Legislation" means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

"Write-down and Conversion Powers" means:

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

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

42. **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.

43. **GOVERNING LAW**

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

44. **ENFORCEMENT**

44.1 **Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement) or the consequences of its nullity or any non-contractual obligation arising out of or in connection with this Agreement (a "**Dispute**").
- (b) Each Party agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Obligor will argue to the contrary.

(c) Notwithstanding paragraphs (a) and (b) above, any Finance Party or Secured Party may take 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.

44.2 Service of Process

Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than the Company or an Obligor incorporated in England and Wales).

- (a) irrevocably appoints the Company 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 an agent for service of process to notify the relevant Obligor (as applicable) of the process will not invalidate the proceedings concerned.

THIS AGREEMENT has been executed on the date stated at the beginning of this Agreement.

SCHEDULE 1 THE ORIGINAL PARTIES

PART 1 THE ORIGINAL OBLIGORS

Name of Original Borrower	Registration number (or equivalent, if any)		
Eleia Limited	13512747		
Name of Original Guarantor	Registration number (or equivalent, if any)		
Eleia Limited	13512747		

PART 2
THE ORIGINAL LENDERS

Name of Original Lender	Term Acquisition Facility Commitment (GBP)	Capex Facility Commitment (GBP)	Revolving Facility Commitment (GBP)	Treaty Passport scheme reference number and jurisdiction of tax residence (if applicable)
National Westminster Bank plc	32,258,065	5,161,290	2,580,645	N/A
NatWest Markets Plc	25,931,590	4,149,055	7,419,355	N/A
Nomura International plc	66,810,345	10,689,655	-	N/A
Total:	£125,000,000	£20,000,000	£10,000,000	

SCHEDULE 2 CONDITIONS PRECEDENT

PART 1 CONDITIONS PRECEDENT TO INITIAL UTILISATION

1. **Obligors**

- (a) A copy of the constitutional documents of the Parent and the Company.
- (b) A copy of a resolution of the board of directors of the Parent and the Company:
 - (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;
 - (ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request and Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
 - (iv) in respect of the Parent only, authorising the Company to act as its agent in connection with the Finance Documents.
- (c) A shareholder resolution of the Company approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party.
- (d) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above and identified as the persons who will sign the relevant Finance Documents and related documents.
- (e) A certificate of the Parent and the Company (signed by an authorised signatory) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on it to be exceeded.
- (f) A certificate of an authorised signatory of the Parent and the Company certifying that each copy document relating to it specified in this Part 1 of this Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the Signing Date.
- (g) A certificate of an authorised signatory of the Company:
 - (i) certifying that no "warning notice" or "restrictions notice" (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of the shares in the Company; and

(ii) attaching a copy of the Persons of Significant Control Register (the "PSC Register") of the Company and certifying that such PSC Register is correct, complete and has not been amended or superseded as at a date no earlier than the date of such certificate.

2. Finance Documents

- (a) This Agreement executed by the Company and the Parent.
- (b) The Intercreditor Agreement executed by the Company and the Parent.
- (c) The Fee Letters executed by the Company.
- (d) The Syndication Letter executed by the Company.
- (e) The Hedging Letter executed by the Company.
- (f) The following Transaction Security Documents executed by the relevant company as specified below:

Name of Security Provider	Transaction Security Document
Parent	English law limited recourse share pledge over 100 per cent. of the shares in the Company and an assignment over the rights in its receivables under any Subordinated Debt
Company	English law debenture granting security over any shares held by the Company, its bank accounts, any intercompany loans made to members of the Target Group, rights under Hedging Agreements and a floating charge

(g) A copy of all notices, share registers, certificates, stock transfer forms or equivalent required under each Transaction Security Document listed above, on its date of execution, if so required under the relevant Transaction Security Document.

3. **Acquisition Documents**

(a) A copy of the Announcement, **provided that** this condition shall be satisfied if the Announcement delivered pursuant to this paragraph (a) does not contain any amendments which materially and adversely affect the interests of the Finance Parties under the Finance Documents compared to the version of the Announcement delivered to the Original Lenders before the date of this Agreement (unless otherwise approved by the Original Lenders, such approval not to be unreasonably (i) withheld, (ii) made subject to any condition or (iii) delayed).

- (b) Evidence (by way of a certificate from an authorised signatory of the Company) that:
 - (i) the Minimum Equity Requirement has or will on or by the Closing Date be met; and
 - (ii) in the case of a Scheme, the Scheme Effective Date has occurred, or, in the case of an Offer, the Offer Unconditional Date has occurred.

4. **Legal Opinions**

A legal opinion of Paul Hastings LLP, legal advisers to the Agent and the Original Lenders as to English law, substantially in the form distributed to the Original Lenders prior to the Signing Date, each addressed to the Agent, the Security Agent and the Original Lenders.

