DATED 19 JUNE 2017

(1) REGIT HOLDCO LIMITED
   as Parent

(2) REGIT FINCO LIMITED
   as Original Borrower

(3) REGIT BIDCO LIMITED
   as Company

(4) THE PARTIES LISTED
   as Original Guarantors

(5) EUROPEAN CAPITAL UK SME DEBT SARL AND
    EUROPEAN CAPITAL PRIVATE DEBT SARL
   as Mandated Lead Arrangers

(6) THE FINANCIAL INSTITUTIONS LISTED HEREIN
    as Original Lenders

(7) EUROPEAN CAPITAL FUND MANAGEMENT LIMITED
    as Agent
    - and -

(8) EUROPEAN CAPITAL FUND MANAGEMENT LIMITED
    as Security Agent

FACILITIES AGREEMENT

This Agreement is entered into with the benefit of and subject to the terms of
the Intercreditor Agreement (as defined herein)
# TABLE OF CONTENTS

1. Definitions and Interpretation ................................................................. 1  
2. The Facilities ......................................................................................... 49  
3. Purpose .................................................................................................. 53  
4. Conditions of utilisation ..................................................................... 53  
5. Utilisation - Loans ............................................................................ 56  
6. Optional Currencies ............................................................................. 57  
7. Ancillary Facilities .............................................................................. 58  
8. Establishment of Incremental Facilities ........................................... 64  
9. Repayment ........................................................................................... 70  
10. Illegality, voluntary prepayment and cancellation ............................. 72  
11. Mandatory Prepayment and Cancellation ......................................... 75  
12. Restrictions ........................................................................................ 79  
13. Interest ............................................................................................... 81  
14. Interest Periods .................................................................................. 82  
15. Changes to the calculation of interest .............................................. 83  
16. Fees .................................................................................................... 85  
17. Tax Gross Up and indemnities ............................................................. 87  
18. Increased Costs .................................................................................. 96  
19. Other indemnities ............................................................................. 98  
20. Mitigation by the Lenders ................................................................. 100  
21. Costs and expenses .......................................................................... 101  
22. Guarantee and Indemnity ................................................................. 102  
23. Representations ................................................................................ 105  
24. Information Undertakings ................................................................. 114  
25. Financial covenants ......................................................................... 120  
26. General Undertakings ....................................................................... 130  
27. Events of Default .............................................................................. 145  

i
28. Changes to the Lenders ................................................................. 152
29. Restriction on Debt Purchase Transactions .................................. 157
30. Changes to the Obligors .............................................................. 161
31. Role of the Agent, the Arranger and others .................................. 164
32. Sharing among the Finance Parties .............................................. 176
33. Payment mechanics ................................................................. 177
34. Set-off ....................................................................................... 179
35. Notices ..................................................................................... 179
36. Calculations and certificates ...................................................... 182
37. Partial invalidity ........................................................................ 183
38. Remedies and waivers .............................................................. 183
39. Amendments and waivers ....................................................... 183
40. Confidential Information .......................................................... 190
41. Confidentiality of Funding rates and Reference Bank Quotations .... 194
42. Disclosure of Lender Details by Agent ....................................... 195
43. Counterparts ............................................................................. 197
44. Governing law .......................................................................... 197
45. Enforcement .............................................................................. 197

Schedule 1 : The Original Parties ...................................................... 199
Schedule 2 : Conditions Precedent .................................................. 200
Schedule 3 : Requests ..................................................................... 208
Schedule 4 : Form of Transfer Certificate ........................................ 210
Schedule 5 : Form of Assignment Agreement ................................... 215
Schedule 6 : Form of Accession Deed ............................................. 219
Schedule 7 : Form of Resignation Letter ........................................... 222
Schedule 8 : Form of compliance certificate .................................... 223
Schedule 9 : Timetables .................................................................. 225
Schedule 10 : [ *** Form of increase confirmation *** ] .................... 227
Schedule 11 : Forms of notifiable debt purchase transaction notice ....... 230
Schedule 12: Agreed Security Principles ................................................................. 232
Schedule 13: Form of Incremental Facility Notice ........................................... 236
Schedule 14: Form of Incremental Facility Lender Certificate ...................... 240
THIS AGREEMENT is made on 19 June 2017

BETWEEN:

(1) REGIT HOLDCO LIMITED, incorporated in Jersey with company registration number 123561 whose registered office is at 47 Esplanade, St Helier, Jersey, JE1 0BD (the “Parent”);

(2) REGIT FINCO LIMITED, incorporated in England and Wales with company registration number 10700999 as borrower whose registered office is at 32 Hampstead High Street, London, United Kingdom, NW3 1JQ (the “Original Borrower”);

(3) REGIT BIDCO LIMITED, incorporated in Jersey with company registration number 123560 whose registered office is at 47 Esplanade, St Helier, Jersey, JE1 0BD (the “Company”);

(4) THE ENTITIES listed in Part 1 of Schedule 1 (The Original Parties) as original guarantors (the “Original Guarantors”);

(5) EUROPEAN CAPITAL UK SME DEBT SARL and EUROPEAN CAPITAL PRIVATE DEBT SARL as mandated lead arrangers (the “Arrangers”);

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

(7) EUROPEAN CAPITAL FUND MANAGEMENT LIMITED as agent of the other Finance Parties (the “Agent”); and

(8) EUROPEAN CAPITAL FUND MANAGEMENT LIMITED as security trustee for the Secured Parties (the “Security Agent”).

IT IS AGREED as follows

SECTION 1

INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

“Acceptable Bank” means:

(a) a bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of BBB or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or Baa2 or higher by Moody’s Investors Service Limited or a comparable rating from an internationally recognised credit rating agency;

(b) any Revolving Facility Lender; or

(c) any other bank or financial institution approved by the Agent (not to be unreasonably withheld or delayed).
“Accession Deed” means a document substantially in the form set out in Schedule 6 (Form of Accession Deed).

“Accountants’ Report” means the report by PricewaterhouseCoopers LLP dated on or about the date of this Agreement relating to the Target Group and addressed to, and/or capable of being relied upon by, the Reliance Parties.

“Accounting Principles” means generally accepted accounting principles in the Original Jurisdiction of the relevant entity.

“Acquisition” means the acquisition of the Target Shares by the Company by way of an Offer.

“Acquisition Agreement” means, in relation to a Permitted Acquisition under paragraph (e) of that term, any document designated as an “Acquisition Document” by the Agent and the Parent.

“Acquisition Costs” means all costs and expenses and taxes incurred or required to be paid by any Group Company in connection with the Acquisition and any reasonable and properly incurred costs and expenses and taxes incurred or required to be paid by any Group Company in connection with any other Permitted Acquisition.

“Acquisition Documents” means, in relation to a Permitted Acquisition under paragraph (e) of that term, any document designated as an “Acquisition Document” by the Agent and the Parent.

“Additional Borrower” means a company which becomes a Borrower in accordance with Clause 30 (Changes to the Obligors).

“Additional Guarantor” means a company which becomes a Guarantor in accordance with Clause 30 (Changes to the Obligors).

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

“Affiliate” means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

“Agent’s Spot Rate of Exchange” means the spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market at or about 11.00 a.m. on a particular day on the relevant page of the Thomson Reuters screen (or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters).

“Aggregate Total Incremental Facility Commitments” means, at any time, the aggregate of the Total Incremental Facility Commitments relating to each Incremental Facility.

“Agreed List” means the list of banks and financial institutions in the agreed form delivered to the Agent pursuant to Clause 4.1 (Initial conditions precedent).


“Ancillary Commencement Date” means, in relation to an Ancillary Facility, the date on which that Ancillary Facility is first made available, which date shall be a Business Day within the Availability Period for the Revolving Facility.
“Ancillary Commitment” means, in relation to an Ancillary Lender and an Ancillary Facility, the maximum Base Currency Amount which that Ancillary Lender has agreed (whether or not subject to satisfaction of conditions precedent) to make available from time to time under an Ancillary Facility and which has been authorised as such under Clause 7 (Ancillary Facilities), to the extent that amount is not cancelled or reduced under this Agreement or the Ancillary Documents relating to that Ancillary Facility.

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

“Ancillary Facility” means any ancillary facility made available by an Ancillary Lender in accordance with Clause 7 (Ancillary Facilities).

“Ancillary Lender” means each Lender (or Affiliate of a Lender) which makes available an Ancillary Facility in accordance with Clause 7 (Ancillary Facilities).

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

(a) the principal amount under each overdraft facility and on-demand short term loan facility (net of any Available Credit Balance);

(b) the face amount of each guarantee, bond and letter of credit under that Ancillary Facility; and

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

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

“Annual Financial Statements” has the meaning given to that term in Clause 24 (Information Undertakings).

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

“Applicable Law” means, without limitation, all laws, statutes, regulations, treaties, directives, by-laws, orders, delegated legislation including, without limitation the Regulatory Rules or any official request of any governmental authority, whether local, regional, national or supranational (including rules and regulations relating to the conduct of business of any regulatory body with whose rules any member of the Group is required to comply) in each case, as in force from time to time and interpreted at the relevant time.

“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.

“Auditors” means EY, KPMG, PwC, Deloitte or BDO or any other firm appointed by the relevant Group Company to act as its statutory auditors.

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

“Availability Period” means:

(a) in relation to Facility A, the Certain Funds Period;

(b) in relation to the Revolving Facility, the period from and including the date of this Agreement to and including the date falling one Month prior to the Termination Date applicable to the Revolving Facility; and

(c) in relation to any Incremental Facility, the period specified as such in the Incremental Facility Notice relating to that Incremental Facility.

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

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

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

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

(i) that Lender’s participation in any Revolving Facility Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date; and

(ii) that Lender’s (and its Affiliate’s) Ancillary Commitments to the extent that they are due to be reduced or cancelled on or before the proposed Utilisation Date.

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

“Available Facility” means, in relation to a Facility, the aggregate for the time being of each Lender’s Available Commitment in respect of that Facility.
“Base Case Model” means the financial model (known as “Project Tiger – Draft Banking Case – Covenant Calculations v4.0”) including profit and loss, balance sheet and cashflow projections in agreed form relating to the Group prepared for the Parent.

“Base Currency” means Sterling.

“Base Currency Amount” means:

(a) in relation to a Loan, the amount specified in the Utilisation Request delivered by a Borrower for that Loan (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent’s Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date or, if later, on the date the Agent receives the Utilisation Request in accordance with the terms of this Agreement) as adjusted to reflect any repayment, prepayment, consolidation or division of a Loan; and

(b) in relation to an Ancillary Commitment, the amount specified as such in the notice delivered to the Agent by the Parent pursuant to Clause 7.2 (Availability) (or, if the amount specified is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent’s Spot Rate of Exchange on the date which is three Business Days before the Ancillary Commencement Date for that Ancillary Facility or, if later, the date the Agent receives the notice of the Ancillary Commitment in accordance with the terms of this Agreement), as adjusted to reflect any repayment, prepayment, consolidation or division of a Loan, or (as the case may be) cancellation or reduction of an Ancillary Facility.

“Base Currency Equivalent” means, the amount of the relevant currency required to purchase the relevant amount of the Base Currency at the Agent’s spot rate of exchange for such a purchase in the London foreign exchange market at or about 11.00 a.m. on the relevant date.

“Base Reference Bank Rate” means, in relation to LIBOR or EURIBOR, the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Base Reference Banks:

(a) in relation to LIBOR as either:

(i) if:

(A) the Base Reference Bank is a contributor to the applicable Screen Rate; and

(B) it consists of a single figure,

the rate (applied to the relevant Base Reference Bank and the relevant currency and period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator; or

(ii) in any other case, the rate at which the relevant Base Reference Bank could fund itself in the relevant currency for the relevant period with reference to the unsecured wholesale funding market; or

(b) in relation to EURIBOR as either:
(i) (other than where paragraph (ii) below applies) the rate at which the relevant Base Reference Bank believes one prime bank is quoting to another prime bank for interbank term deposits in euro within the Participating Member States for the relevant period; or

(ii) if different, as the rate (if any and applied to the relevant Base Reference Bank and the relevant period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator.

“Base Reference Banks” means, in relation to LIBOR, the principal London offices of Barclays Bank PLC and The Royal Bank of Scotland plc or such other entities as may be appointed by the Agent in consultation with the Parent and in relation to EURIBOR, such other entities as may be appointed by the Agent in consultation with the Parent.

“Borrower” means an Original Borrower or an Additional Borrower unless it has ceased to be a Borrower in accordance with Clause 30 (Changes to the Obligors).

“Borrowings” has the meaning given to that term in Clause 25.1 (Financial Definitions).

“Break Costs” means the amount (if any) by which:

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

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

“Budget” means:

(a) in relation to the period beginning on the date of this Agreement and ending on 30 April 2018, the Base Case Model to be delivered by the Parent to the Agent pursuant to Clause 4.1 (Initial conditions precedent); and

(b) in relation to any other period, any budget delivered by the Parent to the Agent in respect of that period pursuant to Clause 24.4 (Budget).

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

“Capital Expenditure” has the meaning given to that term in Clause 25.1 (Financial Definitions).

“Cash” has the meaning given to that term in Clause 25.1 (Financial Definitions).

“Cash Equivalent Investments” has the meaning given to that term in Clause 25.1 (Financial Definitions).

“Cashflow” has the meaning given to that term in Clause 25.1 (Financial Definitions).
“Cash Overfunding” has the meaning given to that term in Clause 25.1 (Financial Definitions).

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

(a) 141 days after the date of this Agreement;

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

(c) the date on which the Offer lapses (other than in the circumstances described in (e) below), terminates or is withdrawn;

(d) the date on which the Target becomes a direct or indirect wholly owned subsidiary of the Company and the Company has paid for all shares in the Target beneficially owned by it; and

(e) the date on which the Offer lapses in accordance with the Takeover Code as a result of either (i) the European Commission initiating proceedings under Article 6(1)(c) of Council Regulation 139/2004/EC or (ii) the Acquisition being the subject of a Phase 3 CMA Reference or (ii) the Acquisition being the subject to a Phase 2 CMA Reference (where such initiation of proceedings or Phase 2 CMA Reference occurs before the first closing date of the Offer or the date on which the Offer becomes or is declared unconditional as to acceptances, whichever is the later). The Company shall advise the Agent promptly following the occurrence of such date.

“Certain Funds Utilisation” means a Loan made or to be made under Facility A during the Certain Funds Period where, the Facility A Loan is to be made solely for purpose as set out in Clause 3.1(a) (Purpose).

“Change of Control” means funds managed, advised or controlled by the Sponsor Investor ceases to satisfy one or more of the elements of control (as identified below) directly or indirectly in relation to the Parent. For the purposes of this definition, “control” of the Parent means:

(a) prior to a Flotation, the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

(i) cast, or control the casting of, more than 50 per cent. of the maximum number of votes that might be cast at a general meeting of the Parent; or

(ii) appoint or remove all, or the majority, of the directors or other equivalent officers of the Parent; or

(iii) give directions with respect to the operating and financial policies of the Parent with which the directors or other equivalent officers of the Parent are obliged to comply; or

(b) after a Flotation, the Sponsor Investor ceasing to beneficially own and control (directly or indirectly) more than 30% of the voting shares of the Company (provided that no person or persons acting in concert owns or controls a greater percentage of the voting shares of the Company than the Sponsor Investor).
“Charged Property” means all of the assets of the Obligors which from time to time are, or are expressed to be, the subject of the Transaction Security.

“Chief Financial Officer” and “CFO” means the finance director of the Parent from time to time (or any director of the Parent acting as such officer’s deputy in that capacity or performing those functions).

“Clean-up Date” means the date falling (i) in the case of the Acquisition, 45 days after the Closing Date and (ii) in the case of any other acquisition permitted under and in accordance with paragraph (e) of the definition of “Permitted Acquisition”, 45 days after the date of completion of such acquisition.

“Client Balances” means balances held by any Group Company which represent client monies.

“Closing” or “Completion” means the completion of the Acquisition in accordance with the terms of the Offer Document.

“Closing Date” means the date on which Closing occurs being the first Utilisation Date.


“Commercial Due Diligence Report” means the report prepared by LEK Consulting dated on or about the date of this Agreement and addressed to, and/or capable of being relied upon by, the Reliance Parties.

“Commitment” means a Facility A Commitment or a Revolving Facility Commitment or an Incremental Facility Commitment.

“Compliance Certificate” means a certificate substantially in the form set out in Schedule 8 (Form of Compliance Certificate).

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

(a) any Group Company, any member of 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 Group Company, any member of 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 40.1 (Confidentiality); or
(B) is identified in writing at the time of delivery as non-confidential by any Group Company, any member of the Target Group or any of its advisers; or

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

(ii) any Funding Rate or Reference Bank Quotation.

“Confidentiality Undertaking” means a confidentiality undertaking substantially in the recommended form of the LMA for the relevant type of proposed transaction or in any other form agreed between the Parent and the Agent.

“Constitutional Documents” means the articles of association of the Parent.


“Cure Amount” has the meaning given to that term in Clause 25.4 (Equity Cure).

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

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

any Commitment or amount outstanding under this Agreement.

“Declared Default” means:

(a) an Event of Default in respect of which any notice has been issued or rights exercised by the Agent under Clause 27.19 (Acceleration); and

(b) a Material Event of Default which is continuing and in respect of which the Agent has served a notice on the Parent under Clause 27.20 (Revolving Facility Lenders Acceleration).

“Default” means an Event of Default or any event or circumstance specified in Clause 27 (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.

“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 Parent (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;

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 5 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 Parties List” means the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control of the US Department of the Treasury, or any similar list of sanctioned persons or entities maintained by any Sanctions Authority.

“Disposal” has the meaning given to that term in Clause 11.2 (Disposal, Insurance, Flotation and Acquisition Proceeds).

“Disruption Event” means either or both of:

(a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facilities (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or

(b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:

(i) from performing its payment obligations under the Finance Documents; or

(ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

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

“Dormant Subsidiary” means a Subsidiary (direct or indirect) of the Parent which does not trade (for itself or as agent for any person) and does not own, legally or beneficiary, assets (including indebtedness owed to it) which in aggregate have a value of £20,000 or more (or its equivalent).

“EBITDA” has the meaning given to that term in Clause 25.1 (Financial Definitions).
“Eligible Institution” means any Lender or other bank, financial institution, trust, fund or other entity selected by the Parent and which, in each case, is not a Sponsor Affiliate or a Group Company.

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

(a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
(b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
(c) land (including, without limitation, land under water).

“Environmental Claim” means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

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

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

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

“Establishment Date” means, in relation to an Incremental Facility, the later of:

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

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

(a) the applicable Screen Rate as of the Specified Time for euro and for a period equal in length to the Interest Period of that Loan; or
(b) as otherwise determined pursuant to Clause 15.1 (Unavailability of Screen Rate).

“Event of Default” means any event or circumstance specified as such in Clause 27 (Events of Default).

“Excluded Assets” means (a) any assets which a Group Company holds as a trustee for and on behalf of a third party under a duly constituted English law or Scots law trust in the ordinary course of its business as a professional asset manager and (b) any account and any amounts standing to the credit thereto which a Group Company holds for the purpose of holding client monies.
“Facility” means Facility A or the Revolving Facility or an Incremental Facility.

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

“Facility A Commitment” means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading “Facility A Commitment” in Part 2 of Schedule 1 (The Original Parties) and the amount in the Base Currency of any other Facility A Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.3 (Increase); and

(c) in relation to any other Lender, the amount in the Base Currency of any Facility A Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.3 (Increase), to the extent not cancelled, reduced or transferred by it under this Agreement.

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

“Facility Office” means:

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

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

“FATCA” means:

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

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

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

“FATCA Application Date” means:

(a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;

(b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

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

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

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


“Fee Letter” means:

(a) any letter or letters dated on or about the date of this Agreement between the Arranger and the Parent (or the Agent and the Parent or the Security Agent and the Parent) setting out any of the fees referred to in Clause 16 (Fees);

(b) any agreement setting out fees payable to a Finance Party referred to in paragraph (f) of Clause 2.3 (Increase) of this Agreement or under any other Finance Document; and

(c) any agreement setting out fees payable in respect of an Incremental Facility referred to in Clause 8.9 (Incremental Facility Fees).

“Finance Document” means this Agreement, any Accession Deed, any Compliance Certificate, any Fee Letter, any Hedging Agreement, any Incremental Facility Notice, the Intercreditor Agreement, any Resignation Letter, the Report Recoveries Letter, any Selection Notice, any Transaction Security Document, any Utilisation Request and any other document designated as a “Finance Document” by the Agent and the Parent provided that where the term “Finance Document” is used in, and construed for the purposes of, this Agreement or the Intercreditor Agreement, a Hedging Agreement shall be a Finance Document only for the purposes of:

(a) the definition of “Material Adverse Effect”;

(b) paragraph (a) of the definition of “Permitted Transaction”;

(c) the definition of “Transaction Document”;

(d) the definition of “Transaction Security Document”;

(e) paragraph (a)(iv) of Clause 1.2 (Construction);

(f) Clause 22 (Guarantee and Indemnity);

(g) Clause 26.14 (Pari passu ranking);

(h) Clause 26.34 (Further assurance); and
(i) Clause 27 (Events of Default) (other than paragraph (b) of Clause 27.15 (Repudiation and rescission of agreements), Clause 27.19 (Acceleration) and Clause 27.20 (Revolving Facility Lenders Acceleration)).

“Finance Lease” has the meaning given to that term in Clause 25.1 (Financial Definitions).

“Finance Party” means the Agent, the Arranger, the Security Agent, a Lender or a Hedge Counterparty, provided that where the term “Finance Party” is used in, and construed for the purposes of, this Agreement or the Intercreditor Agreement, a Hedge Counterparty shall be a Finance Party only for the purposes of:

(a) the definition of “Secured Parties”;
(b) paragraph (a)(i) of Clause 1.2 (Construction);
(c) paragraph (c) of the definition of Material Adverse Effect;
(d) Clause 22 (Guarantee and Indemnity); and
(e) Clause 31.22 (Conduct of business by the Finance Parties).

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

(a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
(b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
(c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
(d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
(e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:
   (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
   (ii) is not dismissed, discharged, stayed or restrained in each case within 60 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.

“Financial Indebtedness” means any indebtedness for or in respect of:

(a) moneys borrowed and debit balances at banks or other financial institutions;

(b) any acceptance under any acceptance credit or bill discounting facility or dematerialised equivalent;

(c) any note purchase facility or the issue of bonds (but not Trade Instruments), notes, debentures, loan stock or any similar instrument;

(d) the amount of any liability in respect of Finance Leases;

(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis) and meet any requirement for de-recognition under the Accounting Principles;

(f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);

(g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of:

(i) an underlying liability (but not, in any case, Trade Instruments) of an entity which is not a Group Company which liability would fall within one of the other paragraphs of this definition; or

(ii) any liabilities of any Group Company relating to any post-retirement benefit scheme;

(h) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the Termination Date in respect of Facility A or are otherwise classified as borrowings under the Accounting Principles;
(i) any amount of any liability under an advance or deferred purchase agreement if:

(ii) the agreement is in respect of the supply of assets or services and payment is due more than 120 days after the date of supply provided that each of:

(A) the surplus built into the “Annual Management Charge” which is charged to a fund to compensate for unexpected charges relating to the day-to-day running of that fund and which is recognised as a rebate accrual on the balance sheet of the relevant Group Company; and

(B) certain long payment terms arrangements between Group Companies and their clients or their investment advisors under historical contracts where fees relating to the same are paid on at least six monthly basis and which are recognised on the balance sheet of the relevant Group Company as more than 120 days aged,

shall not, in each case, constitute Financial Indebtedness under this paragraph (i);

(j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; and

(k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above.

“Financial Quarter” has the meaning given to that term in Clause 25.1 (Financial Definitions).

“Financial Year” has the meaning given to that term in Clause 25.1 (Financial Definitions).

“Finco Loan Agreement” means the intra-group loan agreement dated on or about the date hereof and made between the Original Borrower and the Company which, pursuant to its terms, cannot be amended, varied, repaid or prepaid without the prior consent of all of the Lenders.

“Flotation” means the admission of, or the grant of permission to deal in, any part of the share capital or any depositary certificate, instrument or other interest representing such share capital of the Parent or any Holding Company of the Parent (other than any Sponsor Investor) or a Subsidiary of the Parent on an internationally recognised investment exchange (or any other public exchange or public market or on any exchange or market replacing the same in any country) or any other sale or issue by way of flotation or initial public offering in any country.

“Funding Rate” means any individual rate notified by a Lender to the Agent pursuant to paragraph (a)(ii) of Clause 15.4 (Cost of funds).
“Funds Flow Statement” means the funds flow statement detailing the proposed movement of funds on or before the Closing Date in the form delivered under Part 1B of Schedule 2 (Conditions precedent).

“Group” means the Parent and each of its Subsidiaries and “Group Company” shall be construed accordingly.

“Group Structure Chart” means the group structure chart referred to in Part 1A of Schedule 2 (Conditions precedent).

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

“Hedge Counterparty” means any entity which has become a Party as a Hedge Counterparty in accordance with Clause 28.8 (Accession of Hedge Counterparties), which is or has become, a party to the Intercreditor Agreement as a Hedge Counterparty in accordance with the provisions of the Intercreditor Agreement, provided that any entity which provides hedging in the form of a cap to a Group Company is not deemed to be a “Hedge Counterparty”.

“Hedging Agreement” means any master agreement, confirmation, schedule or other agreement in agreed form (other than in relation to a cap) entered into or to be entered into by the Original Borrower and/or another Borrower and, in each case, a Hedge Counterparty for the purpose of hedging the types of liabilities and/or risks in relation to Facility A and the Incremental Facility which the Hedging Letter (by reference to its form at the time that agreement is entered into) either requires or had required, to be hedged.

“Hedging Letter” means the letter dated on or before the date of this Agreement and made between the Arranger and the Parent describing the hedging arrangements to be entered into in respect of the interest rate liabilities of the Borrower of, and in relation to, Facility A and any Incremental Facility.

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

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

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

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

(c) (if the Agent is also a Lender) it is a Defaulting Lender under paragraph (a) or (b) of the definition of “Defaulting Lender”; or

(d) a Finance Party 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 5 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 10 (Form of Increase Confirmation).

“Increase Lender” has the meaning given to that term in Clause 2.3 (Increase).

“Incremental Facility” means any term loan facility that may be established and made available under this Agreement as described in Clause 8 (Establishment of Incremental Facilities).

“Incremental Facility Commitment” means:

(a) in relation to a Lender which is an Incremental Facility Lender, the amount set opposite its name under the heading “Incremental Facility Commitment” in the relevant Incremental Facility Notice and the amount of any other Incremental Facility Commitment relating to the relevant Incremental Facility transferred to it under this Agreement or assumed by it in accordance with Clause 2.3 (Increase); and

(b) in relation to an Incremental Facility and any other Lender, the amount of any Incremental Facility Commitment relating to that Incremental Facility transferred to it under this Agreement or assumed by it in accordance with Clause 2.3 (Increase), to the extent not cancelled, reduced or transferred by it under this Agreement.

“Incremental Facility Conditions Precedent” means, in relation to an Incremental Facility, any document and other evidence specified as such in the relevant Incremental Facility Notice.

“Incremental Facility Lender” means, in relation to an Incremental Facility, any entity which is listed as such in the relevant Incremental Facility Notice.

“Incremental Facility Lender Certificate” means a document substantially in the form set out in Schedule 13 (Form of Incremental Facility Lender Certificate).

“Incremental Facility Loan” means, in relation to an Incremental Facility, a loan made or to be made under that Incremental Facility or the principal amount outstanding for the time being of that loan.

“Incremental Facility Majority Lenders” means, in relation to an Incremental Facility, a Lender or Lenders whose Incremental Facility Commitments relating to that Incremental Facility aggregate more than $66\frac{2}{3}$ per cent. of the Total Incremental Facility Commitments relating to that Incremental Facility (or, if those Total Incremental Facility Commitments have been reduced to zero, aggregated more than $66\frac{2}{3}$ per cent. of those Total Incremental Facility Commitments immediately prior to that reduction).

“Incremental Facility Notice” means a notice substantially in the form set out in Schedule 13 (Form of Incremental Facility Notice).

“Incremental Facility Terms” means, in relation to an Incremental Facility:

(a) the currency;
(b) the Total Incremental Facility Commitments;
(c) the Margin;
(d) the level of commitment fee payable pursuant to Clause 16.2 (Commitment fee) in respect of that Incremental Facility;
(e) the Borrower(s) to which that Incremental Facility is to be made available;
(f) the purpose(s) for which all amounts borrowed under that Incremental Facility shall be applied pursuant to Clause 3.1 (Purpose);
(g) the Availability Period;
(h) any Incremental Facility Conditions Precedent;
(i) the repayment terms for that Incremental Facility for the purposes of Clause 9.1 (Repayment of Facility A Loans); and
(j) the Termination Date,
each as specified in the Incremental Facility Notice relating to that Incremental Facility.

“Information Package” means the Reports and the Base Case Model.


“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 Group Company (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 Original Borrower, the Sponsor Investor, the Hedge Counterparties and the Intra-Group Lenders (each as defined in the Intercreditor Agreement).

“Interest Period” means, in relation to a Loan, each period determined in accordance with Clause 14 (Interest Periods) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 13.3 (Default Interest).

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

(a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
(b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,
each as of the Specified Time for the currency of that Loan.

“Insurance Due Diligence Report” means the insurance due diligence report by Marsh dated on or about the date of this Agreement relating to the Target Group addressed to and/or capable of being relied upon by, the Reliance Parties.

“Investors” means the Sponsor Investor, funds managed or advised by the Sponsor Investor, J Leon Group and Senior Management.

“J Leon Group” means J Leon & Company Limited or any of its Affiliates.

“Joint Bidding Agreement” means the joint bidding deed dated on or about the date of this Agreement between, amongst others, the Company, the Sponsor Investor and Senior Management.

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

“Legal Due Diligence Report” means the legal due diligence report dated on or about the date of this Agreement prepared by Berwin Leighton Paisner LLP relating to the Group and addressed to, and/or capable of being relied upon by, the Reliance Parties.

“Legal Opinion” means any legal opinion delivered to the Agent under Clause 4.1 (Initial conditions precedent) or Clause 30 (Changes to the Obligors).

“Legal Reservations” means:

(a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of a court, the principle of reasonableness and fairness, the limitation of validity or enforcement by laws relating to bankruptcy, insolvency, judicial management, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting the rights of creditors;

(b) the time barring of claims under any applicable laws of limitation (including without limitation the Limitation Acts), the possibility that an undertaking to assume liability for or to indemnify a person against non-payment of stamp duty may be void and defences of set-off or counterclaim;

(c) the principle that in certain circumstances security granted by way of fixed charge may be re-characterised as a floating charge or that security purported to be constituted as an assignment may be re-characterised as a floating 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) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
(h) any other qualifications or reservations to, and any other general principles set out as to matters of, law in the Legal Opinions.

“Lender” means:

(a) any Original Lender and any Revolving Facility Lender; and

(b) any bank, financial institution, trust, fund or other entity which has become a Lender in accordance with Clause 2.3 (Increase), Clause 8 (Establishment of Incremental Facilities) or 28 (Changes to the Lenders),

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

“LIBOR” means, in relation to any Loan:

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

(b) as otherwise determined pursuant to Clause 15.1 (Unavailability of Screen Rate),

and if, in either case, that rate is less than 1.00 per cent., then in respect of Facility A, LIBOR shall be deemed to be 1.00 per cent.


“LMA” means the Loan Market Association.

“Loan” means a Facility A Loan or a Revolving Facility Loan or any Incremental Facility Loan.

“Major Default” means, with respect to an Original Obligor only, any circumstances constituting a Default under any of Clause 27.1 (Non-payment), Clause 27.3 (Other obligations) in so far as it relates to a breach of a Major Undertaking, Clause 27.4 (Misrepresentation) in so far as it relates to a breach of any Major Representation, Clause 27.6 (Insolvency), Clause 27.7 (Insolvency proceedings), Clause 27.8 (Creditors’ process), Clause 27.9 (Unlawfulness and invalidity), Clause 27.14 (Expropriation) or Clause 27.15 (Repudiation and rescission of agreements).

“Major Representation” means a representation or warranty with respect to an Original Obligor only (and not, for the avoidance of doubt, any representation or warranty made by an Original Obligor in respect of matters relating to a member of the Target Group) under any of Clause 23.2 (*Status) to Clause 23.7 (*Governing law and enforcement) (inclusive), Clause 23.15 (No breach of laws) or Clause 23.30 (Holding Companies).

“Major Undertakings” means an undertaking with respect to an Original Obligor only (and not, for the avoidance of doubt, any undertaking by an Original Obligor in respect of matters relating to a member of the Target Group) under any of Clause 26.6 (Sanctions), Clause 26.10 (Acquisitions), Clause 26.11 (Joint ventures), Clause 26.12 (Holding Companies), Clause 26.14 (Pari passu ranking), Clause 26.15 (Negative pledge), Clause 26.16 (Disposals), Clause 26.18 (Loans or credit), Clause 26.19 (No guarantees or indemnities), Clause 26.20 (Dividends and share redemption), Clause 26.21 (Financial Indebtedness), Clause 26.22 (Subordinated Debt), Clause 26.23 (Share capital), Clause 26.29 (Amendments) or Clause 26.36 (Offer undertakings).
“Majority Lenders” means:

(a) (for the purposes of paragraph (a) of Clause 39.2 (Required consents) in the context of a waiver in relation to a proposed Revolving Facility Loan (other than a Revolving Facility Loan on the Closing Date) of the condition in Clause 4.2 (Further conditions precedent)), a Lender or Lenders whose Revolving Facility Commitments aggregate more than 66⅔ per cent. of the Total Revolving Facility Commitments;

(b) (for the purposes of paragraph (a) of Clause 39.2 (Required consents) in the context of a waiver in relation to a proposed Utilisation of an Incremental Facility of the condition in clause 4.2 (Further conditions precedent)), the Incremental Facility Majority Lenders under that Incremental Facility; and

(c) (in any other case), a Lender or Lenders whose Commitments aggregate more than 66⅔ per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 66⅔ per cent. of the Total Commitments immediately prior to that reduction).

“Majority Revolving Facility Lenders” means a Lender or Lenders whose Revolving Facility Commitments aggregate more than 66⅔ per cent. of the Total Revolving Facility Commitments.

“Mandatory Prepayment Account” means, once opened, an interest-bearing account:

(a) held in England by the Borrower with an Acceptable Bank;

(b) identified in a letter between the Parent and the Agent as a Mandatory Prepayment Account;

(c) subject to Security in favour of the Security Agent which Security is in form and substance satisfactory to the Agent and Security Agent; and

(d) from which no withdrawals may be made by any members of the Group except as contemplated by this Agreement,

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

“Margin” means

(a) in relation to any Facility A Loan, 7.00 per cent. per annum;

(b) in relation to any Revolving Facility Loan 3.50 per cent. per annum;

(c) in relation to any Incremental Facility Loan, the percentage rate per annum specified as such in the Incremental Facility Notice relating to the Incremental Facility under which that Incremental Facility Loan is made or is to be made;

(d) in relation to any Unpaid Sum relating or referable to a Facility, the rate per annum specified above for that Facility; and

(e) in relation to any other Unpaid Sum, the highest rate specified above (without any adjustment);

but if:
(a) no Event of Default has occurred and is continuing;
(b) a period of at least 12 Months has expired since the Closing Date; and
(c) Gross Leverage in respect of the most recently completed Relevant Period is within a range set out below,

then the Margin for each Loan under Facility A and the Revolving Facility will be the percentage per annum set out below in the column for that Facility opposite that range:

<table>
<thead>
<tr>
<th>Gross Leverage</th>
<th>Facility A Margin (% p.a.)</th>
<th>Revolving Margin (% p.a.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equal to or less than 3.25:1</td>
<td>6.75</td>
<td>3.25</td>
</tr>
</tbody>
</table>

However:

(a) any increase or decrease in the Margin for a Loan shall take effect on the date (the “reset date”) which is five Business Days after receipt by the Agent of the Compliance Certificate for that Relevant Period pursuant to Clause 24.2 (Provisions and contents of Compliance Certificate) or, if a decrease has not taken effect because an Event of Default has occurred and is continuing, on the first day on which that Event of Default ceases to be continuing;

(b) if, following receipt by the Agent of the Compliance Certificate related to the relevant Annual Financial Statements, that Compliance Certificate does not confirm the basis for a reduced or increased Margin or confirm that a reduced or increased Margin should have applied, then Clause 13.2(b) (Payment of Interest) shall apply and the Margin for that Loan shall be the percentage per annum determined using the table above and the revised ratio of Gross Leverage calculated using the figures in that Compliance Certificate;

(c) while an Event of Default is continuing, the Margin for each Loan under a Facility shall be the highest percentage per annum set out above (or, in the case of an Incremental Facility, as agreed in respect of that Incremental Facility) for a Loan under that Facility provided that upon such Event of Default ceasing to be continuing, the ratchet shall immediately re-apply on the basis of the most recently delivered Compliance Certificate; and

(d) for the purpose of determining the Margin, Gross Leverage and Relevant Period shall be determined in accordance with Clause 25.1 (Financial Definitions).

“Material Adverse Effect” means a material adverse effect on:

(a) the business, financial condition or assets 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 their obligations under Clause 25 (Financial covenants); or
(c) subject to the Legal Reservations and the Perfection Requirements, the validity or enforceability of, or the effectiveness or ranking of any Security granted or purporting to be granted pursuant to any of, the Finance Documents or the rights or remedies of
any Finance Party under any of the Finance Document, which, if capable of remedy, is not remedied within 20 Business Days from the earlier of notice being given to the Borrower by the Agent of such circumstances or such circumstances becoming known to a Group Company.

“Material Company” means, at any time:

(a) an Obligor;

(b) a Group Company that holds shares in an Obligor; or

(c) a Group Company which (when consolidated with its Subsidiaries, if any) has earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA, as defined in Clause 25 (Financial covenants)) representing five per cent. or more of EBITDA (as defined in Clause 25.1 (Financial Definitions)) of the Group or has gross assets or turnover (excluding intra-group items) representing five per cent. or more of the gross assets or turnover of the Group (on a consolidated basis).

Compliance with the conditions set out in sub-paragraph (c) above shall be determined by reference to the most recent Compliance Certificate supplied by the Parent and/or the latest audited financial statements of that Subsidiary (consolidated in the case of a Subsidiary which itself has Subsidiaries) and the latest audited consolidated financial statements of the Group. However, if a Subsidiary has been acquired since the date to which the latest audited consolidated financial statements of the Group were prepared, the financial statements shall be deemed to be adjusted in order to take into account the acquisition of that Subsidiary (that adjustment being certified by the Auditors as representing an accurate reflection of the revised EBITDA (as defined in Clause 25.1 (Financial Definitions)), gross assets and turnover of the Group).

"Material Disposal" means a disposal of any member of the Group by way of a single transaction or series of related transactions where such disposal is not expressly permitted by the terms of this Agreement as at the Closing Date (a “Material Disposal Instance”) and would:

(a) dispose of assets of one or more members of the Group which contribute 20 per cent. or more of the then consolidated EBITDA of the Group; or

(b) when that Material Disposal Instance is aggregated with all other Material Disposal Instances made by members of the Group since the Closing Date, dispose of assets of one or more members of the Group which contribute 50 per cent. or more of the then consolidated EBITDA of the Group.

"Material Event of Default" means:

(a) an Event of Default under Clause 27.1 (Non-payment) in relation to:

(i) any amount of principal or interest due under the Revolving Facility or to the fees payable to any Revolving Facility Lender under Clause 16.2 (Commitment fee) or Clause 16.3 (Arrangement fee); and

(ii) any other amount due in relation to the Revolving Facility or Ancillary Facility in excess of £250,000;
(b) an Event of Default under Clause 27.2(a) arising as a result of a breach of paragraph (c) of Clause 25.2 (Financial Condition);

(c) an Event of Default under Clause 27.2(a) arising as a result of a breach of Clauses 24.1 (Financial statements) or 24.2 (Provisions and contents of Compliance Certificate) insofar as they relate to Clause 24.2(c) and such breach is not remedied within 30 days;

(d) an Event of Default under Clause 27.2(b);

(e) (if at the relevant time there are any outstanding Utilisations under the Revolving Facility (including any Ancillary Facility)) an Event of Default under Clause 27.3 (Other obligations) as a result of a failure by an Obligor to comply with the provisions of Clause 26.15 (Negative pledge), but only to the extent that any Security granted in breach of the provision of such Clause ranks prior to, or pari passu with Security granted in favour of, whether through the Security Agent or directly, the Revolving Facility Lenders;

(f) an Event of Default under Clauses 27.6 (Insolvency) or 27.7 (Insolvency proceedings) in relation to (A) a Borrower which has any outstanding Utilisations under the Revolving Facility (including any Ancillary Facility), (B) any Obligor which is a party to a Hedging Agreement with a Hedge Counterparty that is also a Revolving Lender or (C) any member of the Group which falls within limb (c) of the definition of Material Company; and

(g) (if at the relevant time there are any outstanding Utilisations under the Revolving Facility (including any Ancillary Facility)) an Event of Default under Clause 27.15 (Repudiation and rescission of agreements) has occurred and is not remedied within five Business Days.

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

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

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

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

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

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

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

“New Lender” has the meaning given to that term in Clause 28 (Changes to the Lenders).
“New Equity” means any issue of shares by the Parent to the Investors or a person which is not a Subsidiary of the Parent for cash and on substantially the same terms as the ordinary shares already issued (and not, for the avoidance of doubt, redeemable prior to the Termination Date) or otherwise on terms acceptable to the Majority Lenders and which is prohibited by the terms of this Agreement.

“Non Call Period” has the meaning given to that term in Clause 10.5 (Prepayment Premium).

“Notifiable Debt Purchase Transaction” has the meaning given to that term in paragraph (b) of Clause 29.2 (Disenfranchisement on Debt Purchase Transactions entered into by Sponsor Affiliates).

“Obligor” means a Borrower or a Guarantor.

“Obligors’ Agent” means the Parent, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.5 (Obligors’ Agent).

“Offer” means a takeover offer for the issued and to be issued shares of the Target not already owned by the Company.

“Offer Document” means the offer document to be sent by the Company to the shareholders of the Target in respect of the Offer.

“Offer Press Release” means the press announcement to be issued by the Company (or on its behalf) announcing the terms of the Offer pursuant to rule 2.7 of the Takeover Code.

“Optional Currency” means a currency (other than the Base Currency) which complies with the conditions set out in Clause 4.3 (Conditions relating to Optional Currencies).

“Original Financial Statements” means:

(a) in relation to the Target, the audited consolidated financial statements of the Target Group for the financial year ended 30 April 2016;

(b) in relation to the Target, its monthly management accounts for the month ended April 2017; and

(c) in relation to any other Obligor (other than the Original Obligors), its financial statements delivered to the Agent as required by Clause 30 (Changes to the Obligors).

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

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

“Panel” means The Panel on Takeovers and Mergers.

“Parent Loan Agreement” means the intragroup loan agreement dated on or about the date hereof between the Parent and the Company.
“Participating Member State” means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“Party” means a party to this Agreement.

“Perfection Requirements” means the making or the procuring of the necessary registrations, filings, endorsements, notarisations, stamping or notifications of the Transaction Security Documents as specifically contemplated by the relevant Transaction Security Documents and/or necessary for the validity, enforceability, perfection, priority or enforcement of the Transaction Security created thereunder.

“Permitted Acquisition” means:

(a) an acquisition by a Group Company of an asset sold, leased, transferred or otherwise disposed of by another Group Company in circumstances constituting a Permitted Disposal;

(b) an acquisition of shares or securities pursuant to a Permitted Share Issue;

(c) an acquisition of securities which are Cash Equivalent Investments so long as those Cash Equivalent Investments become subject to the Transaction Security as soon as is reasonably practicable;

(d) the incorporation of a company which on incorporation becomes a Group Company, but only if:

(i) that company is incorporated with limited liability in a jurisdiction which is not a Sanctioned Country; and

(ii) if the shares in the company are owned by an Obligor, Security over the shares of that company, in form and substance satisfactory to the Agent, is created in favour of the Security Agent within 30 days of the date of its incorporation;

(e) an acquisition by a Group Company (other than the Parent), of (i) a controlling interest in a limited liability company; or (ii) a business or undertaking carried on as a going concern, but (whether the acquisition is of a company or a business or undertaking) (in each case a “Relevant Target”) only if:

(i) no Event of Default is continuing on the closing date for the acquisition or would occur as a result of the acquisition of the Relevant Target;

(ii) the Relevant Target is incorporated or established, and carries on its principal business in, a jurisdiction which is not a Sanctioned Country and is engaged in or its activity is a similar, complimentary or connected business as that carried on by the Group;

(iii) either:

(A) the Relevant Target is not subject to statutory restrictions on the distributions of dividends or other distributions; or

(B) if the Relevant Target is subject to statutory restrictions on the distributions of dividends or other distributions, all contributions
from the Relevant Target to EBITDA and Cashflow (and their constituent definitions) for all purposes in connection with Clause 24 (Information Undertakings) shall be excluded so long as these restrictions prevail;

(iv) in relation to the Relevant Target, the Agent has received from the Parent at least 5 Business Days before legally committing to make the relevant transaction:

(A) an information notice describing the proposed acquisition, its price metrics, its key operational and financial parameters, the market and its competitive positioning of the Relevant Target, the acquisition rationale and the main terms and conditions of the acquisition (including price and warranties) together with the latest available consolidated annual audited financial statements of the Relevant Target for its two most recently completed financial years, or if not applicable, the latest available unaudited annual management statements of the Relevant Target for its latest financial year;

(B) a certificate (signed by the CFO or two directors of the Parent) confirming that the Relevant Target has a positive EBITDA (taking into account Pro Forma Cost Savings) (calculated on the same basis as EBITDA, as defined in Clause 25 (Financial covenants) for a period of 12 Months preceding the completion of the acquisition of the Relevant Target; and

(C) a certificate (signed by the CFO or two directors of the Parent giving calculations showing in reasonable detail) confirming that, the Group is projected to comply with Clause 25.2 (Financial Condition), in respect of the Relevant Periods ending on the first two Financial Quarters to occur following the proposed acquisition, where, for these purposes, Adjusted Net Leverage set at a ratio that is 10 per cent. below the Adjusted Net Leverage ratio set out in Clause 25.2 (Financial Condition) for those two Relevant Periods ending on those two Financial Quarters (in each case, calculated on a pro forma basis (as described in Clause 1.2(a)(xii) (Construction)) for the acquisition and taking into account Pro Forma Cost Savings);

(v) in the case of any single acquisition of a Relevant Target where the Total Consideration of the Relevant Target:

(A) exceeds £1,000,000 (or its equivalent in other currencies) but is less than or equal to £2,500,000 (or its equivalent in other currencies), copies of any due diligence reports commissioned or obtained by a Group Company in relation to such acquisition on a non-reliance basis (subject to the Agent and the other Finance Parties signing any confidentiality, hold harmless, release or similar letters required by the relevant report provider), shall be delivered by the Parent to the Agent at least 10 Business Days before a Group Company legally commits to make that acquisition; or

(B) exceeds £2,500,000 (or its equivalent in other currencies) but is less than or equal to £5,000,000 (or its equivalent in other currencies), copies of:
(1) the legal due diligence report in respect of such acquisition;

(2) the tax due diligence report in respect of such acquisition;

(3) the accountant’s due diligence report in respect of such acquisition;

(4) copies of all other third party due diligence reports commissioned by any Group Company in relation to such acquisition;

(5) a revised Budget which takes into consideration the relevant acquisition; and

(6) a copy of the Acquisition Agreement in respect of that acquisition,

shall be delivered by the Parent to the Agent at least 10 Business Days before legally committing to make the relevant transaction, with (in each case) with the Parent using its reasonable endeavours to procure that such reports may be relied upon by the Lender(s) subject to the Lender(s), acting reasonably, agreeing the terms of any such reliance with the report provider on standard market terms;

(C) any acquisition that has a Total Consideration exceeding £5,000,000 (after deducting the element funded using an allocation of Cash Overfunding or by a Permitted Equity Injection), as approved in writing by the Majority Lenders. For the avoidance of doubt any acquisition funded entirely from Cash Overfunding and/or a Permitted Equity Injection shall not require the approval of the Majority Lenders pursuant to this paragraph (C);

(f) the Tutman Acquisition as carried out pursuant to the steps set out in the Structure Memorandum; and

(g) the Acquisition.