5. Other Documents and Evidence

- (a) The Group Structure Chart.
- (b) A copy of each Report.
- (c) A copy of the Tax Structure Paper.
- (d) A copy of a reliance letter addressed to the Original Lenders in respect of any Reports which are not already addressed to and capable of being relied upon by the Original Lenders.
- (e) The Base Case Model.
- (f) A copy of the Original Financial Statements described in paragraph (a) of that definition.
- (g) The Lender Approved List.
- (h) Completion by all Original Lenders, the Agent and the Security Agent with all necessary "**know your customer**" information in relation to the Parent and the Company.
- (i) Evidence that the fees, costs and expenses then due from the Company and the Original Borrowers pursuant to Clauses 14.3 (*Arrangement fee*) to 14.5 (*Security Agent fee*) and Clause 19.1 (*Transaction expenses*) will be paid on or by the first Utilisation Date (and an entry in the Funds Flow Statement will satisfy any such requirement).
- (j) The Funds Flow Statement for information purposes only and without a right of approval for the Agent or any of the other Finance Parties.

PART 2

CONDITIONS PRECEDENT REQUIRED TO BE DELIVERED BY AN ADDITIONAL OBLIGOR

- 1. An Accession Deed executed by the Additional Obligor, the Company and the Security Agent.
- 2. A copy of the constitutional documents of the Additional Obligor.
- 3. A copy of a resolution of the board of directors of the Additional Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Deed and the Finance Documents to which it is party and resolving that it execute, deliver and perform the Accession Deed and any other Finance Document to which it is party;
 - (b) authorising a specified person or persons to execute the Accession Deed and other Finance Documents to which it is party on its behalf;
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices (including, in relation to an Additional Borrower, any Utilisation Request or Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and
 - (d) authorising the Company to act as its agent in connection with the Finance Documents.
- 4. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.
- 5. To the extent required by applicable law or the constitutional documents of the Additional Obligor, a copy of a resolution signed by all the holders of the issued shares of the Additional Obligor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Obligor is a party.
- 6. A certificate of the Additional Obligor (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on it to be exceeded.
- 7. A certificate of an authorised signatory of the Additional Obligor certifying that each copy document listed in this Part 2 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed.
- 8. A certificate of an authorised signatory of the Company:
 - (a) certifying that no "warning notice" or "restrictions notice" (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of the shares in the Company; and

- (b) attaching a copy of the PSC Register of the Company and certifying that such PSC Register is correct, complete and has not been amended or superseded as at a date no earlier than the date of such certificate.
- 9. If available, the latest annual financial statements of the Additional Obligor (audited if such statements are required to be audited in such Additional Obligor's jurisdiction of incorporation or establishment).
- 10. The following legal opinions, each addressed to the Agent, the Security Agent and the Lenders:
 - (a) a legal opinion of the legal advisers to the Agent in England, as to English law in the form distributed to the Lenders prior to signing the Accession Deed; and
 - (b) if the Additional Obligor is incorporated in or has its "centre of main interest" or "establishment" in a jurisdiction other than England and Wales or is executing a Finance Document which is governed by a law other than English law, a legal opinion of the legal advisers to the Agent in the jurisdiction of its incorporation or establishment, or "centre of main interest" or "establishment" (as applicable) or, as the case may be, the jurisdiction of the governing law of that Finance Document (the "Applicable Jurisdiction") as to the law of the Applicable Jurisdiction and in the form distributed to the Lenders prior to signing the Accession Deed.
- 11. A copy of any other Authorisation or other document, opinion or assurance which the Agent considers to be necessary in connection with the entry into and performance of the transactions contemplated by the Accession Deed or for the validity and enforceability of any Finance Document.
- 12. If the proposed Additional Obligor is incorporated in a jurisdiction other than England and Wales, evidence that a process agent incorporated in England and Wales has accepted its appointment in relation to the proposed Additional Obligor.
- 13. Any security documents which, subject to the Agreed Security Principles, are required by the Agent, acting reasonably, to be executed by the proposed Additional Obligor and this requirement shall be satisfied if such Additional Obligor grants Security over the asset classes described in the Agreed Security Principles.
- 14. Any notices or documents required to be given or executed under the terms of those security documents to the extent that such security documents require such notices or documents to be sent or executed no later than the date of such Transaction Security Documents.
- 15. All share certificates, transfer and stock transfer forms or equivalent duly executed by the proposed Additional Obligor in blank in relation to the assets subject to or expressed to be subject to the Transaction Security and other documents of title to be provided under the Transaction Security Documents.
- 16. If the proposed Additional Obligor is an Additional Borrower and is incorporated in a jurisdiction other than the United Kingdom, evidence that the Majority Lenders have consented to the accession of the proposed Borrower.

17. If Scottish share security is to be granted over the proposed Additional Obligor, executed and dated share certificates and stock transfer forms and an updated register of members showing the Security Agent as (i) the owner of the shares in that proposed Additional Obligor subject to such Transaction Security and (ii) a PSC of that proposed Additional Obligor.