“Permitted Disposal” means any sale, lease, licence, surrender, transfer or other disposal which, except in the case of paragraph (b), is on arm’s length terms:

(a) of trading stock or cash made by any Group Company in the ordinary course of trading of the disposing entity;

(b) of any asset by a Group Company (the “Disposing Company”) to another Group Company (the “Acquiring Company”), but if:

(i) the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor;

(ii) the Disposing Company had given Security over the asset, the Acquiring Company must give equivalent Security over that asset; and

(iii) the Disposing Company is a Guarantor, the Acquiring Company must be a Guarantor guaranteeing at all times an amount no less than that guaranteed by the Disposing Company;
of assets (other than shares, businesses or Intellectual Property) by an Obligor to a Group Company which is not an Obligor provided that the aggregate of the consideration received for such assets does not, exceed not exceed £250,000 (or its Base Currency Equivalent) in any Financial Year of the Parent;

(d) arising as a result of a lease of Real Property not required for the ordinary conduct of the day-to-day business of any Group Company granted to third parties in the ordinary course of business;

(e) arising of a result of the agreement of (or agreement to grant) a lease, licence, any variation, surrender or termination or (or agreement to vary, surrender or terminate) a lease or sub-lease, concession or licence or any assignment or other transfer (or agreement to transfer) of a lease, sub-lease, concession or licence of Real Property either in the ordinary course of business or where the property interest the subject of the disposal is not required for the business of any Group Company;

(f) to an Obligor of a Permitted Loan (other than the Finco Loan Agreement) as a result of or in connection with the capitalisation of that loan;

(g) of assets (other than shares or businesses) in exchange (within 3 months of the date of the relevant disposal) for other assets comparable or superior as to type, value and quality;

(h) of obsolete, surplus or redundant assets (other than shares or businesses) on arm’s length terms;

(i) of Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments;

(j) of cash in exchange for other cash or Cash Equivalent Investments or to the extent not prohibited under the terms of the Finance Documents;

(k) constituted by a licence of intellectual property rights permitted by Clause 26.28 (Intellectual Property);

(l) any disposal which constitutes a surrender of tax losses to any Group Company;

(m) arising as a result of any Permitted Payment, Permitted Acquisition, Permitted Security or Permitted Transaction;

(n) to which the Majority Lenders have given their prior written consent; and

(o) of assets (other than shares) not otherwise permitted under paragraphs (a)-(l) above, where the net consideration receivable (when aggregated with the net consideration receivable for any other sale, lease, licence, transfer or other disposal not allowed under the preceding paragraphs or as a Permitted Transaction) does not exceed £250,000 (or its Base Currency Equivalent) in any Financial Year of the Parent and provided that such sale, lease, licence, transfer or other disposal is not to the Parent.

“Permitted Distribution” means:

(a) the payment of a dividend to an Obligor or to any of its Subsidiaries; and

(b) the payment of a dividend or distribution by the Parent to the extent that such a dividend or distribution represents a Permitted Payment.
“Permitted Equity Injection” means New Equity or Subordinated Debt (in each case to the extent the proceeds of which are received by the Parent on or after the Closing Date).

“Permitted Financial Indebtedness” means Financial Indebtedness:

(a) to the extent covered by a letter of credit, guarantee or indemnity issued under an Ancillary Facility;

(b) arising under the Finance Documents;

(c) arising under a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates where that foreign exchange exposure arises in the ordinary course of trade or in respect of Utilisations made in Optional Currencies, but not a foreign exchange transaction for investment or speculative purposes;

(d) arising under any documents evidencing Subordinated Debt;

(e) arising under a Permitted Transaction, a Permitted Loan or a Permitted Guarantee or as permitted by Clause 26.31 (Treasury Transactions);

(f) of any person acquired by a Group Company after the Closing Date which is incurred under arrangements in existence at the date of acquisition, but not incurred or increased or having its maturity date extended in contemplation of, or since, that acquisition, and outstanding only for a period of three months following the date of acquisition;

(g) under finance or capital leases of vehicles, plant, equipment or computers, provided that the aggregate capital value of all such items so leased under outstanding leases by members of the Group does not exceed £250,000 (or its Base Currency Equivalent) at any time;

(h) any Financial Indebtedness in respect of deferred consideration payable in respect of any acquisition falling within paragraph (e) of the definition of “Permitted Acquisition” (subject to a cap in relation to a single acquisition of 40% of the Total Consideration payable as deferred consideration and which comprises part of the consideration for that acquisition); and

(i) not permitted by the preceding paragraphs or as a Permitted Transaction and the outstanding amount of which does not exceed £250,000 (or its Base Currency Equivalent) in aggregate for the Group at any time.

“Permitted Guarantee” means:

(a) the endorsement of negotiable instruments in the ordinary course of trade;

(b) any performance or similar bond guaranteeing performance by a Group Company under any contract entered into in the ordinary course of trade;

(c) any guarantee of Permitted Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness except under paragraph (e) of that definition;
(d) any guarantee or indemnity given in the ordinary course of business in connection with the entry into, or performance of, commercial contracts entered into for the purposes of the day-to-day business of any Group Company;

(e) any guarantee of a Permitted Loan, provided that no Obligor shall guarantee the Financial Indebtedness of any Group Company which is not an Obligor unless the amount of the relevant guaranteed obligation is within the de minimis threshold in paragraph (g) of the definition of “Permitted Loan” at all times;

(f) any guarantee given in respect of the netting or set-off arrangements permitted pursuant to paragraph (b) of the definition of “Permitted Security”;

(g) any indemnity given in the ordinary course of the documentation of an acquisition or disposal transaction which is a Permitted Acquisition or Permitted Disposal which indemnity is in a customary form and subject to customary limitations;

(h) any guarantee in favour of the relevant landlord for any liability in respect of any lease agreement which guarantee is in a customary form, for a customary amount and subject to customary limitations or any guarantee or indemnity given to a financial institutions which have guaranteed rent obligations of a Group Company;

(i) guarantees and indemnities given in favour of directors and officers of any Group Company in respect of their function as such;

(j) guarantees granted by any person acquired after the Closing Date, provided that such guarantee existed at the time such person became a Group Company and was not incurred or increased in anticipation thereof and not amended to increase the guaranteed liabilities; and the Financial Indebtedness guaranteed thereby is discharged within 3 months of the date of the acquisition;

(k) any indemnity in favour of the liquidator of a Group Company whose liquidation constitutes a Permitted Transaction; and

(l) any guarantee not permitted by the preceding paragraphs or as a Permitted Transaction and the amount guaranteed of which does not exceed an aggregate amount of £250,000 (or its Base Currency Equivalent) during the lifetime of the Facilities.

“Permitted Loan” means:

(a) any trade credit extended by any Group Company to its customers on normal commercial terms and in the ordinary course of its trading activities and advance payments made in relation to capital expenditure in the ordinary course of business;

(b) Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness except under paragraph (b) of that definition;

(c) a loan made by an Obligor to another Obligor or made by a Group Company which is not an Obligor to another Group Company;

(d) any loan made by an Obligor to a Group Company which is not an Obligor so long as:
(i) the aggregate amount of the Financial Indebtedness under any such loans does not exceed £250,000 (or its Base Currency Equivalent) at any time;

(ii) the loan is made to Regulated Group Company in order for it to maintain its Regulatory Capital requirements or comply with Applicable Law;

(iii) the loan is made to a Regulated Group Company and is funded from Retained Cashflow or from the proceeds of a Permitted Equity Injection provided for that purpose; or

(iv) the Majority Lenders have given their prior written consent.

(e) any deferred consideration on Permitted Disposals and/or any loans or other extensions of credit made by a Group Company that are or may become due or remain outstanding as a result of or following such disposal, in each case up to a maximum amount of 20 per cent. of the relevant non-deferred (or non-lent) consideration;

(f) a loan made by a Group Company to an employee or director of any Group Company 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 £250,000 (or its Base Currency Equivalent) at any time;

(g) any loan made by a Group Company to the Parent which amounts to, or facilities, a Permitted Transaction or a Permitted Payment;

(h) any loan (other than a loan made by a Group Company to another Group Company) so long as the aggregate amount of Financial Indebtedness under any such loans does not exceed £250,000 (or its Base Currency Equivalent) at any time; and

(i) any loan made pursuant to any of the Parent Loan Agreement, the Topco Loan Agreement and the Finco Loan Agreement.

So long as in the case of paragraphs (c) and (d) above:

(i) the creditor of such Financial Indebtedness shall (if it is an Obligor) subject to the Agreed Security Principles, grant security over its rights (if not already subject to Security in favour of the Secured Parties) in respect of such Financial Indebtedness in favour of the Secured Parties on terms acceptable to the Agent (acting on the instructions of the Majority Lenders acting reasonably); and

(ii) to the extent required by the Intercreditor Agreement, the creditor and (if the debtor is a Group Company) the debtor of such Financial Indebtedness are or become party to the Intercreditor Agreement as intercompany creditor and intercompany debtor respectively.

“Permitted Payment” means:

(a) a payment of administrative costs, monitoring fees, directors’ fees and other out of pocket expenses up to £200,000 (or its equivalent in other currencies) in each Financial Year plus VAT;

(b) a payment of amounts owing under the Hedging Agreements which are permitted to be made by the Intercreditor Agreement;
a payment of an arrangement fee to the Sponsor Investor in an amount not exceeding £750,000 on or about the Closing Date;

payments to fund the payment of any taxes or other costs or expenses which are properly attributable to activities of the Group permitted by the Finance Documents, where such payment is promptly applied in settlement of the relevant tax Liability or other cost or expense;

provided that no Default is continuing, a payment of any arrangement fee (funded in full by a Permitted Equity Injection but so that only the net amount received by the Group shall be treated as the amount of such Permitted Equity Injection for the purposes of this Agreement) relating to any Permitted Equity Injection (other than in connection with an equity cure as permitted under Clause 25.4 (Equity Cure) of this Agreement) and such fee does not exceed 3 per cent. of the amount of the Permitted Equity Injection;

a dividend or a distribution to the Sponsor Investor of the unallocated Cash Overfunding (the “Proposed Allocation”), provided that:

(i) no Proposed Allocation is permitted to be made prior to the start of the Financial Year commencing 2018;

(ii) no Default is continuing or would occur as a result of the Proposed Distribution;

(iii) the Parent certifies and forecasts that it will comply with its obligations under Clause 25 (Financial covenants) for the 12 Month period following the relevant distribution and pro forma for making the Proposed Distribution; and

(iv) the Parent certifies that Adjusted Net Leverage for the most recently completed Relevant Period and pro forma for the making of the Proposed Distribution is not in excess of 3.00:1.

To the extent a proposed, distribution, dividend or payment made in full would cause a breach of the above paragraphs above but a partial distribution, dividend or payment would not, a partial distribution, dividend or payment may be made (the unpaid amount being the “Unpaid Amount”).

In the event that any Unpaid Amount is not paid in cash, any amounts which are prohibited from being paid under paragraphs (e), or (f) due to a Default continuing at the relevant time, will be permitted to be paid immediately if the relevant Default is no longer continuing.

“Permitted Security” means:

(a) any lien arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by any Group Company;

(b) any netting or set-off arrangement contained in any Hedging Agreement and any netting or set-off arrangement entered into by any Group Company in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Group but only so long as (i) such arrangement does not permit credit balances of Obligors to be netted or set-off against debit balances of members of the Group which are not Obligors and (ii) such arrangement does not
give rise to other Security over the assets of Obligors in support of liabilities of members of the Group which are not Obligors except in the case of Clauses (i) to (ii) above, to the extent such netting, set-off or Security relates to, or is granted in support of, a loan permitted pursuant to paragraph (h) of the definition of Permitted Loan;

(c) any payment or close out netting or set-off arrangement pursuant to any Treasury Transaction or foreign exchange transaction entered into by a Group Company which constitutes Permitted Financial Indebtedness, excluding any Security or Quasi-Security under a credit support arrangement;

(d) any Security or Quasi-Security over or affecting any asset acquired by a Group Company after the Closing Date if:

(i) the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a Group Company;

(ii) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset by a Group Company; and

(iii) the Security or Quasi-Security is removed or discharged within three months of the date of acquisition of such asset;

(e) any Security or Quasi-Security over or affecting any asset of any company which becomes a Group Company after the Closing Date, where the Security or Quasi-Security is created prior to the date on which that company becomes a Group Company, if:

(i) the Security or Quasi-Security was not created in contemplation of the acquisition of that company;

(ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company; and

(iii) the Security or Quasi-Security is removed or discharged within three months of that company becoming a Group Company;

(f) 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 Group Company in the ordinary course of trading and on the supplier’s standard or usual terms and not arising as a result of any default or omission by any Group Company;

(g) any Quasi-Security arising as a result of a disposal which is a Permitted Disposal;

(h) any Security over bank accounts or retention rights in respect of deposits granted in favour of the account bank as part of that bank’s standard terms and conditions;

(i) any Security over any rental deposits in respect of any property leased or licensed by a Group Company in respect of amounts representing not more than 12 months’ rent for that property;

(j) any Security over documents of title and goods as part of a documentary credit transaction arising in the ordinary course of trading;
(k) any Security arising by operation of law in respect of Taxes being contested in good faith or that are not yet due;

(l) any Security arising in respect of any judgment, award or order for which an appeal of proceedings for review are being diligently pursued;

(m) any Security or Quasi-Security arising as a consequence of any finance or capital lease permitted pursuant to paragraph (g) of the definition of “Permitted Financial Indebtedness”;

(n) any Security over cash as part of escrow arrangements provided by a Group Company in relation to the consideration mechanics for a Permitted Acquisition;

(o) any Security securing indebtedness the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness which has the benefit of Security given by any Group Company other than any permitted under paragraphs (a) to (n) above) does not exceed £150,000 (or its Base Currency Equivalent).

“Permitted Share Issue” means:

(a) an issue of New Equity by the Parent;

(b) an issue of shares by any Group Company to another Group Company or to a minority shareholder proportionate to its existing shareholding, where (if the existing shares of the relevant Group Company or the relevant minority shareholder are the subject of Transaction Security) the newly issued shares also become subject to Transaction Security on the same terms; and

(c) any payment or other transaction referred to in the Structure Memorandum.

“Permitted Transaction” means:

(a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Finance Documents;

(b) the solvent liquidation or reorganisation of any Group Company which is not an Obligor or whose shares have not been charged or pledged by 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;

(c) provided no Default is continuing an amalgamation, demerger, merger, consolidation or corporate reconstruction (a reorganisation) on a solvent basis of an Obligor (other than the Company, the Parent or the Original Borrower) where:

(i) all or substantially all of the business and assets of that Obligor are retained by one or more members of the Group which are, or which will become, Obligors except to the extent that the disposal of the same to a third party would be a Permitted Disposal; and

(ii) if its assets or the shares in it were subject to Transaction Security immediately prior to such reorganisation, the Security Agent (acting on the basis of legal advice) is satisfied that the Finance Parties will (subject to the Agreed Security Principles) (but ignoring any hardening or similar claw-back
periods) enjoy at least the same or equivalent guarantees and Transaction Security over the same assets and over the shares of that Obligor (or the shares of the surviving entity) after the reorganisation;

(d) transactions (other than (i) any sale, lease, licence, transfer or other disposal; and (ii) the granting or creation of Security, the incurring or permitting to subsist of Financial Indebtedness or the disposal of the shares of any Group Company), conducted in the ordinary course of trading on arm’s length terms; or

(e) any payment or other transaction referred to in the Structure Memorandum.

“Pro Forma Cost Savings” means in relation to pre-event consolidated EBITDA, for the purposes of the definition of Permitted Acquisition, the pro forma increase in such pre-event consolidated EBITDA as a result of cost synergies reasonably identifiable and achievable within the period of 12 Months from the closing date (such period being the “Synergy Period”) for such Permitted Acquisition by combining the operations of the Relevant Target applicable to that Permitted Acquisition with the operations of the Group and provided that the aggregate cost synergies for such Relevant Target (when aggregated with the Pro Forma Cost Savings for all other Relevant Targets whose closing date in respect of their Permitted Acquisition falls within the Synergy Period) does not exceed 10 per cent. of pre-event consolidated EBITDA (and if it does, then the aggregate cost synergies for such Relevant Target will only be taken into account to the extent so as to ensure that that 10 per cent. threshold is not breached).

“PSC Register” means “PSC register” within the meaning of section 790C(10) of the Companies Act 2006.

“PSC Registrable Person” means a “registrable person” or “registrable relevant legal entity”.

“Qualifying Lender” has the meaning given to that term in Clause 17 (Tax Gross Up and indemnities).

“Quarter Date” has the meaning given to that term in Clause 25.1 (Financial Definitions).

“Quasi-Security” has the meaning given to that term in Clause 26.15 (Negative pledge).

“Quotation Day” means, in relation to any period for which an interest rate is to be determined, two TARGET Days before the first day of that period, unless market practice differs in the Relevant Market for a currency, in which case the Quotation Day for that currency will be determined by the Agent in accordance with market practice in the Relevant Market (and if quotations would normally be given on more than one day, the Quotation Day will be the last of those days).

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

“Reference Bank Quotation” means any quotation supplied to the Agent by a Base Reference Bank.

“Regulated Group Company” means a Group Company which has a Regulatory Authorisation.

“Regulatory Authorisation” means an Authorisation granted by a Regulatory Authority.
“Regulatory Authority” means the FCA and any successor organisation and any other regulatory authority the requirements of which the Group must satisfy in order to conduct its business.

“Regulatory Capital” means those assets required from time to time to be treated as regulatory capital for the purposes of complying with the requirements of the Financial Conduct Authority or the Prudential Regulation Authority including any headroom required by the Financial Conduct Authority or the Prudential Regulation Authority from time to time.

“Regulatory Due Diligence Report” means the regulatory due diligence report by PricewaterhouseCoopers LLP dated on or about the date of this Agreement relating to the Target Group addressed to, and/or capable of being relied upon by, the Reliance Parties.

“Regulatory Restrictions” means those restrictions imposed from time to time by a Regulatory Authority.

“Regulatory Rules” means the FCA’s Handbook of Rules and Guidance as amended, varied, substituted or replaced from time to time and any other rule or regulation with which any Regulated Group Company is required to comply by reason of having any Regulatory Authorisation.

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

“Relevant Jurisdiction” means, in relation to an Obligor:

(a) its Original Jurisdiction;

(b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;

(c) any jurisdiction where it conducts its business; and

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

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

“Relevant Period” has the meaning given to that term in Clause 25.1 (Financial Definitions).

“Reliance Parties” means the Agent, the Arranger, the Security Agent, each Ancillary Lender and each Original Lender.

“Repeating Representations” means each of the representations set out in Clause 23.2 (*Status) to Clause 23.7 (*Governing law and enforcement), Clause 23.11 (*No default), paragraph (b) of Clause 23.12 (No misleading information), Clause 23.13 (*Original Financial Statements), Clause 23.20 (*Ranking) to Clause 23.21 (*Good title to assets), Clause 23.29 (*Centre of main interests and establishments) and Clause 23.32 (*Sanctions).
“Reports” means the Accountants’ Report, the Commercial Due Diligence Report, the Insurance Due Diligence Report, the Legal Due Diligence Report, the Regulatory Due Diligence Report and the Structure Memorandum.

“Report Recoveries Letter” means the letter relating to the treatment of proceeds of claims under the Reports dated on or about the date hereof between the Agent and various entities.

“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).

“Retained Cashflow” means, for any Relevant Period for which it is being calculated, Cashflow for that period less (except to the extent already deducted in calculating Cashflow):

(a) Debt Service for that period;
(b) the amount of any voluntary prepayments of Loans made under the Finance Documents during that period;
(c) (to the extent included in Cashflow) the amount of any Permitted Equity Injections made during that period;
(d) any Unused Amount in respect of the immediately preceding Financial Year less any Unused Amount carried forward to such Financial Year which has not been applied in payment of Capital Expenditure; and
(e) any Permitted Payment to be paid from Cashflow generated in that period.

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

“Revolving Facility Consent Provision” means:

(a) this definition or any definition used within this definition;
(b) the definition of Material Event of Default or any definition used within that definition or the underlying provisions of Clause 27 (Events of Default) which relate to that Material Event of Default;
(c) the provisions of Clauses 24.1 (Financial statements) and 24.2 (Provisions and contents of Compliance Certificate) which has the effect of delaying the delivery of the financial statements and/or Compliance Certificates by more than 30 days beyond the time limits set out in such clauses in their original form;
(d) the provisions of Clause 5 (Utilisation - Loans) but only insofar as they relate to the Revolving Facility;
(e) the introduction of any new facility or tranche which ranks pari passu or in priority to the Revolving Facility;
(f) any amendment which relates to Clause 27.20 (Revolving Facility Lenders Acceleration);
(g) a disposal that constitutes a Material Disposal (save to the extent that such Material Disposal results in the Revolving Facility Commitments being prepaid and cancelled in full) or the definition of “Material Disposal”;

(h) the provisions of Clause 26.6 (Sanctions) and the definitions referred to therein;

(i) the definitions of “Permitted Financial Indebtedness” or “Permitted Security” or Clause 26.15 (Negative pledge), in each case to the extent that the effect of such amendment, waiver or consent is to permit additional Financial Indebtedness which ranks pari passu or in priority to the Revolving Facility;

(j) Clause 3.1 (Purpose) but only insofar as they relate to the Revolving Facility;

(k) the conditions to the drawdown of a Loan under the Revolving Facility (other than the requirements set out in Clause 4.1 (Initial conditions precedent)) or a waiver or amendment in relation to a proposed Loan (including, for the avoidance of doubt, in the case of a Rollover Loan) under the Revolving Facility of the condition in Clause 4.2 (Further conditions precedent) or an amendment or waiver of Clause 10.2 (Voluntary cancellation) to the extent it relates to the Revolving Facility or Clause 10.4 (Voluntary prepayment of Revolving Facility Loans);

(l) the provisions of Clause 25.2(c)) and the definitions referred to therein;

(m) the definition of “Termination Date” in respect of a Facility A or the Incremental Facility if such amendment would be to adjust such Termination Date to a date prior to the Termination Date in respect of the Revolving Facility.

“Revolving Facility Commitment” means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading “Revolving Facility Commitment” in Part 2 of Schedule 1 (The Original Parties) and the Base Currency Amount of any other Revolving Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.3 (Increase); and

(b) in relation to any other Lender, the amount in the Base Currency of any Revolving Facility Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.3 (Increase),

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

“Revolving Facility Lender” means any Lender which holds a Revolving Facility Commitment.