SCHEDULE 3 REQUESTS

PART 1 UTILISATION REQUEST

From:	[Borrower]/[Company]	
To:	[•] as the Agent	
		[Date]
Dear S	irs	
	[•] - [•] Facilities Agreement dated [•] 2	2021 (the "Facilities Agreement")
1.		s is a Utilisation Request. Terms defined in aning in this Utilisation Request unless given uest.
2.	We wish to borrow a Loan on the following	g terms:
	Borrower:	[•]
	Proposed Utilisation Date:	[•] (or, if that is not a Business Day, the next Business Day).
	Facility to be utilised:	[Term Acquisition Facility]/[Capex Facility]/[Revolving Facility]
	Currency of Loan:	Sterling
	Amount:	[•] or, if less, the Available Facility
	Interest Period:	[•]
3.	of the Facilities Agreement, or, to the exter	n Clause 4.2 (Further conditions precedent) at applicable, Clause 4.4 (Utilisations during as Agreement is satisfied on the date of this
4.	[This Loan is to be made in [whole]/[parmaturing Revolving Facility Loan]].	rt] for the purpose of refinancing [identify
5.	[The proceeds of this Loan should be credit	ited to [account]].

This Utilisation Request is irrevocable.

6.

Yours faithfully
authorised signatory for
[the Company on behalf of [insert name of relevant Borrower]]

PART 2 SELECTION NOTICE - APPLICABLE TO A FACILITY

From:	[Borrower]/[Company]
To:	[•] as Agent
	[Date]
Dear S	irs
	[•] - [•] Facilities Agreement dated [•] 2021 (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 [Term Acquisition Facility]/[Revolving Facility]/[Capex Facility] Loan[s] with an Interest Period ending on [•].
3.	[We request that the above [Term Acquisition Facility]/[Revolving Facility]/[Capex Facility] Loan[s] be divided into [Term Acquisition Facility]/[Revolving Facility]/[Capex Facility] Loan[s] with the following amounts and Interest Periods:]
OR	
	[We request that the next Interest Period for the above [Term Acquisition Facility]/[Revolving Facility]/[Capex Facility] Loan[s] is [•].]
4.	This Selection Notice is irrevocable.
Yours	faithfully
author	ised signatory for
	ompany on behalf of [insert name of relevant Borrower]]
Time Co	ompany on ochan of [miscri hame of icicvant bollower]]

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SCHEDULE 4 FORM OF TRANSFER CERTIFICATE

To: [•] as Agent [•] as Security Agent

From: [The Existing Lender] (the "**Existing Lender**") and [The New Lender] (the "**New Lender**")

[Date]

[•] - [•] Facilities Agreement dated [•] 2021 (the "Facilities Agreement")

- 1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This agreement (the "Agreement") shall take effect as a Transfer Certificate for the purposes of the Facilities Agreement and a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
- 2. We refer to Clause 25.5 (*Procedure for transfer*) of the Facilities Agreement:
 - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation and in accordance with Clause 25.5 (*Procedure for transfer*) of the Facilities Agreement all of the Existing Lender's rights and obligations under the Facilities Agreement, the other Finance Documents and in respect of the Transaction Security which relate to that portion of the Existing Lender's Commitment(s) and participations in Utilisations under the Facilities Agreement as specified in the Schedule.
 - (b) The proposed Transfer Date is [•].
 - (c) The Facility Office and address, email address, telephone and attention details for notices of the New Lender for the purposes of Clause 33.2 (*Addresses*) of the Facilities Agreement are set out in the Schedule.
- 3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 25.4 (*Limitation of responsibility of Existing Lenders*) of the Facilities Agreement.
- 4. The New Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is in respect of each Obligor jurisdiction:

[The United	[a Qualifying	[a UK Treaty	[not a Qualifying
Kingdom]	Lender (other than	Lender]	Lender]
	a UK Treaty		
	Lender)]		

- 5. The New Lender confirms that it [is]/[is not] a Sponsor Affiliate.
- 6. We refer to clause 21.2 (*Change of External Creditor (other than a Hedge Counterparty)*) of the Intercreditor Agreement.

In consideration of the New Lender being accepted as a Lender for the purposes of the Intercreditor Agreement (and as defined therein), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as a Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

- 7. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
- 8. This Transfer Certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 9. This Agreement has been entered into on the date stated at the beginning of this Agreement.

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

THE SCHEDULE COMMITMENT/RIGHTS AND OBLIGATIONS TO BE TRANSFERRED

[insert relevant details]

[Facility Office address, email address, telephone number and attention details for notices and account details for payments]

[Existing Lender]	[New Lender]
	By:
	Branch MEI:
	Branch:
	Email address
This Agreement is accepted as a Transfer of Agreement by the Agent and as a Creditor A Intercreditor Agreement by the Security Agent [Agent]	ccession Undertaking for the purposes of the
Ву:	
[Security Agent]	
By:	

SCHEDULE 5 FORM OF ASSIGNMENT AGREEMENT

To: [•] as Agent and [•] as Security Agent

From: [the Existing Lender] (the "Existing Lender") and [the New Lender] (the "New Lender")

[Date]

[•] - [•] Facilities Agreement dated [•] 2021 (the "Facilities Agreement")

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This is an Assignment Agreement. This agreement (the "Agreement") shall take effect as an Assignment Agreement for the purposes of the Facilities Agreement and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2.