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

“Rollover Loan” means one or more Revolving Facility Loans:

(a) made or to be made on the same day that a maturing Revolving Facility Loan is due to be repaid;

(b) the aggregate amount of which is equal to or less than the amount of the maturing Revolving Facility Loan (when it arose as a result of Clause 6.2 (Unavailability of a currency);
(c) 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 a country or territory which is at any time subject to country or territory-wide Sanctions, which countries and territories, as of the date of this Agreement, includes the Crimea region of Ukraine, Cuba, Iran, Myanmar (Burma), North Korea, South Sudan, Sudan and Syria.

“Sanctions” means economic, financial or trade sanctions or restrictive measures enacted, imposed, administered or enforced from time to time by a Sanctions Authority.

“Sanctions Authorities” means:

(a) the United States government;

(b) the body of the United Nations;

(c) France;

(d) the United Kingdom; or

(e) Germany.

or, in any case, the respective governmental institutions and agencies of any of the foregoing, including without limitation, the Financial Action Taskforce, the U.S. Department of the Treasury’s Office of Foreign Assets Control, the U.S. Department of State, the United Nations Security Council, and any other government, public or regulatory authority or body (including but not limited to HM Treasury).

“Screen Rate” means:

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

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

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

“Secured Parties” means each Finance Party, any Receiver or Delegate.
“Security” means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

“Selection Notice” means a notice substantially in the form set out in Part 2 of Schedule 3 (Requests and Notices) given in accordance with Clause 14 (Interest Periods) in relation to Facility A.

“Senior Management” means each and all of David Tyerman, Stephen Mugford and Sarah Noone.

“Separate Loan” has the meaning given to that term in Clause 9.2 (Repayment of Revolving Facility Loans).

“Service Contract” means a service contract of each member of Senior Management.

“Specified Time” means a time determined in accordance with Schedule 9 (Timetables).

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

“Sponsor Investor” means Ventiga Capital Partners.

“Squeeze-Out” means, the squeeze-out procedures set out in Chapter 3 of Part 28 of the Companies Act 2006 pursuant to which the Company may acquire any remaining shares in the Target in respect of which the Offer has not been accepted.

“Squeeze-Out Notice” means, a notice to a shareholder of the Target by the Company in accordance with section 979 of the Companies Act 2006.

“Structure Memorandum” means the structure paper entitled “Project Tiger Structure Paper” and dated on or about the date of this Agreement describing the Group and the Acquisition and prepared by PricewaterhouseCoopers and addressed to, and/or capable of being relied upon by, the Reliance Parties.

“Subordinated Debt” means the Topco Loan Agreement and any loans made to the Parent by:

(a) the immediate Holding Company of the Parent; and/or

(b) some or all of the Investors or Sponsor Affiliates,

provided such loans have a maturity date falling at least six Months after the Termination Date for Facility A and provided furthermore that such loans are fully subordinated under the terms of the Intercreditor Agreement or are otherwise fully subordinated to the Facilities to the satisfaction of the Agent (acting reasonably).
“Subordinated Debt Document” means any document constituting or evidencing the terms of, or otherwise relating to, any Subordinated Debt.

“Subsidiary” means a subsidiary within the meaning of section 1159 of the Companies Act 2006 or a subsidiary or subsidiary undertaking within the meaning of Articles 2 and 2A of the Companies (Jersey) Law 1991 respectively.

“Super Senior Enforcement Notice” has the meaning given to that term in the Intercreditor Agreement.

“Takeover Code” means the UK City Code on Takeovers and Mergers issued by the Panel from time to time.

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

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

“Target” means Thesis Asset Management plc, a company incorporated under the laws of England and Wales with registered number 01802101.

“Target Group” means the Target and its Subsidiaries.

“Target Shares” means all of the issued shares in the Target.

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

“Tax Authority” means any national, supranational, state, provincial, local, municipal or other government, governmental, regulatory or administrative authority, agency or commission, in any jurisdiction throughout the world, that is responsible for the administration, imposition and/or the collection of any Tax.

“Termination Date” means:

(a) in relation to Facility A, 1 August 2024;

(b) in relation to the Revolving Facility, 1 August 2023; and

(c) in relation to an Incremental Facility, the date specified as such in the Incremental Facility Notice relating to that Incremental Facility.

“Thesis” means Thesis Unit Trust Management Limited a company incorporated in England and Wales with registered number 03508646 whose registered address is at Exchange Building, Saint Johns Street, Chichester, West Sussex, PO19 1UP.

“Topco” means Regit Topco Limited, a company incorporated in Jersey with company registration number 123559 whose registered office is at 47 Esplanade, St Helier, Jersey JE1 0BD.

“Topco Loan Agreement” means the intra-group loan agreement dated on or about the date hereof and made between Topco and the Parent.
“Total Commitments” means the aggregate of the Total Facility A Commitments, the Total Revolving Facility Commitments and the Aggregate Total Incremental Facility Commitments, being £20,700,000 at the date of this Agreement.

“Total Consideration” means, in respect of an acquisition, the aggregate of:

(a) the total consideration (including associated costs and expenses, taxation and the maximum amount of any deferred consideration (in the case of any earn out payments, as may be reasonably estimated (as set out in reasonable detail) by the Parent at or before the date of completion of such acquisition) that may be payable and any Financial Indebtedness or other assumed actual or contingent liability and

off-balance sheet Financial Indebtedness, in each case remaining in the acquired company or business at the date of completion of such acquisition) payable in connection with that acquisition; and

(b) in the case of an acquisition of a company, business or undertaking, any Financial Indebtedness remaining in the acquired company or discharged by the purchaser in connection with that acquisition.

“Total Facility A Commitments” means the aggregate of the Facility A Commitments, being £18,200,000 at the date of this Agreement.

“Total Incremental Facility Commitments” means, in relation to an Incremental Facility, the aggregate of the Incremental Facility Commitments relating to that Incremental Facility.

"Total Revolving Facility Commitments" means the aggregate of the Revolving Facility Commitments, being £2,500,000 at the date of this Agreement.

“Tutman Acquisition” means, the sale by the Senior Management of their interest in Tutman LLP to the Target and Thesis.

“Tutman Acquisition Documents” means, the deed of assignment relating to Tutman LLP between, amongst others, Senior Management, the Target and Thesis.

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

“Transaction Documents” means the Finance Documents, the Offer Document, the Joint Bidding Agreement, the Finclo Loan Agreement, the Parent Loan Agreement, the Topco Loan Agreement, the Service Contracts and the Constitutional Documents.

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

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

“Transfer Certificate” means a certificate substantially in the form set out in Schedule 4 (Form of Transfer Certificate) or any other form agreed between the Agent and the Parent.
“Transfer Date” means, in relation to an assignment or transfer, the later of:

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

(b) the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

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

“UK” means the United Kingdom of Great Britain and Northern Ireland.

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

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

“Unrestricted Cash” means:

(a) the cash proceeds from any Permitted Equity Injection (to the extent such cash proceeds have not been applied in mandatory prepayment pursuant to Clause 11 (Mandatory Prepayment and Cancellation) or as equity cure pursuant to the terms of Clause 25.4);

(b) Cash Overfunding;

(c) Retained Cashflow;

(d) Flotation Proceeds which are not required to be applied in mandatory prepayment; and

(e) the cash proceeds from any Excluded Acquisition Proceeds, Excluded Disposal Proceeds and Excluded Insurance Proceeds (in each case for as long as such proceeds constitute Excluded Acquisition Proceeds, Excluded Disposal Proceeds and Excluded Insurance Proceeds).

“US” means the United States of America.

“US Tax Obligor” means:

(a) a Borrower which is resident for tax purposes in the US; or

(b) an Obligor some or all of whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

“Utilisation Date” means the date on which the relevant Loan is to be made.

“Utilisation Request” means a notice substantially in the form set out in Schedule 3 (Requests).

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

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

1.2 Construction

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

(i) the “Agent”, the “Arranger”, any “Finance Party”, any “Hedge Counterparty”, any “Lender”, any “Obligor”, any “Party”, any “Secured Party”, the “Security Agent” or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;

(ii) a document in “agreed form” is a document which is previously agreed in writing by or on behalf of the Parent and the Agent or, if not so agreed, is in the form specified by the Agent;

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

(iv) a “Finance Document” or a “Transaction Document” or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as amended, novated, supplemented or extended (in any case, however fundamentally);

(v) a “group of Lenders” includes all of the Lenders in that group;

(vi) “guarantee” means (other than in Clause 22 (Guarantee and Indemnity)) any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

(vii) “Guarantor”, “Original Guarantor”, “Additional Guarantor” and “this guarantee” shall not be construed restrictively and shall include the payment undertakings and indemnities contained in Clause 22 (Guarantee and Indemnity);

(viii) “wholly owned subsidiary” means a company that has no members except for:

(ix) another company and that other company’s wholly-owned subsidiaries; or

(x) persons acting on behalf of that other company and that other company’s wholly-owned subsidiaries.
(xi) “including” and “in particular” shall not be construed restrictively but shall mean “including without prejudice to the generality of the foregoing” and “in particular, but without limitation”;

(xii) “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;

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

(xiv) a calculation on a “pro forma basis” for the purposes of the definition of “Permitted Acquisition” only shall mean a calculation consolidating the financial statements of the Group with the financial statements of the Relevant Target based on reasonable assumptions and taking into account any Pro Forma Cost Savings and Financial Indebtedness anticipated to be incurred in connection with that proposed acquisition;

(xv) a “regulation” includes any regulation, rule, official directive, request, or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency or department of any regulatory, self-regulatory or other authority or organisation;

(xvi) a provision of law is a reference to that provision as amended or re-enacted and any subordinate legislation made under it; and

(xvii) a time of day is a reference to London time.

(b) The determination of the extent to which a rate is “for a period equal in length” to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.

(c) Section, Clause and Schedule headings are for ease of reference only.

(d) 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.

(e) 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.
(f) A Default (other than an Event of Default) is “continuing” if it has not been remedied or waived and an Event of Default and/or Material Event of Default is “continuing” if it has not been remedied or waived.

(g) A Borrower “repaying” or “prepaying” Ancillary Outstandings means:

(i) that Borrower providing cash cover in respect of the Ancillary Outstandings;

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

(iii) the Ancillary Lender being satisfied that it has no further liability under that Ancillary Facility,

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

(h) An amount borrowed includes any amount utilised under an Ancillary Facility.

(i) Any consent, waiver or approval required from a Finance Party under a Finance Document must be in writing and will be of no effect if not in writing.

(j) Reference to a monetary sum specified in the Base Currency in Clause 23 (Representations), Clause 24 (Information Undertakings), Clause 25 (Financial covenants), Clause 26 (General Undertakings) and/or Clause 27 (Events of Default) shall be deemed to include reference to the Base Currency Equivalent of such sum.

1.3 Currency symbols and definitions

“£”, “GBP” and “sterling” denote the lawful currency of the UK.

1.4 Third party rights

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

(b) Subject to paragraph (a) of Clause 39.5 (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 Exchange Rate Fluctuations

When applying any baskets, monetary limits, thresholds and other exceptions to the representations and warranties, undertakings and Events of Default and/or Material Events of Default under the Finance Documents (but for the avoidance of doubt, not financial covenants), the equivalent to an amount in the Base Currency shall be calculated as at the date of the Group incurring or making the relevant disposal, acquisition, investment, lease, loan, debt or guarantee or taking any other relevant action. For the avoidance of doubt, no such Event of Default or breach of any such representation and warranty or such undertaking under the Finance Documents shall arise merely as a result of a subsequent change in the Base Currency equivalent of any relevant amount due to fluctuations in exchange rates.
1.6 Provision of Information by Directors

If any provision of a Finance Document requires a director or secretary or other officer of any Group Company to provide any information, to certify any matter or to make any presentation, any such provision, certification or presentation shall be made without personal liability on the part of such director or secretary or officer in their capacity as such.

1.7 Intercreditor Agreement

This Agreement is subject to the terms of the Intercreditor Agreement. To the extent that any term conflicts with the terms of the Intercreditor Agreement, the terms of the Intercreditor Agreement shall prevail.

1.8 Jersey terms

In this Agreement, where it relates to a Jersey entity, or a Jersey security a reference to:

(a) a composition, compromise, assignment or arrangement with any creditor, winding up, liquidation, administration, dissolution, insolvency event or insolvency includes, without limitation, bankruptcy (as that term is interpreted pursuant to Article 8 of the Interpretation (Jersey) Law 1954), a compromise or arrangement of the type referred to in Article 125 of the Companies (Jersey) Law 1991, any procedure or process referred to in Part 21 of the Companies (Jersey) Law 1991, and any other similar proceedings affecting the rights of creditors generally under Jersey law, and shall be construed so as to include any equivalent or analogous proceedings;

(b) a liquidator, receiver, administrative receiver, administrator or the like includes, without limitation, the Viscount of the Royal Court of Jersey, Autorisés or any other person performing the same function of each of the foregoing;

(c) Security or a security interest includes, without limitation, any hypothèque whether conventional, judicial or arising by operation of law and any security interest created pursuant to the Security Interests (Jersey) Law 1983 or Security Interests (Jersey) Law 2012 and any related legislation; and

(d) any similar proceedings, analogous procedure or step being taken in connection with insolvency includes any step taken in connection with the commencement of proceedings towards the making of a declaration of en désastre in respect of any assets of such entity (or the making of such declaration).

SECTION 2
THE FACILITIES

2. THE FACILITIES

2.1 The Facilities

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

(i) a Base Currency term loan facility in an aggregate amount equal to the Total Facility A Commitments, the first Utilisation to be made on or around the Closing Date for the purpose specified in paragraph (a) of Clause 3.1 (Purpose); and
(ii) a multi-currency revolving credit facility in an aggregate amount the Base Currency Amount of which is equal to the Total Revolving Facility Commitments.

(b) Facility A will be available to the Original Borrower.

(c) The Revolving Facility will be available to all Borrowers.

(d) Subject to the terms of this Agreement and the Ancillary Documents, an Ancillary Lender may make all or part of its Revolving Facility Commitment available to any Borrower as an Ancillary Facility.

2.2 Incremental Facility

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

2.3 Increase

(a) The Parent may by giving prior notice to the Agent by no later than the date falling 15 Business Days after the effective date of a cancellation of:

(i) the Available Commitments of a Defaulting Lender in accordance with Clause 10.7 (Right of cancellation in relation to a Defaulting Lender); or

(ii) the Commitments of a Lender in accordance with:

(iii) Clause 10.1 (Illegality), or

(iv) Paragraph (a) of Clause 10.6 (Right of cancellation and repayment in relation to a single Lender),

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

(v) the increased Commitments will be assumed by one or more Lenders or other banks, financial institutions, trusts, funds or other entities (each an “Increase Lender”) selected by the Parent (each of which shall not be a Sponsor Affiliate or a Group Company) and each of which confirms in writing (whether in the relevant Increase Confirmation or otherwise) its willingness to assume and does assume all the obligations of a Lender corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Lender;

(vi) 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;

(vii) 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;

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

(ix) any increase in the Commitments relating to a Facility shall take effect on the
date specified by the Parent in the notice referred to above or any later date
on which the conditions set out in paragraph (b) below are satisfied.

(b) An increase in the 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:

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

(iv) 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 Parent 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.

(d) The Parent shall promptly on demand pay the Agent and the Security Agent the
amount of all costs and expenses (including legal fees) reasonably incurred by either
of them and, in the case of the Security Agent, by any Receiver or Delegate in
connection with any increase in Commitments under this Clause 2.3.

(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 28.3 (Assignment or transfer fee) if the increase was a transfer
pursuant to Clause 28.5 (Procedure for transfer) and if the Increase Lender was a
New Lender.

(f) The Parent may pay to the Increase Lender a fee in the amount and at the times
agreed between the Parent and the Increase Lender in a Fee Letter.

(g) Clause 28.4 (Limitation of responsibility of Existing Lenders) shall apply mutatis
mutandis in this Clause 2.3 in relation to an Increase Lender as if references in that
Clause to:

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

(ii) the “New Lender” were references to that “Increase Lender”; and
(iii) a "re-transfer" and "re-assignment" were references to respectively a "transfer" and "assignment".

2.4 Finance Parties’ rights and obligations

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

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

(c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

2.5 Obligors’ Agent

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

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

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

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

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

3. PURPOSE

3.1 Purpose

(a) The Original Borrower shall apply all amounts borrowed by it under the Facility A Loan towards funding the Company to (and the Company shall apply all amounts borrowed by it under the Finco Loan Agreement to):

(i) finance the payment by the Company to the shareholders of the Target of the purchase price for the Target Shares under the Offer Document; and

(ii) pay the Acquisition Costs in relation to the Acquisition,

in each case in accordance with the Funds Flow Statement and the Structure Memorandum.

(b) Each Borrower shall apply all amounts borrowed by it under the Revolving Facility towards the general corporate working capital purposes of the Group (but not towards acquisitions of companies, businesses or undertakings or payment of any sum under any Facility A Loan or Permitted Payments or, in the case of any utilisation of any Ancillary Facility, towards prepayment of any Revolving Facility Loan or the payment of interest on any Loan).

(c) Each Borrower shall apply all amounts borrowed by it under an Incremental Facility for the purpose(s) specified in the Incremental Facility Notice relating to that Incremental Facility.

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 Loan if on or before the Utilisation Date for that Loan, the Agent has received all of the documents and other evidence listed in Part 1A and Part 1B of Schedule 2 (Conditions precedent) in form and substance satisfactory to the Agent. The Agent shall notify the Parent and the Lenders promptly upon being so satisfied.

(b) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described 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.
(c) The Lenders will only be obliged to comply with Clause 5.4 (Lenders’ participation) in relation to any Incremental Facility Loan if on or before the Utilisation Date for that Loan, the Agent has received all of the Incremental Facility Conditions Precedent relating to the relevant Incremental Facility (if any) in form and substance satisfactory to the Agent. The Agent shall notify the Parent and the Lenders promptly upon being so satisfied.

(d) Other than to the extent that the Incremental Facility Majority Lenders under the relevant Incremental Facility notify the Agent in writing to the contrary before the Agent gives a notification described in paragraph (c) 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

Subject to Clause 4.1 (Initial conditions precedent), the Lenders will only be obliged to comply with Clause 5.4 (Lenders’ participation) in relation to a Utilisation other than one to which Clause 4.5 (Utilisations during the Certain Funds Period) applies, if on the date of the Utilisation Request and on the proposed Utilisation Date:

(a) in the case of:

(i) a Rollover Loan, no Declared Default has occurred; and

(ii) any other Loan, no Event of Default or (in the case of a Loan under the Revolving Facility) no Material Event of Default is continuing or would result from the proposed Loan; and

(b) the Repeating Representations, to be made by each Obligor are true (in all material respects in the case of any such representation and warranty to which a materiality test is not already applied in accordance with its terms).

4.3 Conditions relating to Optional Currencies

(a) A currency will constitute an Optional Currency in relation to a Revolving Facility Loan if:

(i) it is readily available in the amount required and freely convertible into the Base Currency in the Relevant Interbank Market on the Quotation Day and the Utilisation Date for that Utilisation; and

(ii) it is dollars or euro or has been approved by the Agent (acting on the instructions of all Lenders under the Revolving Facility) on or prior to receipt by the Agent of the relevant Utilisation Request for that Utilisation.

(b) If the Agent has received a written request from the Parent for a currency to be approved under paragraph (a)(ii) above, the Agent will confirm to the Parent by the Specified Time:

(i) whether or not the relevant Lenders have granted their approval; and

(ii) if approval has been granted, the minimum amount for any subsequent Utilisation in that currency.
4.4 Maximum number of Loans

(a) A Borrower (or the Parent) may not deliver a Utilisation Request if as a result of the proposed Loan:

(i) more than one Facility A Loan would be outstanding;

(ii) 6 or more Revolving Facility Loans would be outstanding; or

(iii) 10 or more Incremental Facility Loans would be outstanding.

(b) A Borrower (or the Parent) may not request that a Facility A Loan be divided.

(c) A Borrower (or the Parent) may not request that an Incremental Facility Loan be divided if, as a result of the proposed division, 10 or more Incremental Facility Loans would be outstanding.

(d) Any separate loan shall not be taken into account in the Clause 4.4 (Maximum number of Loans).

4.5 Utilisations during the Certain Funds Period

(a) Subject to Clause 4.1 (Initial conditions precedent), during the Certain Funds Period, the Lenders will only be obliged to comply with Clause 5.4 (Lenders’ participation) in relation to a Certain Funds Utilisation if, on the date of the Utilisation Request and on the proposed Utilisation Date:

(i) no Major Default is continuing or would result from the proposed Utilisation;

(ii) all the Major Representations are true in all respects; and

(iii) no Change of Control has occurred.

(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 10.1 (Illegality) and Clause 11.1 (Exit)), none of the Finance Parties shall be entitled to:

(i) cancel any of its Commitments to the extent to do so would prevent or limit the making of a Certain Funds Utilisation;

(ii) rescind, terminate or cancel this Agreement or Facility A 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, subject to Clause 27.21 (Clean-up period) be available to the Finance Parties notwithstanding that they may not have been used or been available for use during the Certain Funds Period.

SECTION 3

UTILISATION

5. UTILISATION - LOANS

5.1 Delivery of a Utilisation Request

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

5.2 Completion of a Utilisation Request for Loans

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

(i) it identifies the Facility to be utilised;
(ii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
(iii) the currency and amount of the Loan comply with Clause 5.3 (Currency and amount); and
(iv) the proposed Interest Period complies with Clause 14 (Interest Periods).

(b) Only one Loan may be requested in a Utilisation Request.

5.3 Currency and amount

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

(i) in relation to Facility A, the Base Currency;
(ii) in relation to the Revolving Facility, the Base Currency or an Optional Currency; and
(iii) in relation to an Incremental Facility, the Base Currency.

(b) The amount of the proposed Loan must be:

(i) in relation to Facility A, an amount equal to the Total Facility A Commitments or, if less, the Available Facility;
(ii) in relation to the Revolving Facility:

(A) if the currency selected is the Base Currency, a minimum of £150,000 or, if less, the Available Facility; or
(B) if the currency selected is an Optional Currency not referred to in paragraph (i) above, the minimum amount specified by the Agent pursuant to Clause 4.3(b)(ii) (Conditions relating to Optional Currencies) or, if less, the Available Facility; or

(iii) in relation to an Incremental Facility, an amount equal to £500,000 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 9.2 (Repayment of Revolving Facility Loans), each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.

(b) Other than as set out in paragraph (c) below, the amount of each Lender’s participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.

(c) If a Revolving Facility Loan is made to repay Ancillary Outstandings, each Lender’s participation in that Loan 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.

(d) The Agent shall determine the Base Currency Amount of each Revolving Facility Loan which is to be made in an Optional Currency and notify each Lender of the amount, currency and the Base Currency Amount of each Loan, the amount of its participation in that Loan.

5.5 Limitations on Loans

(a) The Revolving Facility and no Incremental Facility shall be utilised unless Facility A has been utilised in full.

(b) The maximum aggregate amount of the Ancillary Commitments of all the Lenders shall not at any time exceed the Total Revolving Facility Commitments.

5.6 Cancellation of Commitment

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

(b) The Incremental Facility Commitments relating to an Incremental Facility which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for that Incremental Facility.

6. OPTIONAL CURRENCIES

6.1 Selection of currency

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

If before the Specified Time on any Quotation Day:

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

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

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

6.3 Agent’s calculations

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

7. ANCILLARY FACILITIES

7.1 Type of Facility

An Ancillary Facility may be by way of:

(a) an overdraft facility;

(b) a guarantee, bonding, documentary or stand-by letter of credit facility;

(c) a short-term loan facility;

(d) a derivatives facility;

(e) a foreign exchange facility; or

(f) any other facility or accommodation required in connection with the business of the Group and which is agreed by the Company with an Ancillary Lender.

7.2 Availability

(a) If the Company and a Revolving Facility Lender agree and except as otherwise provided in this Agreement, such Revolving Facility Lender may provide an Ancillary Facility on a bilateral basis in place of all or part of that Lender’s unutilised Revolving Facility Commitment (which shall (except for the purposes of determining the Majority Lenders and of Clause 39.7 (Replacement of Lender) be reduced by the Base Currency Amount of the Ancillary Commitment under that Ancillary Facility).

(b) An Ancillary Facility shall not be made available unless, not later than 5 Business Days prior to the Ancillary Commencement Date for an Ancillary Facility, the relevant Revolving Facility Lender has received from the Company:
(i) a notice in writing of the establishment of an Ancillary Facility and specifying:

(A) the proposed Borrower(s) which may use the Ancillary Facility;
(B) the proposed Ancillary Commencement Date and expiry date of the Ancillary Facility;
(C) the proposed type of Ancillary Facility to be provided;
(D) the proposed Ancillary Lender;
(E) the proposed Ancillary Commitment, the maximum amount of the Ancillary Facility and, if the Ancillary Facility is an overdraft facility comprising more than one account the maximum gross amount (that amount being the “Designated Gross Amount”) and its maximum net amount (that amount being the “Designated Net Amount”);
(F) the proposed currency of the Ancillary Facility (if not denominated in the Base Currency); and

(ii) any other information which the relevant Revolving Facility Lender may reasonably request in connection with the Ancillary Facility.

(c) The relevant Revolving Facility Lender shall promptly notify the Ancillary Lender and the other Lenders of the establishment of an Ancillary Facility.

(d) Subject to compliance with paragraph (b) above:

(i) the Revolving Facility 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.

7.3 Terms of Ancillary Facilities

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

(iii) may not allow the Ancillary Outstandings to exceed the Ancillary Commitment;

(iv) may not allow a Lender’s Ancillary Commitment to exceed that Lender’s Available Commitment relating to the Revolving Facility (before taking into account the effect of the Ancillary Facility on that Available Commitment); and
(v) must require that the Ancillary Commitment is reduced to zero, and that all Ancillary Outstandings are repaid not later than the Termination Date applicable to the Revolving Facility (or such earlier date as the 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 36.3 (Day count convention) which shall not prevail for the purposes of calculating fees, interest or commission relating to an Ancillary Facility;

(ii) an Ancillary Facility comprising more than one account where the terms of the Ancillary Documents shall prevail to the extent required to permit the netting of balances on those accounts; and

(iii) where the relevant term of this Agreement would be contrary to, or inconsistent with, the law governing the relevant Ancillary Document, in which case that term of this Agreement shall not prevail.

(d) Interest, commission and fees on Ancillary Facilities are dealt with in Clause 16.6 (Interest, commission and fees on Ancillary Facilities).

7.4 Repayment of Ancillary Facility

(a) An Ancillary Facility shall cease to be available on the Termination Date applicable to the Revolving Facility or such earlier date on which its expiry date occurs or on which it is cancelled in accordance with the terms of this Agreement.

(b) If an Ancillary Facility expires in accordance with its terms the Ancillary Commitment of the Ancillary Lender shall be reduced to zero.

(c) No Ancillary Lender may demand repayment or prepayment of any Ancillary Outstandings prior to the expiry date of the relevant Ancillary Facility unless:

(i) required to reduce the Permitted Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Designated Net Amount;

(ii) the Total Revolving Facility Commitments have been cancelled in full or all outstanding Loans under the Revolving Facility have become due and payable in accordance with the terms of this Agreement;

(iii) it becomes unlawful in any applicable jurisdiction for the Ancillary Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in its Ancillary Facility (or it becomes unlawful for any Affiliate of the Ancillary Lender for the Ancillary Lender to do so); or

(iv) both:

(A) the Available Commitments relating to the Revolving Facility; and

(B) the notice of the demand given by the Ancillary Lender,
would not prevent the relevant Borrower funding the repayment of those Ancillary Outstandings in full by way of Revolving Facility Loan.

(d) For the purposes of determining whether or not the Ancillary Outstandings under an Ancillary Facility mentioned in paragraph (c)(iv) above can be refinanced by a Revolving Facility Loan:

(i) the Revolving Facility Commitment of the Ancillary Lender will be increased by the amount of its Ancillary Commitments; and

(ii) the Loan may (so long as paragraph (c)(ii) above does not apply) be made irrespective of whether a Default is outstanding or any other applicable condition precedent is not satisfied (but only to the extent that the proceeds are applied in refinancing those Ancillary Outstandings) and irrespective of whether clause 4.4 (Maximum number of Loans) or clause 5.2(a)(iii) (Completion of a Utilisation Request for Loans) applies.

(e) On the making of a Revolving Facility Loan to refinance Ancillary Outstandings:

(i) each Revolving Facility Lender will participate in that Loan in an amount (as determined by the Revolving Facility Lenders) 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; and

(ii) the relevant Ancillary Facility shall be cancelled.

(f) If a Revolving Facility Loan is made to repay Ancillary Outstandings in full, the relevant Ancillary Commitment shall be reduced to zero.

7.5 Limitation on Ancillary Outstandings

Each Borrower and each Ancillary Lender agrees with and for the benefit of each Lender that:

(a) the Ancillary Outstandings under any Ancillary Facility shall not exceed the Ancillary Commitment applicable to that Ancillary Facility; and

(b) in relation to a Multi-account Overdraft:

(i) the Ancillary Outstandings shall not exceed the Designated Net Amount applicable to that Multi-account Overdraft; and

(ii) the Gross Outstandings shall not exceed the Designated Gross Amount applicable to that Multi-account Overdraft.

7.6 Adjustment for Ancillary Facilities upon Acceleration

(a) In this Clause 7.6:

(i) “Revolving Outstandings” means, in relation to a Revolving Facility Lender, the aggregate of the equivalent in the Base Currency 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 Outstandings” means the aggregate of all Revolving Outstandings.

(b) If a notice is served under Clause 27.19 (Acceleration) (other than a notice declaring Loans to be due on demand), each Revolving Facility Lender and each Ancillary Lender shall (subject to paragraph (g) below) promptly adjust (by making or receiving (as the case may be) corresponding transfers of rights and obligations under the Finance Documents relating to Revolving Outstandings) their claims in respect of amounts outstanding to them under the Revolving Facility and each Ancillary Facility to the extent necessary to ensure that after such transfers the Revolving Outstandings of each Revolving Facility Lender bear the same proportion to the Total Revolving Outstandings as such Lender’s Revolving Facility Commitment bears to the Total Revolving Facility Commitments, each as at the date the notice is served under Clause 27.19 (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 Revolving Facility Lender and Ancillary Lender will make a further adjustment (by making or receiving (as the case may be) corresponding transfers of rights and obligations under the Finance Documents relating to Revolving Outstandings to the extent necessary) to put themselves in the position they would have been in had the original adjustment been determined by reference to the actual liability or, as the case may be, zero liability and not the contingent liability.

(d) Any transfer of rights and obligations relating to Revolving Outstandings made pursuant to this Clause 7.6 shall be made for a purchase price in cash, payable at the time of transfer, in an amount equal to those Revolving Outstandings.

(e) Prior to the application of the provisions of paragraph (b) above, an Ancillary Lender that has provided a Multi-account Overdraft shall set-off any Available Credit Balance on any account comprised in that Multi-account Overdraft.

(f) All calculations to be made pursuant to this Clause 7.6 shall be made by the Revolving Facility Lenders based upon information provided to it by the Lenders and Ancillary Lenders and the Agent’s Spot Rate of Exchange.

(g) This Clause 7.6 shall not oblige any Lender to accept the transfer of a claim relating to an amount outstanding under an Ancillary Facility which is not denominated (pursuant to the relevant Finance Document) in either the Base Currency, a currency which has been an Optional Currency for the purpose of any Revolving Facility Loan or in another currency which is acceptable to that Lender.
7.7 Information

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

7.8 Affiliates of Lenders as Ancillary Lenders

(a) Subject to the terms of this Agreement, an Affiliate of a Revolving Facility Lender may become an Ancillary Lender. In such case, the Revolving Facility Lender and its Affiliate shall be treated as a single Lender whose Revolving Facility Commitment is the amount set out opposite the relevant Revolving Facility Lender’s name in Part 2 of Schedule 1 (The Original Parties) and/or the amount of any Revolving Facility Commitment transferred to, or assumed by, that Lender under this Agreement, to the extent (in each case) not cancelled, reduced or transferred by it under this Agreement.

(b) The Company shall specify any relevant Affiliate of a Revolving Facility Lender in any notice delivered by the Company to the relevant Revolving Facility Lender pursuant to sub-paragraph (b)(i) of Clause 7.2 (Availability).

(c) An Affiliate of a Revolving Facility Lender which so becomes an Ancillary Lender shall accede to the Intercreditor Agreement by delivery to the Security Agent of a duly completed accession undertaking in the form scheduled to the Intercreditor Agreement.

(d) If a Revolving Facility Lender assigns all of its rights and benefits or transfers all of its rights and obligations to a New Lender, its Affiliate shall cease to have any obligations under this Agreement or any Ancillary Document.

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

7.9 Revolving Facility Commitment amounts

Notwithstanding any other term of this Agreement, each Revolving Facility Lender shall ensure that at all times its Revolving Facility Commitment is not less than its Ancillary Commitment and (where that Lender’s Affiliate is making Ancillary Facilities available) the aggregate of its own Ancillary Commitment (if any) and the Ancillary Commitment of that Affiliate.

7.10 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) or such amendment or waiver would cause a breach of Clause 7.3 (Terms of Ancillary Facilities). In such a case, the provisions of this Agreement with regard to amendments and waivers will apply.
8. ESTABLISHMENT OF INCREMENTAL FACILITIES

8.1 Selection of Incremental Facility Lenders

(a) **Definitions:** In this Agreement:

“**Incremental Facility Proportion**” means, in relation to a Proposed Facility Size, the proportion borne from time to time by a Participating Lender’s proposed Incremental Facility Commitment to that Proposed Facility Size.

“**Incremental Facility Proposal**” means a notice from the Parent addressed to each Lender and any Eligible Institutions which the Parent may select which:

(i) invites each Lender and any Eligible Institution to participate in a proposed Incremental Facility; and

(ii) sets out the proposed Incremental Facility Terms applicable to that Incremental Facility and any fee or commission proposed to be payable to lenders under that proposed Incremental Facility.

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

“**Incremental Facility Solicitation Period**” means, in relation to an Incremental Facility Proposal, the period of time starting on the date of that Incremental Facility Proposal and ending on the date which falls 10 Business Days after the date of that Incremental Facility Proposal.

“**Participating Lender**” means, in relation to an Incremental Facility Proposal, any Lender or Eligible Institution which makes an offer in respect of the Incremental Facility proposed in that Incremental Facility Proposal pursuant to paragraphs (c) (**Lender’s offer** below).

“**Proposed Facility Size**” means, in relation to an Incremental Facility Proposal, the proposed Total Incremental Facility Commitments set out in that Incremental Facility Proposal.

(b) **Invitation to all Lenders:** The Parent shall solicit potential Incremental Facility Lenders for any proposed Incremental Facility by delivery of an Incremental Facility Proposal to the Agent and each Lender.

(c) **Lender’s offer:** Any Lender which wishes to become an Incremental Facility Lender in respect of an Incremental Facility proposed in an Incremental Facility Proposal shall notify the Parent and the Agent of the proposed Incremental Facility Commitment that it unconditionally offers to make available in respect of that proposed Incremental Facility no later than 5:00 p.m. on the last day of the Incremental Facility Solicitation Period relating to that Incremental Facility Proposal.

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

(i) the day falling 15 Business Days after the last day of the Incremental Facility Solicitation Period relating to that Incremental Facility Proposal; and

(ii) the date of any Incremental Facility Notice delivered in respect of that proposed Incremental Facility.

(c) *Scaleback of Lenders’ offers:* If the aggregate amount of the proposed Incremental Facility Commitments offered by the Participating Lenders pursuant to paragraph (c) above in respect of an Incremental Facility proposed in an Incremental Facility Proposal exceeds the Proposed Facility Size set out in that Incremental Facility Proposal, those proposed Incremental Facility Commitments shall be reduced as determined by the Parent acting in its sole discretion and the Parent shall inform the Agent (which shall inform the Participating Lenders) of its proposed reductions.

(f) *Invitation to Participating Lenders if shortfall:* If there is an Incremental Facility Shortfall relating to a Proposed Facility Size set out in an Incremental Facility Proposal (whether resulting from the operation of paragraph (e) above or otherwise), the Parent shall invite each Participating Lender under that Incremental Facility Proposal to increase the proposed Incremental Facility Commitment offered by it in respect of the Incremental Facility proposed in that Incremental Facility Proposal by an amount no greater than its Incremental Facility Proportion of that Incremental Facility Shortfall.

(g) *Deadline for Participating Lenders to offer increase:* Each Participating Lender under an Incremental Facility Proposal shall notify the Parent and the Agent of its offer of an increased proposed Incremental Facility Commitment (if any) pursuant to paragraph (f) above no later than 5:00 p.m. on the day falling 3 Business Days after the last day of the Incremental Facility Solicitation Period relating to that Incremental Facility Proposal.

(h) *Participating Lender’s Incremental Facility Commitment:* Each Participating Lender’s Incremental Facility Commitment specified in any Incremental Facility Notice delivered in respect of an Incremental Facility proposed in an Incremental Facility Proposal shall, unless that Participating Lender agrees to be allocated an Incremental Facility Commitment in a lower amount, be in an amount equal to the amount of the proposed Incremental Facility Commitment offered by that Participating Lender in response to that Incremental Facility Proposal (as adjusted, if applicable, pursuant to paragraphs (e) or (f) above).

(i) *Invitation to Eligible Institutions:* On the occurrence that (A) all the Lenders decline to become an Incremental Facility Lender in respect of an Incremental Facility proposed in an Incremental Facility Proposal as solicited by the Parent in accordance with paragraph (b) (*Invitation to all Lenders*) above or (B) there is an Incremental Facility Shortfall relating to a Proposed Facility Size set out in an Incremental Facility Proposal which none of the Lenders are willing to provide in accordance with paragraph (f) (*Invitation to Participating Lenders if shortfall*) above, the Parent shall be permitted to solicit potential Eligible Institutions as selected by the Parent for any proposed Incremental Facility by delivery of an Incremental Facility Proposal (but up to an amount not exceeding any shortfall in the Proposed Facility Size and on the same terms as delivered to the Lenders in accordance with paragraph (b) (*Invitation to all Lenders*) above) to the Agent and each Eligible Institution and on the
occurrence of any acceptance by an Eligible Institution, such institution shall become an Incremental Facility Lender.

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

(k) **Amendment and withdrawal:** The Parent shall not amend any Incremental Facility Proposal but may withdraw an Incremental Facility Proposal at any time.

(l) **Effect of withdrawal:** Withdrawal of an Incremental Facility Proposal shall terminate the process set out in this Clause 8.1 (*Selection of Incremental Facility Lenders*) in respect of the Incremental Facility proposed in that Incremental Facility Proposal and that Incremental Facility shall not be established.

### 8.2 Delivery of Incremental Facility Notice

On completion of the solicitation process set out in Clause 8.1 (*Selection of Incremental Facility Lenders*), the Parent and each relevant Incremental Facility Lender may request the establishment of an Incremental Facility by the Parent delivering to the Agent a duly completed Incremental Facility Notice not later than 5 Business Days prior to the proposed Establishment Date specified in that Incremental Facility Notice.

### 8.3 Completion of an Incremental Facility Notice

(a) Each Incremental Facility Notice is irrevocable and will not be regarded as having been duly completed unless:

(i) it sets out the Incremental Facility Terms applicable to the Incremental Facility to which it relates;

(ii) each of:

(A) the Incremental Facility Terms applicable to that Incremental Facility;

(B) the Margin applicable to that Incremental Facility;

(C) any fee, commission or original issue discount payable to the Lenders (in their capacity as such) under that Facility; and

(D) any fees payable to the arranger of that Incremental Facility, comply with Clause 8.5 (*Restrictions on Incremental Facility Terms and Fees*); and

(iii) the Incremental Facility Lenders and the Incremental Facility Commitments set out in that Incremental Facility Notice have been selected and allocated in accordance with Clause 8.1 (*Selection of Incremental Facility Lenders*).

(b) Only one Incremental Facility may be requested in an Incremental Facility Notice.
8.4 Maximum number of Incremental Facilities

The Parent may not deliver an Incremental Facility Notice if as a result of the establishment of the proposed Incremental Facility four or more Incremental Facilities would have been established under this Agreement.

8.5 Restrictions on Incremental Facility Terms and Fees

(a) **Currency:** Any Incremental Facility shall be denominated in sterling.

(b) **Size:** The Aggregate Total Incremental Facility Commitments shall not, at any time, exceed one third of the Total Facility A Commitments (as reduced from time in accordance with Agreement, including, Clauses 9 (Repayment), 10 (Illegality, voluntary prepayment and cancellation) and 11 (Mandatory Prepayment and Cancellation)).

(c) Margin and fees:

   (i) The Margin applicable to any Incremental Facility shall not exceed 1.00% per annum above the highest or opening Margin for Facility A.

   (ii) The aggregate amount of any fee, commission and original issue discount payable to the Lenders or Arrangers (in their capacity as such) under that Facility shall not exceed the aggregate amount of fees, commission and original issue discount payable to the Lenders or Arrangers (in their capacity as such) under Facility A (or, if the Commitments under Facility A have been reduced to zero, Facility A immediately prior to that reduction) by more than 0.50 per cent.

(d) **Borrowers:** Any Incremental Facility shall be available only to a Borrower.

(e) **Purpose:** The purpose applicable to any Incremental Facility pursuant to Clause 3.1 (Purpose) shall be the payment of Total Consideration payable in respect of the acquisition of any Relevant Target in accordance with paragraph (e) of Permitted Acquisitions.

(f) **Maturity and Repayment of Incremental Facilities:** An Incremental Facility is only capable of being established as a bullet repayment facility (and there shall be no amortisation payments of such Incremental Facility) and the Termination Date applicable to any Incremental Facility shall fall on the Termination Date applicable to Facility A.

(g) **Other terms:** no other terms shall be offered under an Incremental Facility that are, in the reasonable opinion of the Agent more favourable to the Lenders under the Incremental Facility than equivalent terms are to the Lenders under Facility A.

8.6 Conditions to Establishment

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

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

      (A) no Event of Default is continuing or would result from the establishment of the proposed Incremental Facility;
(B) the Repeating Representations to be made by each Obligor are true; and

(ii) Facility A has been utilised in full;

(iii) each Incremental Facility Lender enters into the documentation required for it to accede as a party to the Intercreditor Agreement;

(iv) each Incremental Facility Lender delivers an Incremental Facility Lender Certificate to the Agent and the Parent; and

(v) the Agent has received in form and substance satisfactory to it such documents (if any) as are reasonably necessary as a result of the establishment of that Incremental Facility to maintain the effectiveness of the Security, guarantees, indemnities and other assurance against loss provided to the Finance Parties pursuant to the Finance Documents.

(b) Clause (a)(v) above shall be subject to the Agreed Security Principles to the same extent that the relevant Obligor’s obligation to grant the relevant Security, guarantee, indemnity or other assurance against loss was subject to the Agreed Security Principles.

(c) The Agent shall notify the Parent and the Lenders promptly upon being satisfied under paragraph (a)(v) above.

(d) 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 (c) 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.

8.7 Establishment of Incremental Facility

(a) If the conditions set out in this Agreement have been met the establishment of an Incremental Facility is effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Incremental Facility Notice. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Incremental Facility Notice appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Incremental Facility Notice.

(b) The Agent shall only be obliged to execute an Incremental Facility Notice delivered to it by the Parent 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 establishment of the relevant Incremental Facility.

(c) On the Establishment Date:

(i) subject to the terms of this Agreement the Incremental Facility Lenders make available a term loan facility in an aggregate amount equal to the Total Incremental Facility Commitments specified in the Incremental Facility Notice which will be available to the Borrowers specified in the Incremental Facility Notice;
(ii) each Incremental Facility Lender shall assume all the obligations of a Lender corresponding to the Incremental Facility Commitment (the “Assumed Incremental Facility Commitment”) specified opposite its name in the Incremental Facility Notice as if it was an Original Lender with respect to that Incremental Facility Commitment;

(iii) each of the Obligors and each Incremental Facility Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and that Incremental Facility Lender would have assumed and/or acquired had that Incremental Facility Lender been an Original Lender with respect to the Assumed Incremental Facility Commitment;

(iv) each Incremental Facility Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Incremental Facility Lender and those Finance Parties would have assumed and/or acquired had the Incremental Facility Lender been an Original Lender with respect to the Assumed Incremental Facility Commitment; and

(v) each Incremental Facility Lender shall become a Party as a “Lender” (and for the avoidance of doubt shall have the benefit of the Transaction Security and rank pari passu with the other Lenders under this Agreement).

8.8 Notification of Establishment

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

8.9 Incremental Facility Fees

(a) The Parent shall, on the date on which the establishment of an Incremental Facility becomes effective, pay to the Agent (for its own account) a fee of £2,000.

(b) Subject to clause 8.5 (Restrictions on Incremental Facility Terms and Fees) the Parent may:

(i) pay to any Incremental Facility Lender under an Incremental Facility a fee in the amount and at the times agreed between the Parent and that Incremental Facility Lender in a Fee Letter; and

(ii) pay to any arranger of any Incremental Facility a fee in the amount and at the times agreed between the Parent and that arranger in a Fee Letter.

8.10 Incremental Facility costs and expenses

The Parent shall promptly on demand pay the Agent and the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by either of them and, in the case of the Security Agent, by any Receiver or Delegate in connection with the establishment of an Incremental Facility under this Clause 8.

8.11 Prior amendments binding

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

8.12 Limitation of responsibility

Clause 28.4 (Limitation of responsibility of Existing Lenders) shall apply mutatis mutandis in this Clause 6 in relation to any Incremental Facility Lender as if references in that clause to:

(a) an “Existing Lender” were references to all the Lenders immediately prior to the Establishment Date;

(b) the “New Lender” were references to an “Incremental Facility Lender”; and

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

SECTION 4

REPAYMENT, PREPAYMENT AND CANCELLATION

9. REPAYMENT

9.1 Repayment of Facility A Loans

(a) The Borrower under Facility A shall repay the aggregate Facility A Loans in full on the Termination Date.

(b) The Borrower may not reborrow any part of Facility A which is repaid.

(c) The Borrowers under an Incremental Facility shall repay the Incremental Facility Loans under that Incremental Facility in accordance with the repayment terms set out in the Incremental Facility Notice relating to that Incremental Facility.

9.2 Repayment of Revolving Facility Loans

(a) Subject to paragraph (c) below, each Borrower which has drawn a Revolving Facility Loan shall repay that Loan on the last day of its Interest Period by making payment directly to each Revolving Facility Lender in the amount and to such account in each case as notified to that Borrower by that Revolving Facility Lender.