- (a) We refer to Clause 25.6 (*Procedure for assignment*) of the Facilities Agreement.
- (b) The Existing Lender [assigns absolutely to the New Lender]/[confirms the transfer by separate instrument to the New Lender of] 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/or participations in Utilisations under the Facilities Agreement as specified in the Schedule.
- (c) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitments and participations in Utilisations under the Facilities Agreement specified in the Schedule.
- (d) 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 (c) above.
- 3. The proposed Transfer Date is [•].
- 4. On the Transfer Date the New Lender becomes:
 - (a) party to the relevant Finance Documents (other than the Intercreditor Agreement) as a Lender; and
 - (b) party to the Intercreditor Agreement as a Lender (as defined in the Intercreditor Agreement).

- 5. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 25.4 (*Limitation of responsibility of Existing Lenders*) of the Facilities Agreement.
- 6. The Facility Office and address, email address, telephone number and attention details for notices of the New Lender for the purposes of Clause 33.2 (*Addresses*) of the Facilities Agreement are set out in the Schedule.
- 7. The New Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is in respect of each Obligor jurisdiction:

[The	United	[a Qua	lifying	[a	UK	Treaty	[not a	Qualifying
Kingdom]		Lender (other	er than	Lend	der]		Lender]	
		a UK	Treaty					
		Lender)]						

- 8. The New Lender confirms that it [is]/[is not] a Sponsor Affiliate.
- 9. We refer to clause 21.2 (*Change of External Creditor (other than a Hedge Counterparty)*) of the Intercreditor Agreement.
 - In consideration of the New Lender being accepted as a Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as a Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.
- 10. This Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 25.7 (*Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Company*), to the Company (on behalf of each Obligor) of the assignment referred to in this Agreement.
- 11. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
- 12. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 13. This Agreement has been entered into on the date stated at the beginning of this Agreement.

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

THE SCHEDULE COMMITMENT/RIGHTS AND OBLIGATIONS TO BE TRANSFERRED BY ASSIGNMENT, RELEASE AND ACCESSION

[insert relevant details]

[Facility Office address, email address, telephone number and attention details for notices and account details for payments]

[Existing Lender]	[New Lender]
By:	By:
	Branch MEI:
	Branch:
	Email address
This Agreement is accepted as an Assignment Agreement by the Agent and as a Creditor A Intercreditor Agreement by the Security Agent	ccession Undertaking for the purposes of the
[Signature of this Assignment Agreement by the of receipt of notice of the assignment referred behalf of each Finance Party.]	
[Agent]	
Ву:	
[Security Agent]	
Ву:	

SCHEDULE 6 FORM OF ACCESSION DEED

To: [•] as Agent and [•] as Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below

From: [Subsidiary] and [Company]

[Date]

Dear Sirs:

[•] - [•] Facilities Agreement dated [•] 2021 (the "Facilities Agreement")

- 1. We refer to the Facilities Agreement and to the Intercreditor Agreement. This deed (the "Accession Deed") shall take effect as an Accession Deed for the purposes of the Facilities Agreement and as a Debtor Accession Deed for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in paragraphs 1 4 of this Accession Deed unless given a different meaning in this Accession Deed.
- 2. [Subsidiary] agrees to become an Additional [Borrower]/[Guarantor] and to be bound by the terms of the Facilities Agreement and the other Finance Documents (other than the Intercreditor Agreement) as an Additional [Borrower]/[Guarantor] pursuant to [Clause 27.2 (Additional Borrowers)]/[Clause 27.4 (Additional Guarantors)] of the Facilities Agreement. [Subsidiary] is a company duly incorporated under the laws of [name of relevant jurisdiction] and is a limited liability company and registered number [•].
- 3. [The Company confirms that no Event of Default is continuing or would occur as a result of [Subsidiary] becoming an Additional Borrower.]
- 4. [Subsidiary's] administrative details for the purposes of the Facilities Agreement and the Intercreditor Agreement are as follows:

Address:

Attention:

5. [Subsidiary] (for the purposes of this paragraph [5], the "**Acceding Debtor**") intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:

[Insert details (date, parties and description) of relevant documents] the "Relevant Documents".

IT IS AGREED as follows:

(a) Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Accession Deed, bear the same meaning when used in this paragraph [5].

- (b) The Acceding Debtor and the Security Agent agree that the Security Agent shall hold:
 - (A) [any Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;
 - (B) all proceeds of that Security; and]
 - (C) all obligations expressed to be undertaken by the Acceding Debtor to pay amounts in respect of the Liabilities to the Security Agent as trustee for, or as Representative of, the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee for, or as Representative of, the Secured Parties,

on trust for, or as Representative of, the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.

- (c) The Acceding Debtor confirms that it intends to be party to the Intercreditor Agreement as a Debtor and a Guarantor (as defined therein), undertakes to perform all the obligations expressed to be assumed by a Debtor and a Guarantor under the Intercreditor Agreement and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement.
- (d) [In consideration of the Acceding Debtor being accepted as an Intra-Group Lender for the purposes of the Intercreditor Agreement, the Acceding Debtor also confirms that it intends to be party to the Intercreditor Agreement as an Intra-Group Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Intra-Group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement].
- 6. This Accession Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS ACCESSION DEED has been signed on behalf of the Security Agent (for the purposes of paragraph [5] above only), signed on behalf of the Company and executed as a deed by [Subsidiary] and is delivered on the date stated above.

[Subsidiary]	
[EXECUTED as a DEED]	
By: [Subsidiary]	
	Director
	Director/Secretary
OR	
[EXECUTED as a DEED	
By: [Subsidiary]	
	Signature of Director
in the presence of	Name of Directors
	Signature of witness
	Name of witness
	Address of witness
	Occupation of witness]

The Company
For and on behalf of
[Company]
By:
The Security Agent
For and on behalf of
[Full Name of Security Agent]
By:
Date:

SCHEDULE 7 FORM OF RESIGNATION LETTER

To:	[•] as .	Agent	
From:	[resign	ning Obligor] and [Company]	
		[Date]	
Dear S	irs		
	[•] -	[•] Facilities Agreement dated [•] 2021 (the "Facilities Agreement")	
1.	the Fa	efer to the Facilities Agreement. This is a Resignation Letter. Terms defined in acilities Agreement have the same meaning in this Resignation Letter unless given the terms are the remaining in this Resignation Letter.	
2.	Guara [Borro	ant to [Clause 27.3 (<i>Resignation of a Borrower</i>)]/[Clause 27.5 (<i>Resignation of a untor</i>)], we request that [resigning Obligor] be released from its obligations as a ower]/[Guarantor] under the Facilities Agreement and the Finance Documents than the Intercreditor Agreement).	
3.	We confirm that:		
	(a)	no Event of Default is continuing or would result from the acceptance of this request;	
	(b)	*[this request is given in relation to a [Third Party Disposal]/[Permitted Reorganisation]/[Permitted Transaction] [of]/[in respect of] [resigning Obligor] [and such disposal is permitted under Clause 23.14 (<i>Disposals</i>) or made with the approval of the Majority Lenders];	
	(c)	*[the obligations of [resigning Obligor] in its capacity as Guarantor continue to be legal, valid, binding and enforceable and in full force and effect (subject to the Legal Reservations) and the amount guaranteed by it as a Guarantor is not decreased].	
4.		etter and any non-contractual obligations arising out of or in connection with it verned by English law.	
[Com	pany]	[resigning Obligor]	
Ву:		By:	

* Where applicable

SCHEDULE 8 FORM OF COMPLIANCE CERTIFICATE

To: [•] as Agent

From: [Company]

Dear Sirs

[Date]

[•] - [•] Facilities Agreement dated [•] 2021 (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 the [Calculation Date/Lock-Up Calculation Date] falling on [•] (the "Relevant Calculation Date").
- 3. We confirm that for the Relevant Period ending on the Relevant Calculation Date:
 - (a) the Interest Cover Ratio was [•]; and
 - (b) the Leverage Ratio was [•];
 - (c) the Backward Looking Lock-Up Tests were [•];* and
 - (d) the Forward Looking Lock-Up Tests were [•];*

and, therefore, the [Backward Looking Lock-Up Tests, the Forward Looking Lock-Up Tests and the] Default Ratios as set out in Clause 22.2 (*Financial condition*) [were] satisfied.

- 4. [We confirm that a clean-down period under Clause 5.8 (*Clean down*) [did]/[did not] occur during the Relevant Period to which this Compliance Certificate relates.]
- 5. We set out below the computation of the ratios and other calculations set out in paragraph 3 above:

[Calculations to be inserted, including details of relevant adjustments included in *Pro Forma* Consolidated EBITDA]

- (a) [as at the Relevant Calculation Date, the Company had complied with its obligations under Clause 23.26 (*Guarantors*).] **
- (b) [in respect of the Relevant Period ending on the Relevant Calculation Date, Excess Cashflow for the purposes of paragraph (a) of Clause 9.6 (*Lock-Up*) and was calculated as follows: [•].]*
- (c) [in respect of the Relevant Period ending on the Relevant Calculation Date, for Excess Cashflow for the purposes of the definition of Cash Sweep Proceeds, was [•] and was calculated as follows: [•].]*

- (d) [as at the Relevant Calculation Date, Retained Excess Cashflow was [•] and was calculated as follows: [•].]*
- (e) the following companies constitute Material Companies: [•].***.

Signed

Authorised Signatory of the Company

NOTES:

- * Only applicable if the Compliance Certificate is delivered in respect of a Lock-Up Calculation Date.
- ** Only applicable if the Compliance Certificate accompanies the provision of Annual Financial Statements.
- Only applicable if the Compliance Certificate accompanies the provision of Annual Financial Statements.