(b) Without prejudice to each Borrower’s obligation under paragraph (a) above, if:

(i) one or more Revolving Facility Loans are to be made available to a Borrower:

(A) on the same day that a maturing Revolving Facility Loan is due to be repaid by that Borrower; 

(B) in the same currency as the maturing Revolving Facility Loan (unless it arose as a result of the operation of Clause 6.2 (Unavailability of a currency); and

(C) in whole or in part for the purpose of refinancing the maturing Revolving Facility Loan; and
(ii) the proportion borne by each Lender’s participation in the maturing Revolving Facility Loan to the amount of that maturing Revolving Facility Loan is the same as the proportion borne by that Lender’s participation in the new Revolving Facility Loans to the aggregate amount of those new Revolving Facility Loans,

the aggregate amount of the new Revolving Facility Loans shall, unless the relevant Borrower or the Company notifies the relevant Revolving Facility Lender 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 make a payment under Clause 33.1 (Payments) in an amount in cash in the relevant currency 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 a payment under Clause 33.1 (Payments) in respect of its participation in the new Revolving Facility Loans available in cash; and

(B) if the amount of the maturing Revolving Facility Loan is equal to or less than the aggregate amount of the new Revolving Facility Loans:

   (1) the relevant Borrower will not be required to make a payment under Clause 33.1 (Payments); and

   (2) each Lender will be required to make a payment under Clause 33.1 (Payments) in respect of its participation in the new Revolving Facility Loans available in cash only to the extent that its participation in the new Revolving Facility Loans exceeds that Lender’s participation in the maturing Revolving Facility Loan and the remainder of that Lender’s participation in the new Revolving Facility Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender’s participation in the maturing Revolving Facility Loan.

(c) At any time when a Lender 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 10.4 (Voluntary prepayment of Revolving Facility Loans), a Borrower to whom a Separate Loan is outstanding may prepay that Loan by giving not less than 10 Business Days’ prior notice to the relevant Revolving Facility Lender. 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.

(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 relevant Revolving Facility Lender (acting reasonably) and will be payable by that Borrower to that Defaulting Lender on the last day of each Interest Period of that Loan.

(f) The terms of this Agreement relating to Revolving Facility Loans generally (including Clause 4 (Conditions of utilisation)) shall continue to apply to Separate Loans other than to the extent inconsistent with paragraphs (c) to (e) above, in which case those paragraphs shall prevail in respect of any Separate Loan.

10. ILLEGALITY, VOLUNTARY PREPAYMENT AND CANCELLATION

10.1 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 Loan or it becomes unlawful for any Affiliate of a Lender for that Lender to do so:

(a) that Lender, shall promptly notify the Agent upon becoming aware of that event;

(b) upon the Agent notifying the Parent, 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 39.7 (Replacement of Lender):

(i) each Borrower shall repay that Lender’s participation in the Loans made to that Borrower on the last day of the Interest Period for each Loan occurring after the Agent has notified the Parent or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law);

(ii) each Borrower shall procure that if that Lender (or its Affiliate) is also an Ancillary Lender, all Ancillary Outstandings owed to it by such Borrower are also fully repaid; and

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

10.2 Voluntary cancellation

The Company may, if it gives the Agent not less than 10 Business Days’ (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of £250,000) of an Available Facility relating to the Revolving Facility.

10.3 Voluntary prepayment of Loans

(a) Subject to paragraph (b) below and subject to the payment of any prepayment premium under Clause 10.5 (Prepayment Premium), a Borrower to which a Loan has been made may, if it or the Parent gives the Agent not less than 10 Business Days’ (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole
or any part of that Loan (but, if in part, being an amount that reduces the Base Currency Amount of that Loan by a minimum amount of £500,000 and integral amounts of £50,000).

(b) A Loan may only be prepaid after the last day of the Availability Period for the applicable Facility (or, if earlier, the day on which the applicable Available Facility is zero).

(c) Voluntary prepayment proceeds shall be applied across a Loan, as the Borrower (or the Parent on its behalf) may direct in writing, subject to the payment of any accrued cash interest on the principal amount so redeemed, Break Costs and Prepayment Fee, if any.

10.4 Voluntary prepayment of Revolving Facility Loans

A Borrower to which a Revolving Facility Loan has been made may, if it or the Company gives the Agent not less than 10 Business Days’ (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of a Revolving Facility Loan (but if in part, being an amount that reduces the Base Currency Amount of the Revolving Facility Loan by a minimum amount of £250,000).

10.5 Prepayment Premium

(a) Subject to paragraph (b) below, if all or any part of a Loan is repaid or prepaid (such amount being the “Relevant Prepayment Amount”) by any Group Company or its Affiliates (directly or indirectly) such repayment or prepayment (a “Relevant Prepayment”) at any time after the Closing Date but on or before the date falling 24 months after the Closing Date (the “Non Call Period”), then that prepayment may only be made if, in addition to all other sums required to be paid under this Agreement in connection with that Relevant Prepayment, including without limitation all accrued and unpaid interest (including, Margin) on the amount prepaid, the Parent pays to the Lenders under the relevant Facility on or before the date of such prepayment a prepayment fee (the “Prepayment Fee”) equal to the amount which is the higher of:

(i) in relation to any prepayment or repayment other than made from any Disposal Proceeds:

   (A) the Make Whole Premium in relation to the Relevant Prepayment; and

   (B) 2.00 per cent. of the Relevant Prepayment Amount,

and such Prepayment Fee shall apply to such principal amount so prepaid or repaid;

(ii) in relation to any prepayment or repayment made from any Disposal Proceeds:

   (A) 1.00 per cent. of the Relevant Prepayment Amount which is equal to or less than £3,200,000; and

   (B) 2.00 per cent. of the Relevant Prepayment Amount which exceeds £3,200,000,
and such Prepayment Fee shall apply to such principal amount so prepaid or repaid.

“Make Whole Premium” means all interest payments that, but for the Relevant Prepayment, would have become payable on the Relevant Prepayment Amount during the Non Call Period (but, for the avoidance of doubt, not including the aggregate amount of interest payments made by reference to the Relevant Prepayment Amount on or prior to the date on which the Relevant Prepayment is made) and calculated in accordance with Clause 13 (Interest) on the assumption that LIBOR will be 1 per cent. Per annum throughout the Non Call Period.

(b) No prepayment premium shall be payable under this Clause 10.5 in respect of:

(i) any mandatory prepayment made pursuant to Clause 10.1 (Illegality);

(ii) to partial prepayments by way of any Cure Amount required to be prepaid pursuant to Clause 25.4 (Equity Cure);

(iii) any mandatory prepayment made pursuant to Clause 11.1 (Exit) due to the occurrence of a Change of Control provided the Original Lenders or any of their Affiliates will remain a lender to the Group after such Change of Control; and

(iv) any Acquisition Proceeds or Insurance Proceeds required to be prepaid pursuant to paragraph (b) of Clause 11.2 (Disposal, Insurance, Flotation and Acquisition Proceeds).

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

(a) If:

(i) any sum payable to any Lender by an Obligor is required to be increased under Clause 17.2(c) (Tax gross-up); or

(ii) any Lender claims indemnification from the Parent or an Obligor under Clause 17.3(d) (Tax Indemnity) or Clause 18.1 (Increased Costs),

the Parent may whilst the circumstance giving rise to 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 Loans or may, if such circumstances relate to a Lender, instead exercise its rights under Clause 39.7 (Replacement of Lender).

(b) On receipt of a notice referred to in paragraph (a) above in relation to a Lender, the Commitment(s) of that Lender shall immediately be reduced to zero.

(c) On the last day of each Interest Period which ends after the Parent has given notice under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Parent in that notice), each Borrower to which a Loan is outstanding shall repay that Lender’s participation in that Loan together with all interest and other amounts accrued and/or due under the Finance Documents to such lender (including under Clause 10.5 (Prepayment Premium)).
10.7 **Right of cancellation in relation to a Defaulting Lender**

(a) If any Lender becomes a Defaulting Lender, the Parent may, at any time whilst the Lender continues to be a Defaulting Lender, give the Agent 5 Business Days’ notice of cancellation of each Available Commitment of that Lender.

(b) On the notice referred to in paragraph (a) above becoming effective, each Available Commitment of the Defaulting Lender shall immediately be reduced to zero.

(c) The Agent shall as soon as practicable after receipt of a notice referred to in paragraph (a) above, notify all the Lenders.

11. **MANDATORY PREPAYMENT AND CANCELLATION**

11.1 **Exit**

Upon the occurrence of:

(a) any Flotation (which does not result in a Change of Control) which would not result in Adjusted Net Leverage being less than 2.5:1 after application of the related FlotationProceeds in prepayment of the Facilities in accordance with Clause 11.2 (*Disposal, Insurance, Flotation and Acquisition Proceeds*);

(b) a Change of Control; or

(c) the sale of all or substantially all of the assets of the Group whether in a single transaction or a series of related transactions,

the Facilities will be cancelled and:

(i) all outstanding Loans and Ancillary Outstandings, together with accrued interest, and all other amounts accrued under the Finance Documents, shall become immediately due and payable; and

(ii) no Lender or Affiliate of a Lender shall be obliged to fund or make a Utilisation or a utilisation of an Ancillary Facility.

11.2 **Disposal, Insurance, Flotation and Acquisition Proceeds**

(a) For the purposes of this Clause 11.2, Clause 11.3 (*Application of prepayments and cancellations*) and Clause 11.4 (*Mandatory Prepayment Accounts*):

“*Acquisition Proceeds*” means the proceeds of a claim (a “*Recovery Claim*”) received by a Group Company:

(i) against any vendor to an Acquisition Document in relation to a Permitted Acquisition (which is not funded in its entirety by Permitted Equity Injections and / or Cash Overfunding (unless any Excluded Acquisition Proceeds arising from such Recovery Claim are required to be applied pursuant to paragraphs (i)(i) or (i)(ii) of the definition of Excluded Acquisition Proceeds)) or any of its Affiliates (or any employee, officer or adviser or any of them) in relation to such Acquisition Documents; or
(ii) against the provider of any Report or due diligence reports provided in relation to any Permitted Acquisitions (in its capacity as a provider of that report),

except, in each case, for Excluded Acquisition Proceeds and after deducting:

(iii) any reasonable expenses which are incurred by any Group Company to persons who are not members of the Group; and

(iv) any Tax incurred (or properly reserved for in accordance with the Accounting Principles) and required to be paid by a Group Company (as reasonably determined by the relevant Group Company on the basis of existing rates and taking into account any available credit, deduction or allowance),

in each case in relation to that Recovery Claim.

“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” means the consideration receivable by any Group Company (including any amount receivable in repayment of intercompany debt) for any Disposal made by any Group Company except for Excluded Disposal Proceeds and after deducting:

(i) any reasonable costs, fees and expenses which are incurred by any Group Company with respect to that Disposal to persons who are not members of the Group;

(ii) any amount retained in respect of any possible warranty or indemnity claim against such Disposal as evidenced in reasonable detail to the Agent on request (but without prejudice to the undertakings in Clause 24 (Information Undertakings)) but only for so long as such claim may be brought after which time such amount shall not be deducted from Disposal Proceeds;

(iii) any amount required to be applied in prepaying any Financial Indebtedness (other than any amount outstanding under the Finance Documents) which is secured over the asset subject to the Disposal (provided that such Financial Indebtedness was not incurred for the purpose of, or in contemplation of, that Disposal); and

(iv) any Tax incurred and required to be paid by the seller 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).

“Excluded Acquisition Proceeds” means:

(i) any Acquisition Proceeds applied, or are to be applied:

(ii) to satisfy (or reimburse a Group Company which has discharged) any liability, charge or claim upon a Group Company by a person which is not a Group Company; or

(iii) in the replacement, reinstatement and/or repair of assets of members of the Group which have been lost, destroyed or damaged,
(iv) in each case if those proceeds are (1) applied within 12 Months of receipt; or (2) designated by the board of directors of the Parent for application or committed to be applied within 12 Months of receipt and actually applied within 18 Months of receipt; or

(v) which are when aggregated with other Acquisition Proceeds received in the same Financial Year (excluding, for the avoidance of doubt, as described in paragraph (i) above) less than £250,000.

“Excluded Disposal Proceeds” means:

(i) any Disposal Proceeds are (1) applied within 12 Months of receipt; or (2) designated by the board of directors of the Parent for application or committed to be applied within 12 Months of receipt and actually applied within 18 Months of receipt by a Group Company in or towards reinvestment in the business of the Group and/or Capital Expenditures; or

(ii) Disposal Proceeds from Permitted Disposals.

“Excluded Insurance Proceeds” means any proceeds of an insurance claim which the Parent notifies the Agent are, or are to be, applied:

(i) to meet a third party claim; or

(ii) to cover operating losses in respect of which the relevant insurance claim was made; or

(iii) to the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made,

in each case as soon as possible (but in any event (1) within 12 Months of receipt; or (2) designated by the board of directors of the Parent for application or committed to be applied within 12 Months of receipt and actually applied within 18 Months of receipt by a Group Company, or such longer period as the Majority Lenders may agree) after receipt).

“Flotation Proceeds” means the proceeds of a Flotation (that does not result in a Change of Control) received by a member of the Group or any direct or indirect shareholder of the Company after deducting:

(i) any reasonable fees, costs and expenses which are incurred by any member of the Group with respect to that Flotation to persons who are not members of the Group; and

(ii) any Tax incurred and required to be paid in connection with that Flotation (as reasonably determined by the relevant member of the Group, on the basis of existing rates and taking into account of any available credit, deduction or allowances).

“Insurance Proceeds” means the proceeds of any insurance claim under any insurance maintained by any Group Company except for Excluded Insurance Proceeds and after deducting any reasonable expenses in relation to that claim which are incurred by any Group Company to persons who are not members of the Group.
Subject to Clause 15.4 (Adjustment of Mandatory prepayments) of the Intercreditor Agreement, the Parent shall ensure that the Borrowers prepay Loans and cancel Available Commitments, in amounts equal to the following amounts at the times and in the order of application contemplated by Clause 11.3 (Application of prepayments and cancellations):

(i) the amount of Acquisition Proceeds;

(ii) the amount of Disposal Proceeds;

(iii) the amount of Insurance Proceeds; and

(iv) in the event of a Flotation (that does not result in a Change of Control) which would result in Adjusted Net Leverage being less than 2.5:1 after application of the related Flotation Proceeds in prepayment of the Facilities in accordance with Clause 11.2 (Disposal, Insurance, Flotation and Acquisition Proceeds), the amount of Flotation Proceeds to ensure that Adjusted Net Leverage (after application of such Flotation Proceeds in prepayment of the Facilities) is less than 2.5:1. For these purposes, Adjusted Net Leverage shall be determined by reference to the Adjusted Net Leverage ending on the most recent Quarter Date for which a Compliance Certificate has been delivered.

11.3 Application of prepayments and cancellations

(a) A prepayment of Loans or cancellation of Available Commitments made under Clause 11.2 (Disposal, Insurance, Flotation and Acquisition Proceeds) shall be applied in the following order:

(i) firstly, prepayment of Facility A Loans and the Incremental Facility Loans pro rata;

(ii) secondly, in prepayment of Revolving Facility Loans such that outstanding Revolving Facility Loans shall be prepaid on a pro rata basis and cancellation, in each case, of the corresponding Revolving Facility Commitments;

(iii) thirdly, in repayment of the Ancillary Outstandings (and cancellation of corresponding Ancillary Commitments) and cancellation of Ancillary Commitments, (on a pro rata basis) and cancellation, in each case, of the corresponding Revolving Facility Commitments; and

(iv) then, in cancellation of Available Commitments under the Revolving Facility (and the Available Commitments of the Lenders under the Revolving Facility will be cancelled rateably).

(b) Unless the Parent makes an election under paragraph (c) below, the Borrower shall prepay Loans at the following times:

(i) in the case of any prepayment relating to the amounts of Flotation Proceeds, Acquisition Proceeds, Disposal Proceeds or Insurance Proceeds, the Borrower shall prepay Loans promptly upon receipt of those proceeds (or such proceeds ceasing to be Excluded Disposal Proceeds, Excluded Insurance Proceeds or Excluded Acquisition Proceeds, as the case may be); and
(ii) in the case of an equity cure, promptly upon receipt of the Cure Amount pursuant to Clause 25.4 (Equity Cure).

(c) Subject to paragraph (d) below, the Parent may elect that any prepayment under Clause 11.2 (Disposal, Insurance, Flotation and Acquisition Proceeds) be applied in prepayment of a Loan on the last day of the Interest Period relating to that Loan. If the Parent makes that election then a proportion of the Loan equal to the amount of the relevant prepayment will be due and payable on the last day of its Interest Period.

(d) If the Parent has made an election under paragraph (c) above but a Default has occurred and is continuing, that election shall no longer apply and a proportion of the Loan in respect of which the election was made equal to the amount of the relevant prepayment shall be immediately due and payable (unless the Majority Lenders otherwise agree in writing).

11.4 Mandatory Prepayment Accounts

(a) The Parent shall ensure that Disposal Proceeds, Insurance Proceeds and Acquisition Proceeds in respect of which the Parent has made an election under Clause 11.3(d) (Application of prepayments and cancellations) are paid into a Mandatory Prepayment Account as soon as reasonably practicable after receipt by a Group Company.

(b) The Parent and the Borrower irrevocably authorise the Agent to apply amounts credited to the Mandatory Prepayment Account to pay amounts due and payable under Clause 11.3 (Application of prepayments and cancellations) and otherwise under the Finance Documents.

(c) A Lender, Security Agent or Agent with which a Mandatory Prepayment Account is held acknowledges and agrees that (A) interest shall accrue at normal commercial rates on amounts credited to those accounts and that the account holder shall be entitled to receive such interest (which shall be paid in accordance with the mandate relating to such account) unless an Event of Default is continuing and (B) each such account is subject to the Transaction Security.

11.5 Excluded proceeds

Where Excluded Acquisition Proceeds, Excluded Disposal Proceeds and Excluded Insurance Proceeds include amounts which are intended to be used for a specific purpose within a specified period (as set out in the relevant definition of Excluded Acquisition Proceeds, Excluded Disposal Proceeds or Excluded Insurance Proceeds), the Parent shall ensure that those amounts are used for that purpose and, if requested to do so by the Agent, shall promptly deliver a certificate to the Agent at or after the time of such application and at or after the end of such period confirming the amount (if any) which has been so applied within the requisite time periods provided for in the relevant definition.

12. Restrictions

12.1 Notices of cancellation or prepayment

Any notice of cancellation, prepayment, authorisation or other election given by any Party under Clause 10 (Illegality, voluntary prepayment and cancellation), paragraph (d) of Clause 11.3 (Application of prepayments and cancellations) (subject to the terms of such Clause) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify...
the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

12.2 Interest and other amounts

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs and any Prepayment Fee under Clause 10.5 (Prepayment Premium), without any other premium or penalty.

12.3 No reborrowing of Facility A

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

12.4 Reborrowing of Revolving Facility

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

12.5 Prepayment in accordance with Agreement

No Borrower shall repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

12.6 No reinstatement of Commitments

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

12.7 Agent’s receipt of Notices

If the Agent receives a notice under Clause 10 (Illegality, voluntary prepayment and cancellation) or an election under paragraph (d) of Clause 11.3 (Application of prepayments and cancellations), it shall promptly forward a copy of that notice or election to either the Parent or the affected Lender, as appropriate.

12.8 Effect of repayment and prepayment on Commitments

If all or part of any Lender’s participation in a Loan under a Facility is repaid or prepaid and is not available for redrawing (other than by operation of Clause 4.2 (Further conditions precedent)), an amount of that Lender’s Commitment (equal to the Base Currency Amount of the amount of the participation which is repaid or prepaid) in respect of that Facility will be deemed to be cancelled on the date of repayment or prepayment.

12.9 Application of prepayments

Any prepayment of a Loan (other than a prepayment pursuant to Clause 10.1 (Illegality) or Clause 10.6 (Right of cancellation and repayment in relation to a single Lender)) shall be applied pro rata to each Lender’s participation in that Loan.
13. **INTEREST**

13.1 **Calculation of Interest**

(a) The rate of interest on each Facility A Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

   (i) Margin; and

   (ii) LIBOR.

(b) The rate of interest on each Revolving Facility Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable Margin and LIBOR or in relation to any Revolving Facility Loan in euro, EURIBOR.

13.2 **Payment of Interest**

(a) The Borrower to which a Loan has been made shall pay accrued interest on that Loan on the last day of each Interest Period (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of the Interest Period).

(b) If the Compliance Certificate received by the Agent which relates to the relevant Annual Financial Statements shows that:

   (i) a higher Margin should have applied during a certain period, then the Parent shall (or shall ensure the relevant Borrower shall promptly pay) to the Agent any amounts necessary to put the Agent and the Lenders in the position they would have been in had the appropriate rate of the Margin applied during such period (provided that only such Lenders which participated in the relevant Loans during that period shall be paid such higher Margin to the extent of their participation in that Loan during that period); or

   (ii) a lower Margin should have applied during a certain period, then an amount equal to the difference between (i) the amount of interest that the Borrower should have paid in relation to such period had the correct Margin been applied; and (ii) the amount of interest that the Borrower actually paid in relation to such period, (such amount being the “Excess Margin”), shall be netted off against the next interest payment on the relevant Loans provided that such netting shall be capped in respect of any individual Lender to the amount of the Excess Margin that such Lender received as a result of it being a Lender during the period in which the lower Margin should have applied (provided that only such Lenders which participated in the relevant Loans during that period shall be paid such lower Margin to the extent of their participation in that Loan during that period).

13.3 **Default Interest**

(a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to
paragraph (b) below, is one per cent. per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan 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 13.3 shall be immediately payable by the Obligor on demand by the Agent.

(b) If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:

(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be one per cent per annum higher than the rate which would have applied if the overdue amount had not become due.

(c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

13.4 Notification of rates of Interest

(a) The Agent shall promptly notify the Lenders and the Borrower (or the Parent) of the determination of a rate of interest under each Facility (other than the Revolving Facility).

(b) The Revolving Facility Lenders shall promptly notify the Lenders and the Borrower (or the Company) of the determination of a rate of interest under this Agreement in respect of the Revolving Facility.

14. INTEREST PERIODS

14.1 Selection of Interest Periods and Terms

(a) A Borrower (or the Parent on behalf of a Borrower) may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan has already been borrowed) in a Selection Notice.

(b) Each Selection Notice for a Loan is irrevocable and must be delivered to the Agent by the Borrower (or the Parent on behalf of the Borrower) or the Revolving Facility Lender in the case of a Revolving Facility Loan to which that Loan was made not later than the Specified Time.

(c) If a Borrower (or the Parent) fails to deliver a Selection Notice to the Agent (or the Revolving Facility Lender in the case of a Revolving Facility Loan) in accordance with paragraph (b) above, the relevant Interest Period will be three Months.

(d) Subject to this Clause 14, a Borrower (or the Parent) may select an Interest Period of one, two or three Months or any other period agreed between the Parent and the Agent (acting on the instructions of all the Lenders under that particular Facility 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 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.

14.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

14.3 Consolidation and division of Loans

(a) Subject to paragraph (b) below, if two or more Interest Periods:

(i) relate to:

(A) Facility A Loans made to the same Borrower; or

(B) Incremental Facility Loans made under the same Incremental Facility and to the same Borrower; and

(ii) end on the same date,

those Facility A Loans or, as the case may be, Incremental Facility Loans will, unless that Borrower (or the Parent on its behalf) specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Facility A Loan or, as the case may be, a single Incremental Facility Loan, on the last day of the Interest Period.

(b) Subject to Clause 4.4 (Maximum number of Loans), and Clause 5.3 (Currency and amount) if a Borrower (or the Parent on its behalf) requests in a Selection Notice that a Facility A Loan or an Incremental Facility Loan be divided into two or more Facility A Loans or Incremental Facility Loans, that Loan will, on the last day of its Interest Period, be so divided with amounts specified in that Selection Notice, having an aggregate amount equal to the amount of the Loan immediately before its division.

15. CHANGES TO THE CALCULATION OF INTEREST

15.1 Unavailability of Screen Rate

(a) Interpolated Screen Rate: If no Screen Rate is available for LIBOR or EURIBOR for the Interest Period of a Loan, the applicable LIBOR or EURIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.