SCHEDULE 9 TIMETABLES

Loans	_
U-1	
9.30am	
U-1	
Noon	
	U-1 9.30am U-1

[&]quot;U" = date of utilisation or, if applicable, in the case of a Term Loan that has already been borrowed, the first day of the relevant Interest Period for that Term Loan

[&]quot; $\mathbf{U} - \mathbf{X}$ "= X Business Days prior to date of utilisations

SCHEDULE 10 FORMS OF NOTIFIABLE DEBT PURCHASE TRANSACTIONS NOTICE

PART 1 FORM OF NOTICE ON ENTERING INTO NOTIFIABLE DEBT PURCHASE TRANSACTION

To:	[•] as Agent						
From:	[The Lender]						
		[Date]					
	[•] - [•] Facilities Agreement dated	[•] 2021 (the "Facilities Agreement")					
1.	We refer to paragraph (b) of Clause 26.2 (<i>Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates</i>) of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this notice unless given a different meaning in this notice.						
2.	We have entered into a Notifiable Debt Purchase Transaction.						
3.	The Notifiable Debt Purchase Transaction referred to in paragraph 2 above rel the amount of our Commitment(s) as set out below.						
	Commitment	Amount of our Commitment to which Notifiable Debt Purchase Transaction relates					
	[Term Acquisition Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]					
	[Capex Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]					
	[Revolving Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]					
[Lende	er]						
By:							

PART 2

FORM OF NOTICE ON TERMINATION OF NOTIFIABLE DEBT PURCHASE TRANSACTION/NOTIFIABLE DEBT PURCHASE TRANSACTION CEASING TO BE WITH SPONSOR AFFILIATE

To:	[•] as Agent
From:	[The Lender]

[Date]

[•] - [•] Facilities Agreement dated [•] 2021 (the "Facilities Agreement")

- 1. We refer to paragraph (c) of Clause 26.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates*) of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this notice unless given a different meaning in this notice.
- 2. A Notifiable Debt Purchase Transaction which we entered into and which we notified you of in a notice dated [•] has [terminated]/[ceased to be with a Sponsor Affiliate].
- 3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to the amount of our Commitment(s) as set out below:

Commitment	Amount of our Commitment to which Notifiable Debt Purchase Transaction relates		
[Term Acquisition Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]		
[Capex Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]		
[Revolving Facility Commitment]	[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]		
[Lender]			

By:.....

SCHEDULE 11 FORM OF INCREASE CONFIRMATION

To: [•] as Agent, [•] as Security Agent and [•] as Company, for and on behalf of each Obligor

From: [the Increase Lender] (the "Increase Lender")

[Date]

[•] – [•] Facilities Agreement dated [•] 2021 (the "Facilities Agreement")

- 1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This agreement (the "**Agreement**") shall take effect as an Increase Confirmation for the purpose of the Facilities Agreement and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
- 2. We refer to Clause 2.2 (*Increase*) of the Facilities Agreement.
- 3. The Increase Lender agrees to assume and will assume all of the obligations corresponding to the Commitment specified in the Schedule (the "Relevant Commitment") as if it was an Original Lender under the Facilities Agreement.
- 4. The proposed date on which the increase in relation to the Increase Lender and the Relevant Commitment is to take effect (the "**Increase Date**") is [•].
- 5. On the Increase Date, the Increase Lender becomes:
 - (a) party to the relevant Finance Documents (other than the Intercreditor Agreement) as a Lender; and
 - (b) party to the Intercreditor Agreement as a Lender (as defined in the Intercreditor Agreement).
- 6. The Facility Office and address, email address, telephone number and attention details for notices to the Increase Lender for the purposes of Clause 33.2 (*Addresses*) of the Facilities Agreement are set out in the Schedule.
- 7. The Increase Lender expressly acknowledges the limitations on the Lenders' obligations referred to in Clause 2.2 (*Increase*) of the Facilities Agreement.
- 8. The Increase Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is in respect of each Obligor jurisdiction:

[The	United	[a	Qualifying	[a	UK	Treaty	[not a	a Qualifying
Kingdom	n]	Lender (other than		Lender]		Lende	r]	
		a UK	Treaty					
		Lender)]						

- 9. The Increase Lender confirms that it is not a Sponsor Affiliate.
- 10. We refer to clause [•] (*Creditor Accession Undertaking*) of the Intercreditor Agreement.

In consideration of the Increase Lender being accepted as a Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), the Increase Lender confirms that, as from the Increase Date, it intends to be party to the Intercreditor Agreement as a Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

- 11. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
- 12. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 13. This Agreement has been entered into on the date stated at the beginning of the Facilities Agreement.

Note: The execution of this Increase Confirmation may not be sufficient for the Increase Lender to obtain the benefit of the Transaction Security in all jurisdictions. It is the responsibility of the Increase Lender to ascertain whether any other documents or other formalities are required to obtain the benefit of the Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

THE SCHEDULE RELEVANT COMMITMENT/RIGHTS AND OBLIGATIONS TO BE ASSUMED BY THE INCREASE LENDER

[insert relevant details]

[Facility Office address, email address, telephone number and attention details for notices and account details for payments]

[Increase Lender]
Ву:
Branch MEI: Branch: Email address:
This Agreement is accepted as an Increase Confirmation for the purposes of the Facilities Agreement by the Agent, and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Increase Date is confirmed as [•].
For and on behalf of Agent
By:
For and on behalf of Security Agent
By:

SCHEDULE 12 REFERENCE RATE TERMS

CURRENCY: Sterling.

Cost of funds as a fallback

Cost of funds will not apply as a fallback.

Definitions

Additional Business Days: An RFR Banking Day.

Business Day Conventions (definition of "Month" and Clause 12.2 (*Non-Business Days*)):

- (a) If any period is expressed to accrue by reference to a Month or any number of Months then, in respect of the last Month of that period:
 - (i) subject to paragraph (iii) below, if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
 - (ii) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
 - (iii) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.
- (b) If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

Central Bank Rate:

The Bank of England's Bank Rate as published by the Bank of England from time to time.

Central Bank Rate Adjustment:

In relation to the Central Bank Rate prevailing at close of business on any RFR Banking Day, the 20% trimmed arithmetic mean (calculated by the Agent, or by any other Finance Party which agrees with the Company to do so in the place of the Agent) of the

Central Bank Rate Spreads for the five most immediately preceding RFR Banking Days for which the RFR is available.

Central Bank Rate Spread:

In relation to any RFR Banking Day, the difference (expressed as a percentage rate per annum) calculated by the Agent (or by any other Finance Party which agrees to do so in place of the Agent) between:

- (a) the applicable RFR for that RFR Banking Day; and
- (b) the applicable Central Bank Rate prevailing at close of business on that RFR Banking Day.

Daily Rate:

The "Daily Rate" for any RFR Banking Day is:

- (a) the RFR for that RFR Banking Day; or
- (b) if the RFR is not available for that RFR Banking Day, the percentage rate per annum which is the aggregate of:
 - (i) the Central Bank Rate for that RFR Banking Day; and
 - (ii) the applicable Central Bank Rate Adjustment; or
- (c) if paragraph (b) above applies but the Central Bank Rate for that RFR Banking Day is not available, the percentage rate per annum which is the aggregate of:
 - (i) the most recent Central Bank Rate for a day which is no more than five RFR Banking Days before that RFR Banking Day; and
 - (ii) the applicable Central Bank Rate Adjustment,

rounded, in either case, to four decimal places.

Lookback Period:

Five RFR Banking Days.

Market Disruption Rate:

The percentage rate per annum which is the aggregate of the Cumulative Compounded RFR Rate for the Interest Period of the relevant Loan.

Relevant Market:

The sterling wholesale market.

Reporting Day:

The day which is the Lookback Period prior to the last day of the Interest Period or, if that day is not a Business Day, the immediately following Business Day.

RFR:

The SONIA (sterling overnight index average) reference rate displayed on the relevant screen of any authorised distributor of that reference rate.

RFR Banking Day:

A day (other than a Saturday or Sunday) on which banks are open for general business in London.

RFR Contingency Period:

One Month

Interest Periods

Length of Interest Period in absence of selection (paragraph (c) of Clause 12.1 (Selection of Interest Periods and Terms)):

Six Months

Periods capable of selection as Interest Periods (paragraph (d) of Clause 12.1 (*Selection of Interest Periods and Terms*)): Term Acquisition Facility Loan and Capex Facility Loan, three or six Months, or as otherwise agreed between the Company and the Agent. During the Syndication Period, Interest Periods shall be one Month or such other period as the Agent and the Company may agree.

Revolving Facility Loan, one, three or six Months, or as otherwise agreed between the Company and the Agent. During the Syndication Period, Interest Periods shall be one Month or such other period as the Agent and the Company may agree.

Reporting Times

Deadline for Lenders to report market disruption in accordance with Clause 13.2 (*Market Disruption*) Close of business in London on the Reporting Day for the relevant Loan.

Deadline for Lenders to report cost of funds in accordance with Clause 13.3 (*Cost of funds*)

Close of business on the date falling two Business Days in London after the Reporting Day (or if earlier, on the date falling five Business Days before the date on which interest is due to be paid in respect of that Interest Period).

SCHEDULE 13 DAILY NON-CUMULATIVE COMPOUNDED RFR RATE

The "Daily Non-Cumulative Compounded RFR Rate" for any RFR Banking Day "i" during an Interest Period for a Loan is the percentage rate per annum (without rounding, to the extent reasonably practicable for the Finance Party performing the calculation, taking into account the capabilities of any software used for that purpose) calculated as set out below:

$$(UCCDR_i - UCCDR_{i-1}) \times \frac{dcc}{n_i}$$

where:

"UCCDR_i" means the Unannualised Cumulative Compounded Daily Rate for that RFR Banking Day "i";

"UCCDR_(i-1)" means, in relation to that RFR Banking Day "i", the Unannualised Cumulative Compounded Daily Rate for the immediately preceding RFR Banking Day (if any) during that Interest Period;

"dcc" means 365 or, in any case where market practice in the Relevant Market is to use a different number for quoting the number of days in a year, that number;

" $\mathbf{n_i}$ " means the number of calendar days from, and including, that RFR Banking Day " \mathbf{i} " up to, but excluding, the following RFR Banking Day; and

the "Unannualised Cumulative Compounded Daily Rate" for any RFR Banking Day (the "Cumulated RFR Banking Day") during that Interest Period is the result of the below calculation (without rounding, to the extent reasonably practicable for the Finance Party performing the calculation, taking into account the capabilities of any software used for that purpose):

$$ACCDR \times \frac{tn_i}{dcc}$$

where:

"ACCDR" means the Annualised Cumulative Compounded Daily Rate for that Cumulated RFR Banking Day;