(b) Base Reference Bank Rate: If paragraph (a) above applies but it is not possible to calculate the Interpolated Screen Rate, the applicable LIBOR or EURIBOR for the Interest Period of that Loan shall be the Base Reference Bank Rate as of the Specified Time for the currency of that Loan and for a period equal in length to the Interest Period of that Loan.

(c) Cost of funds: If paragraph (b) above applies but no Base Reference Bank Rate is available for the relevant currency or Interest Period there shall be no LIBOR or
EURIBOR for that Loan and Clause 15.4 (Cost of funds) shall apply to that Loan for that Interest Period.

15.2 Calculation of Base Reference Bank Rate

(a) Subject to paragraph (b) below, if LIBOR or EURIBOR is to be determined on the basis of a Base Reference Bank Rate but a Base Reference Bank does not supply a quotation by the Specified Time the Base Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Base Reference Banks.

(b) If at or about noon on the Quotation Day none or only one of the Base Reference Banks supplies a quotation, there shall be no Base Reference Bank Rate for the relevant Interest Period.

15.3 Market disruption

If before close of business in London on the Quotation Day for the relevant Interest Period the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceeds 50 per cent of that Loan) that the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of LIBOR or EURIBOR then Clause 15.4 (Cost of funds) shall apply to that Loan for the relevant Interest Period.

15.4 Cost of funds

(a) If this Clause 15.4 applies, the rate of interest on each Lender’s share of the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:

(i) the applicable Margin; and

(ii) the rate notified to the Parent by that Lender as soon as practicable and in any event within one Business Day of the first day of that Interest Period (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), to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in that Advance from whatever source it may reasonably select.

(b) If this Clause 15.4 applies and the Agent or the Parent so requires, the Agent and the Parent shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.

(c) Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Parent, be binding on all Parties.

(d) If this Clause 15.4 applies pursuant to Clause 15.3 (Market disruption) and:

(i) a Lender’s Funding Rate is less than LIBOR or, in relation to any Loan in euro, EURIBOR; or

(ii) a Lender does not supply a quotation by the time specified in paragraph (a)(ii) above,
the cost to that Lender of funding its participation in that Loan for that Interest Period or Term shall be deemed, for the purposes of paragraph (a) above, to be LIBOR or, in relation to a Loan in euro, EURIBOR.

(c) If this Clause 15.4 applies pursuant to Clause 15.1 (Unavailability of Screen Rate) but any Lender does not supply a quotation by the time specified in paragraph (a)(ii) above the rate of interest shall be calculated on the basis of the quotations of the remaining Lenders.

15.5 Notification to Parent

If Clause 15.4 (Cost of funds) applies the Agent shall, as soon as is practicable, notify the Parent.

15.6 Break Costs

(a) Each Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.

(b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

16. FEES

16.1 No fee

If the Closing Date does not occur, no arrangement or agency fee shall be due and payable under this Clause 16 provided that, for the avoidance of doubt:

(a) the then accrued commitment fee referred to in Clause 16.2(b) shall become due and payable as contemplated by Clause 16.2(b); and

(b) certain legal fees in relation to the negotiation and execution of the Finance Documents shall become due and payable (subject to caps agreed between the Parent and the Arrangers) five Business Days after the date on which the accrued commitment fee referred to in Clause 16.2(b) becomes payable in accordance with Clause 16.2(b).

16.2 Commitment fee

(a) The Company shall pay to each Lender that becomes a Revolving Facility Lender a fee in the Base Currency computed at the rate of 40 per cent. of the applicable Margin per annum on that Lender’s Available Commitment under the Revolving Facility for the Availability Period applicable to the Revolving Facility.

(b) The Company shall pay to the Facility A Lender a fee in the Base Currency computed at the rate of 35 per cent. of the applicable Margin per annum on the Available Commitment in relation to and under Facility A from the date of this Agreement until, and shall be payable on, the earliest to occur of:

(i) the Closing Date;
the date on which notice is given to the Agent by the Parent that the Closing Date will not occur; and

(iii) the first Business Day after the final date of the Availability Period for Facility A.

(c) The Parent shall pay to the Agent (for the account of each Lender) a fee in sterling computed at the rate of, in relation to an Incremental Facility, the percentage rate per annum (if any) specified in the Incremental Facility Notice relating to that Incremental Facility on that Lender’s Available Commitment under that Incremental Facility for the Availability Period applicable to that Incremental Facility.

(d) The accrued commitment fee referred to in paragraph (a) above is payable on the last day of each successive period of three Months which ends during the relevant Availability Period, on the last day of the relevant Availability Period and, if cancelled in full, on the cancelled amount of the relevant Lender’s Commitment at the time the cancellation is effective.

(e) 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.

16.3 Arrangement fee

The Parent shall pay to the Arranger an arrangement fee in the amount, manner and at the times agreed in a Fee Letter.

16.4 Agency fee

The Parent shall pay to the Agent (for its own account) an agency fee in the amount, manner and at the times agreed in a Fee Letter.

16.5 Security Agent fee

The Parent shall pay to the Security Agent (for its own account) a security agent fee in the amount, manner and at the times agreed in a Fee Letter.

16.6 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.
SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

17. TAX GROSS UP AND INDEMNITIES

17.1 Definitions

In this Agreement:

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

(a) where it relates to a Treaty Lender that is an Original Lender, contains the scheme reference number and jurisdiction of tax residence stated opposite that Lender’s name in Part 2 of Schedule 1 (The Original Parties); and

(i) where the Borrower is an Original Borrower, is filed with HM Revenue & Customs within 30 days of the date of this Agreement; or

(ii) where the Borrower is an Additional Borrower, is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower;

(b) where it relates to a Treaty Lender that is a New Lender or Increase Lender, contains the scheme reference number and jurisdiction of tax residence stated in respect of that Lender in the relevant Transfer Certificate or Assignment Agreement or Increase Confirmation; and

(i) where the Borrower is a Borrower as at the relevant Transfer Date or date on which the increase in Commitments described in the relevant Increase Confirmation takes effect, is filed with HM Revenue & Customs within 30 days of that Transfer Date (or date on which the increase in Commitments described in the relevant Increase Confirmation takes effect); or

(ii) where the Borrower is not a Borrower as at the relevant Transfer Date or date on which the increase in Commitments described in the relevant Increase Confirmation takes effect, is filed with HM Revenue & Customs within 30 days of the date on which that Borrower becomes an Additional Borrower.

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

“Qualifying Lender” means:

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

(i) a Lender:

(A) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a Finance Document and is within the charge to United Kingdom corporation tax as respects any payments
of interest made in respect of that advance or would be within such charge as respects such payments apart from section 18A of the CTA; or

(B) in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made and within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or

(ii) a Lender which is:

(A) a company resident in the United Kingdom for United Kingdom tax purposes;

(B) a partnership each member of which is:

(1) a company so resident in the United Kingdom; or

(2) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA;

(C) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company; or

(iii) a Treaty 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.

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

(a) a company resident in the United Kingdom for United Kingdom tax purposes;

(b) a partnership each member of which is:

(i) a company so resident in the United Kingdom; or

(ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment; and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.

“Tax Credit” means a credit against, relief or remission for, or repayment of, any Tax.

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

“Tax Payment” means either the increase in a payment made by an Obligor to a Finance Party under Clause 17.2 (Tax gross-up) or a payment under Clause 17.3 (Tax Indemnity).

“Treaty Lender” means a Lender which:

(a) is treated as a resident of a Treaty State for the purposes of the Treaty; and

(b) does not carry on a business in the United Kingdom through a permanent establishment with which that Lender’s participation in the Loan is effectively connected; and

(c) is entitled under the terms of the Treaty to claim full exemption from Tax imposed in the United Kingdom on interest paid to it pursuant to any Loan, except that for this purpose it shall be assumed that any necessary procedural formalities are satisfied.

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

“UK Non-Bank Lender” means where a Lender becomes a Party after the day on which this Agreement is entered into, a Lender which gives a Tax Confirmation in the Assignment Agreement or Transfer Certificate which it executes on becoming a Party.

Unless a contrary indication appears, in this Clause 17 a reference to “determines” or “determined” means a determination made in the absolute discretion of the person making the determination.

17.2 Tax gross-up

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

(b) The Parent shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall 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 notify the Parent and that Obligor.

(c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
(d) A payment shall not be increased under Clause 17.2(c) above by reason of a Tax Deduction on account of Tax imposed by the United Kingdom, if on the date on which the payment falls due:

(i) the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or Treaty or any published practice or published concession of any relevant taxing authority; or

(ii) the relevant Lender is a Qualifying Lender solely by virtue of sub-clause (a)(ii) of the definition of Qualifying Lender and:

(A) an officer of HM Revenue & Customs has given (and not revoked) a direction (a “Direction”) under section 931 of the ITA which relates to the payment and that Lender has received from the Obligor making the payment or from the 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 sub-clause (a)(ii) of the definition of Qualifying Lender and:

(A) the relevant Lender has not given a Tax Confirmation to the Company; and

(B) the payment could have been made to the Lender without any Tax Deduction if the Lender had given a Tax Confirmation to the Company, on the basis that the Tax Confirmation would have enabled the Company to have formed a reasonable belief that the payment was an “excepted payment” for the purpose of section 930 of the ITA; or

(iv) the relevant Lender is a Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under Clauses 17.2(g), 17.2(h), or 17.2(j) (as applicable) below.

(e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(f) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence satisfactory to that Finance Party (acting reasonably) that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
(g) Subject to Clause 17.2(h) below, a Treaty Lender and each Obligor which makes a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.

(h) A:

(i) 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 1 of Schedule 1 (The Original Parties); and

(ii) New Lender or an Increase Lender that is a 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, Assignment Agreement or Increase Confirmation which it executes,

and, having done so, that Lender shall be under no obligation pursuant to Clause 17.2(g) above.

(i) If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with Clause 17.2(g) above and:

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

(iii) 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;

(B) HM Revenue & Customs has not given the Borrower authority to make payments to that Lender without a Tax Deduction within 60 days of the date of the Borrower DTTP Filing; or

(C) HM Revenue & Customs has given authority for the Borrower to make payment to that Lender without a Tax Deduction and such authority expires or is withdrawn,

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 Clause 17.2(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 Commitments or its participation in any Loan 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 shall promptly notify the Parent and the Agent if there is any change in the position from that set out in the Tax Confirmation.

17.3 Tax Indemnity

(a) The Parent shall (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) Clause (a) above shall not apply:

(i) with respect to any Tax assessed on a Finance Party:

(A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or

(B) under the law of the jurisdiction in which that Finance Party’s Facility Office is located in respect of amounts received or receivable in that jurisdiction,

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

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

(A) is compensated for by an increased payment under Clause 17.2 (Tax gross-up); or

(B) would have been compensated for by an increased payment under Clause 17.2 (Tax gross-up) but was not so compensated solely because one of the exclusions in paragraph (d) of Clause 17.2 (Tax gross-up) applied; or

(C) relates to a FATCA Deduction required to be made by a Party.

(c) A Protected Party making, or intending to make a claim under Clause 17.3(a) above shall promptly notify the Agent (and provide supporting evidence) of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Parent (and provide such supporting evidence as it had received).

(d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 17.3, notify the Agent.

17.4 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.

17.5 Lender Status Confirmation

Each Lender which becomes a Party to this Agreement after the date of this Agreement shall indicate, in the Transfer Certificate, Assignment Agreement or Increase Confirmation which it executes on becoming a Party, and for the benefit of the Agent and without liability to any Obligor, which of the following categories it falls in:

(a) not a Qualifying Lender;

(b) a Qualifying Lender (other than a Treaty Lender); or

(c) a Treaty Lender.

If a New Lender or an Increase Lender fails to indicate its status in accordance with this Clause 17.5 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 Parent). 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 17.5.

17.6 Stamp taxes

The Parent shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document (save where such Taxes arise by virtue of the assignment or transfer by a Lender of any of its rights and obligations pursuant to Clause 26 (General Undertakings) except where such assignment or transfer is made as a result of Clause 20 (Mitigation by the Lenders).

17.7 VAT

(a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).

(b) If VAT is or becomes chargeable on any supply made by any Finance Party (the “Supplier”) to any other Finance Party (the “Recipient”) under a Finance Document, and any Party other than the Recipient (the “Relevant Party”) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
(i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and

(ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.

(c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

(d) Any reference in this Clause 17.7 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term “representative member” to have the same meaning as in the Value Added Tax Act 1994).

(e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party’s VAT registration and such other information as is reasonably requested in connection with such Finance Party’s VAT reporting requirements in relation to such supply.

17.8 FATCA Information

(a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:

(i) confirm to that other Party whether it is:

(A) a FATCA Exempt Party; or

(B) not a FATCA Exempt Party;

(ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party’s compliance with FATCA; and

(iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party’s compliance with any other law, regulation, or exchange of information regime.
(b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.

(c) Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:

(i) any law or regulation;

(ii) any fiduciary duty; or

(iii) any duty of confidentiality.

(d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (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.

(e) If a Borrower is a US Tax Obligor or the Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within ten Business Days of:

(i) where an Original Borrower is a US Tax Obligor and the relevant Lender is an Original Lender, the date of this Agreement;

(ii) where a Borrower is a US Tax Obligor on a date on which any other Lender becomes a Party as a Lender, that date;

(iii) the date a new US Tax Obligor accedes as a Borrower; or

(iv) where a Borrower is not a US Tax Obligor, the date of a request from the Agent,
supply to the Agent:

(A) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or

(B) any withholding statement or other document, authorisation or waiver as the Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.

(f) The Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the relevant Borrower.

(g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document,
authorisation or waiver to the Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Agent). The Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the relevant Borrower.

(h) The Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Agent shall not be liable for any action taken by it under or in connection with paragraph (e), (f) or (g) above.

17.9 FATCA Deduction

(a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.

(b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Parent and the Agent and the Agent shall notify the other Finance Parties.

18. INCREASED COSTS

18.1 Increased Costs

(a) Subject to Clause 18.3 (Exceptions) the Parent shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (A) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation, (B) compliance with any law or regulation made after the date of this Agreement, (C) the implementation, administration or application of, or compliance with, Basel III or CRD IV or any other law or regulation which implements Basel III or CRD IV (whether such implementation, application or compliance is by a government regulator, Lender or any of its Affiliates).

(b) In this Agreement:

(i) “Basel III” means:

(ii) 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;

(A) 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

(B) any further guidance or standards published by the Basel Committee on Banking Supervision relating to Basel III.

(iii) “CRD IV” means, together, the Capital Requirements Regulation (Regulation (EU) No. 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending regulation (EU) No. 648/2012) and the Capital Requirements Directive (Directive 2013/36/EU 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 Directive 2006/48/EC and 2006/49/EC) of the European Parliament and the Council, as either of the same may be amended, supplemented or restated from time to time.

(iv) “Increased Costs” means:

(A) a reduction in the rate of return from a Facility or on a Finance Party’s (or its Affiliate’s) overall capital;

(B) an additional or increased cost; or

(C) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or an Ancillary Commitment or funding or performing its obligations under any Finance Document to the extent not otherwise compensated for under any other provision of this Agreement or the other Finance Documents.

18.2 Increased Cost Claims

(a) A Finance Party intending to make a claim pursuant to Clause 18.1 (Increased Costs) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Parent.

(b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs and a reasonably detailed calculation of such amount.

18.3 Exceptions

(a) Clause 18.1 (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 17.3 (Tax Indemnity) (or would have been compensated for under Clause 17.3 (Tax Indemnity) but was not so compensated solely because any of the exclusions in Clause 17.3(b) (Tax Indemnity) applied);
attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation;

attributable to the implementation or application of or compliance with the “International Convergence of Capital Measurement and Capital Standards, a Revised Framework” published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement (“Basel II”) (but excluding any amendment arising out of CRD IV or Basel III) or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates), which for the avoidance of doubt this exception shall not include any changes pursuant to Basel III; or

related to amounts for which a Finance Party and/or its Affiliates are liable in respect of the bank levy contained in the Finance (No.3) Act 2011 (United Kingdom) in the form existing on the date of this Agreement and, in the case of any Lender who becomes a Party to this Agreement after the date of this Agreement, any similar levy or tax imposed by the UK or any other jurisdiction in the form existing at the date that Lender becomes a Party (the “Bank Levy”).

(b) In this Clause 18.3 reference to a “Tax Deduction” has the same meaning given to the term in Clause 17.1 (Definitions).

19. OTHER INDEMNITIES

19.1 Currency indemnity

(a) If any sum due from an Obligor under the Finance Documents (a “Sum”), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the “First Currency”) in which that Sum is payable into another currency (the “Second Currency”) for the purpose of:

(i) making or filing a claim or proof against that Obligor; or

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (1) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (2) 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.

19.2 Other indemnities

(a) The Parent shall (or shall procure that an Obligor will), within three Business Days of demand, indemnify the Arranger and each other Secured Party against any cost, loss or liability incurred by it as a result of:
(i) the occurrence or continuance 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 32 (Sharing among the Finance Parties);

(iii) funding, or making arrangements to fund, its participation in a Loan requested by a Borrower (or the Parent on its behalf) in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or

(iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by a Borrower or the Parent.

(b) The Parent shall (or shall procure that another Obligor will) promptly indemnify each Finance Party and each officer or employee of a Finance Party, against any cost, loss or liability incurred by that Finance Party (or officer or employee of that Finance Party) as a result of its funding of the Acquisition in accordance with the terms of this Agreement unless such cost, loss or liability is caused by the negligence or wilful misconduct of that Finance Party (or employee or officer of that Finance Party) or breach by that Finance Party of the terms and conditions of this Agreement attributable to the margin or profit in relation to the Finance Documents. Any officer or employee of a Finance Party may rely on this Clause 19 subject to Clause 1.4 (Third party rights) and the provisions of the Third Parties Act.

19.3 Indemnity to the Agent

The Parent shall promptly indemnify the Agent against:

(a) any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:

(i) investigating any event which it reasonably believes is a Default;

(ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or

(iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and

(b) any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent’s gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 33.7 (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.

19.4 Indemnity to the Security Agent

(a) Each Obligor jointly and severally shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:
(i) any failure by the Parent to comply with its obligations under Clause 21 (Costs and expenses);

(ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;

(iii) the taking, holding, protection or enforcement of the Transaction Security;

(iv) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;

(v) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or

(vi) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Charged Property (otherwise, in each case, than by reason of the relevant Security Agent’s, Receiver’s or Delegate’s gross negligence or wilful misconduct).

(b) Each Obligor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 19.4 will not be prejudiced by any release or disposal under Clause 12 (Distressed Disposals and Appropriation) of the Intercreditor Agreement taking into account the operation of that Clause.

(c) The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 19.4 and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all monies payable to it.

20. MITIGATION BY THE LENDERS

20.1 Mitigation

(a) Each Finance Party shall, in consultation with the Parent, take all reasonable steps to mitigate any circumstances which arise and which would result in any Facility ceasing to be available or any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 10.1 (Illegality), Clause 17 (Tax Gross Up and indemnities) or Clause 18 (Increased Costs) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

(b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

20.2 Limitation of liability

(a) The Parent shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 20.1 (Mitigation).

(b) A Finance Party is not obliged to take any steps under Clause 20.1 (Mitigation) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.
21. **COSTS AND EXPENSES**

21.1 **Transaction expenses**

The Parent shall promptly on demand pay the Agent, the Arranger and the Security Agent the amount of all costs and expenses (including legal fees in accordance with budgets agreed between the Parent and the Arrangers and/or the Agent) 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, completion 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 date of this Agreement.

21.2 **Amendment costs**

If:

(a) an Obligor requests an amendment, waiver or consent; or

(b) an amendment is required pursuant to Clause 33.6 (*Change of currency*),

the Parent shall, within three Business Days of demand, reimburse each of the Agent and the Security Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Agent and the Security Agent (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

21.3 **Enforcement and preservation costs**

The Parent shall, within three Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal, valuation, accountancy and consulting fees and commission and out of pocket expenses) and any VAT thereon incurred by it in connection with the enforcement of or the preservation of or the release of any rights under any Finance Document or any of the documents referred to in such documents in any jurisdiction and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.

21.4 **Out of pocket expenses**

The Parent shall, within three Business Days of demand, pay to a Lender (or, as applicable, the Agent) the amount of all out-of-pocket costs and expenses (including, without limitation, travel and accommodation expenses) reasonably incurred by that Lender (or, as applicable, the Agent) in connection with that Lender (or, as applicable, the Agent) (or any employee or representative of that Lender (or, as applicable, the Agent)) attending any meetings with the Borrower or other Group Company, Sponsor Affiliate or professional advisor to the Group or any site visit carried out in connection with the Finance Documents or the Facilities.
SECTION 7

GUARANTEE AND INDEMNITY

22. GUARANTEE AND INDEMNITY

22.1 Guarantee and Indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

(a) guarantees to each Finance Party punctual performance by each other Obligor of all that Obligor’s obligations under the Finance Documents;

(b) undertakes with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and

(c) agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality have been payable by it under any Finance Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 22 if the amount claimed had been recoverable on the basis of a guarantee.

22.2 Continuing Guarantee

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

22.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 22 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

22.4 Waiver of defences

The obligations of each Guarantor under this Clause 22 will not be affected by an act, omission, matter or thing which, but for this Clause 22, would reduce, release or prejudice any of its obligations under this Clause 22 (without limitation and whether or not known to it or any Finance Party) including:

(a) any time, waiver or consent granted to, or composition with, any Obligor or other person;

(b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any Group Company;
(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;

(d) any legal limitation, incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;

(e) any amendment, novation, supplement, extension or restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or Security including any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or Security;

(f) any unenforceability, illegality, invalidity or frustration of any obligation of any person under any Finance Document or any other document or Security;

(g) the failure of any Group Company to enter into or be bound by any Finance Document;

(h) any action (or decision not to act) taken by a Finance Party (or any trustee or agent on its behalf) in accordance with Clause 22.7 (Appropriations); or

(i) any insolvency, dissolution or similar proceedings or from any law, regulation or order.

22.5 Guarantor intent

Without prejudice to the generality of Clause 22.4 (Waiver of defences), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

22.6 Immediate recourse

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 22. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

22.7 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:
(a) refrain from applying or enacting any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor’s liability under this Clause 22.

22.8 Deferral of Guarantors’ rights

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 22:

(a) to be indemnified by an Obligor;

(b) to claim any contribution from any other guarantor of any Obligor’s obligations under the Finance Documents;

(c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;

(d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 22.1 (Guarantee and Indemnity);

(e) to exercise any right of set-off against any Obligor; and/or

(f) to claim or prove as a creditor of any Obligor in competition with any Finance Party;

If a Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and shall promptly pay or transfer the same to the Agent or as the Agent may direct for application in accordance with Clause 33 (Payment mechanics).

22.9 Release of Guarantors’ right of contribution

If any Guarantor (a “Retiring Guarantor”) ceases to be a Guarantor in accordance with the terms of the Finance Documents for the purpose of any sale or other disposal of that Retiring Guarantor then on the date such Retiring Guarantor ceases to be a Guarantor:

(a) that Retiring Guarantor is released by each other Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Guarantor arising by reason of the performance by any other Guarantor of its obligations under the Finance Documents; and

(b) each other Guarantor waives any rights it may have by reason of the performance of its obligations under the Finance Documents to take the benefit (in whole or in part
and whether by way of subrogation or otherwise) of any rights of the Finance Parties under any Finance Document or of any other security taken pursuant to, or in connection with, any Finance Document where such rights or security are granted by or relate to the assets of the Retiring Guarantor.

22.10 Additional Security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

22.11 General guarantee limitations

This guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of sections 678 or 679 of the Companies Act 2006 or any equivalent and applicable provisions under the laws of the Original Jurisdiction of the relevant Guarantor and, with respect to any Additional Guarantor, is subject to any limitations set out in the Accession Deed applicable to such Additional Guarantor.

22.12 Jersey law waivers

Each Guarantor irrevocably and unconditionally waives and abandons any and all rights or entitlement which it has or may have under the existing or future laws of the Island of Jersey whether by virtue of the customary law rights of:

(a)\textit{ droit de discussion} or otherwise, to require that recourse be had to the assets of any other person before any claim is enforced against it in respect of its obligations under or in respect of any Finance Document, and irrevocably and unconditionally undertakes that if at any time proceedings are brought against it in respect of its obligations hereunder and any other person is not also joined in any such proceedings, it will not require that any other person be joined in or otherwise made a party to such proceedings, whether the formalities required by any law of the Island of Jersey whether existing or future in regard to the rights or obligations of sureties shall or shall not have been complied with or observed; and

(b) \textit{droit de division} or otherwise, to require that any liability under or in respect of any Finance Document be divided or apportioned with any other person or reduced in any manner.

\textbf{SECTION 8}

\textbf{REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT}

23. REPRESENTATIONS

23.1 General

(a) Each Obligor makes the representations and warranties set out in this Clause 23 to each Finance Party in accordance with Clause 23.34 (\textit{Times when representations made}).

(b) In relation to the representations and warranties made on the date of this Agreement and any other date on or before the Closing Date, any references made to the Target Group or members of the Target Group are made on the basis of the actual awareness of the entities that are then Obligors and at the relevant time.
(c) For ease of reference only, the representations and warranties in Clause 23 marked with an asterisk are the Repeating Representations.

23.2 *Status

(a) It is a limited liability corporation, duly incorporated and validly existing under the law of its Original Jurisdiction.

(b) Each of its Subsidiaries is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

(c) It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

23.3 *Binding obligations

Subject to the Legal Reservations and Perfection Requirements:

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

23.4 *Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Transaction Documents and the granting of the Transaction Security do not and will not conflict with:

(a) any law or regulation applicable to it;

(b) the constitutional documents of any Group Company (save in respect of any Group Company which is acquired as a Permitted Acquisition provided its constitutional documents are amended within 10 Business Days of it being acquired); or

(c) any agreement or instrument binding upon it or any Group Company or any Group Company’s assets or constitute a default or termination event (however described) under any such agreement or instrument in each case to an extent which has or is reasonably likely to have a Material Adverse Effect or would result in any material liability on the part of a Finance Party to any third party or require the creation of any security interest over any asset in favour of a third party other than Permitted Security.

23.5 *Power and authority

(a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Transaction Documents to which it is or will be a party and the transactions contemplated by those Transaction Documents.
(b) No limit on its powers will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Transaction Documents to which it is a party.

23.6 **Validity and admissibility in evidence**

(a) Subject to the Legal Reservations and the Perfection Requirements, all Authorisations required:

(i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and

(ii) to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect (or will be obtained or effected and be in full force and effect promptly following the Closing Date in relation to the matters contemplated by Clause 23.9).

(b) All Authorisations necessary for the conduct of the business, trade and ordinary activities of members of the Group have been obtained or effected and are in full force and effect if failure to obtain or effect those Authorisations has or is reasonably likely to have a Material Adverse Effect.

23.7 **Governing law and enforcement**

Subject to the Legal Reservations:

(a) the law expressed to be the governing law in each Finance Document will be recognised and enforced in the Relevant Jurisdictions of each Obligor executing that Finance Document; and

(b) 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.

23.8 **Insolvency**

No:

(a) corporate action, legal proceeding or other procedure or step described in paragraph (a) of Clause 27.7 (Insolvency proceedings); or

(b) creditors’ process described in Clause 27.8 (Creditors’ process),

has been taken or, to the knowledge of the Parent, threatened in relation to an Obligor; and none of the circumstances described in Clause 27.6 (Insolvency) applies to any Obligor.

23.9 **No filing or stamp taxes**

Save as set out in the Legal Reservations under the laws of its Relevant Jurisdiction it is not necessary that any Finance Document 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 for the Perfection Requirements and payment of associated fees which will be made or paid promptly after the date of the relevant Finance Document.

23.10 Deduction of Tax

It is not required to make any deduction for or on account of Tax from any payment it may make under any Finance Document to a Lender which is:

(a) a Qualifying Lender:
   (i) falling within paragraph (a)(i) of the definition of “Qualifying Lender”; or
   (ii) except where a Direction has been given under section 931 of the ITA in relation to the payment concerned, falling within paragraph (a)(ii) of the definition of “Qualifying Lender”; or
   (iii) falling within paragraph (b) of the definition of “Qualifying Lender” or;

(b) a Treaty Lender and the payment is one specified in a direction given by the Commissioners of Revenue & Customs under Regulation 2 of the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 (SI 1970/488).

23.11 *No default

(a) No Event of Default and, on the date of this Agreement and the Closing Date, no Default is continuing or is reasonably likely to result from the making of any Loan or the entry into, the performance of, or any transaction contemplated by, any Transaction Document.

(b) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries’) assets are subject which has or is reasonably likely to have a Material Adverse Effect.

23.12 No misleading information

Save as disclosed in writing to the Agent prior to the date of this Agreement:

(a) any factual information contained in the Information Package was true and accurate in all material respects as at the date of the relevant report or document containing the information or (as the case may be) as at the date the information is expressed to be given.

(b) the Base Case Model has been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements, and the financial projections contained in the Base Case Model have been prepared on the basis of recent historical information, are and was considered by the Parent (acting reasonably) fair and based on reasonable assumptions and have been approved by the board of directors of the Parent.

(c) any financial projection or forecast contained in the Information Package has been prepared on the basis of recent historical information and on the basis of reasonable assumptions and was considered by the Parent (acting reasonably) fair (as at the date
of the relevant report or document containing the projection or forecast) and arrived at after careful consideration.

(d) the expressions of opinion or intention provided by or on behalf of an Obligor for the purposes of the Information Package were made after careful consideration and (as at the date of the relevant report or document containing the expression of opinion or intention) were considered by the relevant Obligor (acting reasonably) fair and based on reasonable grounds.

(e) no event or circumstance has occurred or arisen and no information has been omitted from the Information Package and no information has been given or withheld that results in the information, opinions, intentions, forecasts or projections (taken as a whole) contained in the Information Package being untrue or misleading in any material respect.

(f) all material information provided to a Finance Party by or on behalf of the Sponsor Investor, the Parent in connection with the Acquisition and/or the Target Group on or before the date of this Agreement and not superseded before that date (whether or not contained in the Information Package) is accurate and not misleading in any material respect; and

(g) all other written information provided by (on or prior to the Closing Date any Obligor or after the Closing Date, any Group Company (including, in each case, its advisers)) to a Finance Party or the provider of any Report was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.

The representations and warranties made with respect to the Reports are made by each Obligor in this Clause 23.12 only so far as it is aware after having made due and careful enquiries.

23.13 *Original Financial Statements

(a) Its most recent financial statements delivered pursuant to Clause 24.1 (Financial statements):

(i) have been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements and the Base Case Model; and

(ii) fairly represent its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.

(b) The budgets and forecasts supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were believed to be reasonable as at the date they were prepared.

(c) Since the date of the most recent financial statements delivered pursuant to Clause 24.1 (Financial statements) there has been no material adverse change in the business, assets or financial condition of the Group.

23.14 No proceedings pending or threatened

No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body, regulatory authority or agency which, is reasonably likely to be adversely
determined and if so adversely determined, are reasonably likely to result in a claim of more than £1,000,000 (or its equivalent in other currencies), have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened in writing against it or any of its Subsidiaries.

23.15 No breach of laws

(a) It has not (and none of its Subsidiaries has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

(b) No labour disputes are current or, to the best of its knowledge and belief (having made due and careful enquiry), threatened in writing against any Group Company which have or are reasonably likely to have a Material Adverse Effect.

23.16 Environmental laws

(a) Each Group Company is in compliance with Clause 26.3 (Environmental compliance) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.

(b) No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened against any Group Company where that claim has or is reasonably likely, if determined against that Group Company, to have a Material Adverse Effect.

23.17 Taxation

(a) It is not (and none of its Subsidiaries is) materially overdue in the filing of any Tax returns and it is not (and none of its Subsidiaries is) overdue in the payment of any amount in respect of Tax of £250,000 (or its equivalent in any other currency) or more.

(b) So far as it is aware, 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.

(c) It is resident for Tax purposes only in its Original Jurisdiction or, in the case of the Original Obligors incorporated in Jersey, the UK.

23.18 Anti-corruption law

Each Group Company has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

23.19 Security and Financial Indebtedness

(a) No Security or Quasi-Security exists over all or any of the present or future assets of any Group Company other than as permitted by this Agreement.

(b) No Group Company has any Financial Indebtedness outstanding other than as permitted by this Agreement.
23.20 *Ranking

Subject to the Legal Reservations and the Perfection Requirements, the Transaction Security has or will have first ranking priority and it is not subject to any prior ranking or pari passu ranking Security other than Permitted Security.

23.21 *Good title to assets

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 its business as presently conducted except where failure to do so has, or is reasonably likely to have, a Material Adverse Effect.

23.22 Legal and beneficial ownership

(a) Subject to (b) and (c) below and to any Permitted Security, it and each of its Subsidiaries is the sole legal and beneficial owner of the respective assets over which it purports to grant Security.

(b) All the Target Shares are or will be on the Closing Date legally and beneficially owned by the Company free from any claims, third party rights or competing interests subject to the making or the procuring of the necessary registrations, filings, endorsements, notarisations, stamping or notifications necessary under the laws of the jurisdiction governing such purchase for the legal title to such shares to be transferred to the Company.

(c) All the shares in any Relevant Target are or will be on the relevant closing date legally and beneficially owned by the purchaser free from any claims, third party rights or competing interests other than Permitted Security subject to the making or the procuring of the necessary registrations, filings, endorsements, notarisations, stamping or notifications necessary under the laws of the jurisdiction governing such purchase, for the legal title to such shares to be transferred to the purchaser.

23.23 Shares

The shares of any Group Company which are subject to the Transaction Security are fully paid and not subject to any option to purchase or similar rights. The constitutional documents of companies whose shares are subject to the Transaction Security do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security. 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 Group Company (including any option or right of pre-emption or conversion).

23.24 Intellectual Property

Each Obligor:

(a) is the sole legal and beneficial owner of or has licensed to it on normal commercial terms all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business as it is being conducted and as contemplated in the Base Case Model;

(b) does not (nor does any of its Subsidiaries, to the best of its knowledge and belief) in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which has or is reasonably likely to have a Material Adverse Effect; and
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 would have or be reasonably likely to have a Material Adverse Effect.

23.25 Group Structure Chart

The Group Structure Chart is true, complete and accurate in all material respects and shows the following information:

(a) each Group Company, including current name and company registration number, its Original Jurisdiction (in the case of an Obligor), its jurisdiction of incorporation (in the case of a Group Company which is not an Obligor) and/or its jurisdiction of establishment, a list of shareholders and indicating whether or not a company with limited liability; and

(b) all minority interests in any Group Company and any person in which any Group Company holds shares in its issued share capital or equivalent ownership interest of such person.

23.26 Obligors

Each Material Company that is not a Regulated Group Company is or will be an Obligor on the Closing Date.

23.27 Accounting Reference Date

The Accounting Reference Date for each Group Company is 30 April.

23.28 Documents

(a) To the best of its knowledge no representation or warranty given by any party to the Joint Bidding Agreement is untrue or misleading in any material respect.

(b) The Joint Bidding Agreement, the Service Contracts and the constitutional documents of the Parent (as amended to the extent permitted under this Agreement and the Intercreditor Agreement) contain all the material terms of all the agreements and arrangements between Senior Management and the Investors and between Senior Management, the Parent and any Group Company.

(c) The Joint Bidding Agreement contains all the material terms of the arrangements between the Investors and members of the Group.

23.29 *Centre of main interests and establishments

For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the “Regulation”), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in its Original Jurisdiction and it has no “establishment” (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

23.30 Holding Companies

Except as may arise under the Transaction Documents and in connection with the incurrence of Acquisition Costs in connection with the Acquisition, in each case, before the Closing Date the Original Obligors have not traded or incurred any liabilities or commitments (actual or
contingent, present or future) other than in the case of the Parent acting as Holding Company of the Original Borrower and the Company.

23.31 Pensions

Neither it nor any of its Subsidiaries:

(a) is or has at any time been an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pensions Schemes Act 1993); or

(b) is or has at any time been “connected” with or an “associate” of (as those terms are used in sections 38 and 43 of the Pensions Act 2004) such an employer.

23.32 *Sanctions

No Obligor, nor to the best of its knowledge and belief, any of its Affiliates (other than, for the avoidance of doubt, any Holding Company of the Parent), directors or officers, is either:

(a) listed, or is owned or controlled, by any person which is listed, on a Designated Parties List;

(b) located, in or organised under the laws of a country which is the subject of country-wide Sanctions by any Sanctions Authority; or

(c) a governmental agency, authority, or body or state-owned enterprise of any country which is the subject of Sanctions by any Sanctions Authority.

23.33 Regulated Group Companies

Each Regulated Group Company holds Regulatory Capital at least equal to 100 per cent. of its minimum Regulatory Capital requirements required by Applicable Law.

23.34 Times when representations made

(a) All the representations and warranties in this Clause 23 are made by each Original Obligor on the date of this Agreement except for the representations and warranties set out in Clause 23.12 (No misleading information) which are deemed to be made by each Obligor (i) with respect to the Base Case Model, on the date of this Agreement and on the Closing Date, and (ii) with respect to the Information Package (other than the Base Case Model), on the date of this Agreement.

(b) All the representations and warranties in this Clause 23 are deemed to be made by each Obligor on the Closing Date.

(c) The Repeating Representations are deemed to be made by each Obligor on the date of each Utilisation Request, on each Utilisation Date, on the first day of each Interest Period, on the date of each Incremental Facility Notice and on each Establishment Date.

(d) All the representations and warranties in this Clause 23 except Clause 23.12 (No misleading information), Clause 23.25 (Group Structure Chart), Clause 23.28 (Documents), Clause 23.30 (Holding Companies) and Clause 23.33 (Regulated Group Companies) are deemed to be made by each Additional Obligor on the day on which it becomes (or it is proposed that it becomes) an Additional Obligor.
(e) Each representation or warranty deemed to be made after the date of this Agreement shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

24. INFORMATION UNDERTAKINGS

The undertakings in this Clause 24 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

In this Clause 24:

“Annual Financial Statements” means the financial statements for a Financial Year delivered pursuant to paragraph (a) of Clause 24.1 (Financial statements).

“Monthly Financial Statements” means the financial statements delivered pursuant to paragraph (d) of Clause 24.1 (Financial statements).

“Quarterly Financial Statements” means the financial statements delivered pursuant to paragraph (c) of Clause 24.1 (Financial statements).

24.1 Financial statements

The Parent shall supply to the Agent and the Revolving Facility Lenders:

(a) as soon as they are available, but in any event within 150 days after the end of each of its Financial Year, the audited consolidated financial statements of the Parent and each Obligor for that Financial Year;

(b) if requested by the Agent or a Revolving Facility Lender, as soon as they are available but in any event within any statutory time period allowed for the preparation thereof (or if there is no such statutory period, within 150 days after the end of each relevant Financial Year), the annual financial statements of any other Material Company; and

(c) as soon as they are available, but in any event within 45 days after the end of each Financial Quarter of each of its Financial Years its consolidated financial statements for that Financial Quarter (beginning with the first full Financial Quarter to occur following the Closing Date); and

(d) as soon as they are available, but in any event within 30 days for each of the Months ending after the Closing Date, management accounts for the Parent on a consolidated basis for that Month (beginning with the first full Month to occur following the Closing Date), where such accounts which will include in relation to the Group commentary on performance and material developments or proposals in relation to the Group.

24.2 Provisions and contents of Compliance Certificate

(a) The Parent shall supply a Compliance Certificate to the Agent and the Revolving Facility Lenders with each set of its Annual Financial Statements and each set of its Quarterly Financial Statements.

(b) The Compliance Certificate shall, amongst other things:
(i) set out (in reasonable detail) computations as to compliance with Clause 25 (Financial covenants);

(ii) include details of any (i) amount of Cash Overfunding, (ii) Unrestricted Cash and (iii) Permitted Payments, in each case in respect of the relevant Financial Quarter; and

(iii) when delivered with the Annual Financial Statements:

(A) set out the levels of the Borrowings and the Capital Expenditure of the Group; and

(B) confirm which members of the Group are Material Companies.

(c) Each Compliance Certificate shall be signed by two directors of the Parent (one of which shall be the CFO (if available)) and, if to be delivered with the Annual Financial Statements, if requested by a Lender, accompanied by a report by the Auditors on the extraction of the relevant information from such financial statements for that Compliance Certificate.

24.3 Requirements as to financial statements

(a) The Parent shall procure that each set of Annual Financial Statements, Quarterly Financial Statements and Monthly Financial Statements includes a balance sheet, profit and loss account and cashflow statement. In addition the Parent shall procure that:

(i) each set of its Annual Financial Statements shall be audited by the Auditors;

(ii) each set of Quarterly Financial Statements is accompanied by a statement by the directors of the Parent commenting on:

(A) the performance of the Group to which the financial statements relate and the Financial Year to date;

(B) any material developments or material proposals affecting the Group or its business;

(C) a statement by two directors of the Parent (one of whom shall be the Finance Director) providing details of the amount of Regulatory Capital that each Regulated Group Company is required to retain by a relevant Regulatory Authority (as at the date to which those Quarterly Financial Statements were drawn up);

(D) a schedule of the current amount of Regulatory Capital actually maintained individually by each Regulated Group Company;

(E) movement in funds under management within the Group over the period; and

(F) movement in funds under Tutman management over the period.

(iii) Each set of Monthly Financial Statements is accompanied by a statement by the directors of the Parent confirming:
(A) the Group’s average funds under management for such period; and

(B) Tutman average funds under management for such period.

(b) Each set of financial statements delivered pursuant to Clause 24.1 (Financial statements):

(i) shall be certified by the Chief Financial Officer as fairly presenting its financial condition and operations as at the date as at which those financial statements were drawn up and, in the case of the Annual Financial Statements, shall be accompanied by any letter addressed to the management of the relevant company by the Auditors of those Annual Financial Statements and accompanying those Annual Financial Statements;

(ii) in the case of consolidated financial statements of the Group, shall be accompanied by a statement by the Chief Financial Officer comparing actual performance for the period to which the financial statements relate to:

(A) the projected performance for that period set out in the Budget; and

(B) the actual performance for the corresponding period in the preceding Financial Year of the Group; and

(iii) shall be 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, the Parent notifies the Agent that there has been a change in the Accounting Principles or the accounting practices and the Auditors (or, if appropriate, the auditors of the Obligor) deliver to the Agent:

(A) a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices upon which the Base Case Model were prepared; and

(B) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 25 (Financial covenants) has been complied with, to determine the applicable Margin as set out in Clause 13.1 (Calculation of Interest) and to make an accurate comparison between the financial position indicated in those financial statements and the Base Case Model (in the case of the Parent) or that Obligor’s Original Financial Statements (in the case of an Obligor) that is not an Original Obligor.

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.

(c) If an Event of Default has occurred and is continuing and as a consequence the Agent or the Revolving Facility Lender wishes to discuss the financial position of any Group Company with the Auditors, the Agent or the Revolving Facility Lender may notify the Parent, stating the questions or issues which the Agent or the Revolving Facility Lender wishes to discuss with the Auditors. In this event (and provided that
the relevant Event of Default remains continuing) the Parent must ensure that the Auditors are authorised (at the expense of the Parent):

(i) to discuss the financial position of that Group Company with the Agent or the Revolving Facility Lender on request from the Agent or the Revolving Facility Lender; and

(ii) to disclose to the Agent or the Revolving Facility Lender for the Finance Parties any information which the Agent or the Revolving Facility Lender may reasonably request.

24.4 Budget

(a) The Parent shall supply to the Agent and Revolving Facility Lenders, as soon as the same become available but in any event no later than 30 days after the commencement of each of its Financial Year an annual Budget for that Financial Year.

(b) The Parent shall ensure that each Budget:

(i) is in a form reasonably acceptable to the Agent and includes a projected consolidated profit and loss account, balance sheet, cashflow statement for the Group and projected financial covenant calculations;

(ii) is prepared in accordance with the Accounting Principles and the accounting practices and financial reference periods applied to financial statements or management accounts under Clause 24.1 (Financial statements); and

(iii) has been approved by the board of directors of the Parent.

(c) If the Parent updates or changes the Budget to a material extent, it shall promptly deliver to the Agent and Revolving Facility Lenders, such updated or changed Budget together with a written explanation of the main changes in that Budget.

24.5 Presentations

Once in every Financial Year, if requested to do so by the Agent or more frequently if requested to do so by the Agent whilst a Default is continuing, at least two directors of the Parent (including the CFO) must give a presentation to the Finance Parties about the on-going business and financial performance of the Group.

24.6 Group companies

The Parent shall, at the request of the Agent, supply to the Agent a report issued by the Parent’s Auditors stating which of its Subsidiaries are Material Companies.

24.7 Quarterly management briefings

Once in every Financial Quarter if requested by a Lender, at least one person from Senior Management will meet (in person or by telephone) with representatives of that Lender to discuss performance of the business and outlook for the foreseeable future.
24.8 Year-end

The Parent shall not change its Accounting Reference Date without the prior consent of the Majority Lenders (not to be unreasonably withheld or delayed).

24.9 Information: miscellaneous

(a) The Parent shall supply to the Lenders:

(i) at the same time as they are dispatched, copies of all documents required by law dispatched by the Parent to its shareholders generally (or any class of them) or dispatched by the Parent or any Obligors to its creditors generally (or any class of them);

(ii) as soon as reasonably practicable upon becoming aware of them, the details of any litigation, regulatory, arbitration or administrative proceedings which are current, threatened in writing or pending against any Group Company and which, is reasonably likely to be adversely determined and if so adversely determined, are reasonably expected to create in excess of £250,000 (or its equivalent);

(iii) notification in a change in Senior Management;

(iv) promptly upon receipt or production (as applicable) by each relevant Group Company, copies of all correspondence with any Regulatory Authority relating to the solvency position of a Regulated Group Company or the non-compliance by the Group with Applicable Law where the solvency position or non-compliance, if not resolved, might reasonably be expected to be materially prejudicial to the interests of the Finance Parties under the Finance Documents;

(v) the details or any claim, notice or other communication, in each case, in writing received by it or by any Regulated Group Company from any Regulatory Authority which could reasonably be expected to have a Material Adverse Effect, promptly following the point at which that determination in respect of a Material Adverse Effect is made;

(vi) as soon as reasonably practicable, such information as the Security Agent may reasonably require about the Charged Property and compliance of the Obligors with the terms of any Transaction Security Documents; and

(vii) as soon as reasonably practicable on request, such further information in the possession of the Group regarding the financial condition, assets or operations of the Group and/or any Group Company as any Finance Party (through the Agent) may reasonably request, save and except that no Group Company shall be obliged to provide any information if to do so would breach any applicable law or regulation or confidentiality undertaking owed to a third party.

24.10 Notification of default

(a) Each Obligor shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).
(b) As soon as reasonably practicable upon a request by the Agent, the Parent shall supply to the Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

24.11 “Know your customer” checks

(a) If:

(i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;

(ii) any change in the status of an Obligor or the composition of the shareholders of an Obligor after the date of this Agreement; or

(iii) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender) in order for the Agent, such Lender or, in the case of the event described in paragraph (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

(b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

(c) The Parent shall, by not less than 10 Business Days’ prior written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Obligor pursuant to Clause 30 (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 or any Lender to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Parent shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the 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.

25. **FINANCIAL COVENANTS**

25.1 **Financial Definitions**

In this Agreement:

“**Acquisition Costs**” means all fees, costs and expenses, stamp, registration and other