"Cumulation Period" means the period from, and including, the first RFR Banking Day of that Interest Period to, and including, that Cumulated RFR Banking Day;

"dcc" has the meaning given to that term above;

"tni" means the number of calendar days from, and including, the first day of the Cumulation Period to, but excluding, the RFR Banking Day which immediately follows the last day of the Cumulation Period; and

the "Annualised Cumulative Compounded Daily Rate" for that Cumulated RFR Banking Day is the percentage rate per annum (rounded to four decimal places) calculated as set out below:

$$\left[\prod_{i=1}^{d_0} \left(1 + \frac{\textit{DailyRate}_{i-LP} \times n_i}{\textit{dcc}} \right) - 1 \right] \times \frac{\textit{dcc}}{\textit{tn}_i}$$

where:

"do" means the number of RFR Banking Days in the Cumulation Period;

"Cumulation Period" has the meaning given to that term above;

"i" means a series of whole numbers from one to d0, each representing the relevant RFR Banking Day in chronological order in the Cumulation Period;

"DailyRate_{i-LP}" means, for any RFR Banking Day "i" in the Cumulation Period, the Daily Rate for the RFR Banking Day which is the applicable Lookback Period prior to that RFR Banking Day "i";

" $\mathbf{n_i}$ " means, for any RFR Banking Day " \mathbf{i} " in the Cumulation Period, the number of calendar days from, and including, that RFR Banking Day " \mathbf{i} " up to, but excluding, the following RFR Banking Day;

"dcc" has the meaning given to that term above; and

"tn_i" has the meaning given to that term above.

SCHEDULE 14 CUMULATIVE COMPOUNDED RFR RATE

The "Cumulative Compounded RFR Rate" for any Interest Period for a Loan is the percentage rate per annum (rounded to the same number of decimal places as is specified in the definition of "Annualised Cumulative Compounded Daily Rate" in Schedule 13 (Daily Non-Cumulative Compounded RFR Rate)) calculated as set out below:

$$\left[\prod_{i=1}^{d_0} \left(1 + \frac{DailyRate_{i-LP} \times n_i}{dcc} \right) - 1 \right] \times \frac{dcc}{d}$$

where:

"do" means the number of RFR Banking Days during the Interest Period;

"i" means a series of whole numbers from one to d0, each representing the relevant RFR Banking Day in chronological order during the Interest Period;

"DailyRate_{i-LP}" means for any RFR Banking Day "i" during the Interest Period, the Daily Rate for the RFR Banking Day which is the applicable Lookback Period prior to that RFR Banking Day "i":

"**n**_i" means, for any RFR Banking Day "**i**", the number of calendar days from, and including, that RFR Banking Day "**i**" up to, but excluding, the following RFR Banking Day;

"dcc" means 365 or, in any case where market practice in the Relevant Market is to use a different number for quoting the number of days in a year, that number; and

"d" means the number of calendar days during that Interest Period.

SIGNATURES

THE COMPANY, THE ORIGINAL BORROWER AND THE ORIGINAL GUARANTOR

ELEIA LIMITED

Ву:			
Name:			
Title:			

Notice Details:

Address: 36, 37 Vina Charl

Attention: London ECZV 8BB

THE PARENT

ELEIA HOLDCO LIMITED

Ву:		
Name:		
Title:		

Notice Details: Lings House Address: 36-37 King Street Attention: London ECDV 8BB

THE MANDATED LEAD ARRANGERS NATIONAL WESTMINSTER BANK PLC

As Mandated Lead Arranger

By: _____
Name:
Title:

Notice Details:

Address:

250 Bishopsgate, London, EC2M 4AA

Attention:

THE MANDATED LEAD ARRANGERS

NATWEST MARKETS PLC

As Mandated Lead Arranger

By: _____
Name:
Title:

Notice Details:

Address:

250 Bishopsgate, London, EC2M 4AA

Attention:

THE MANDATED LEAD ARRANGERS

NOMURA INTERNATIONAL PLC

As Mandated Lead Arranger



Notice Details:

Address: 1 Angel Lane, London EC4R 3AB

Attention:

Fax number:



ORIGINAL LENDERS

NATIONAL WESTMINSTER BANK PLC

As Original Lender

By: _____
Name:
Title:

Notice Details:

Address:

250 Bishopsgate, London, EC2M 4AA

Attention:

ORIGINAL LENDERS

NATWEST MARKETS PLC

As Original Lender

By: _____

Name:

Title:

Notice Details:

Address:

250 Bishopsgate, London, EC2M 4AA

Attention:

ORIGINAL LENDERS

NOMURA INTERNATIONAL PLC

As Original Lender

By:	
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Name:	
Title:	

Notice Details:

Address: 1 Angel Lane, London EC4R 3AB

Attention:

Fax number:



AGENT

SIGNED by NATIONAL WESTMINSTER BANK PLC



Notice Details:

Address:

250 Bishopsgate, London, EC2M 4AA

Attention:

Email:

Tel:

SECURITY AGENT

SIGNED by NATIONAL WESTMINSTER BANK PLC



Notice Details:

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Attention:

Email:

Tel: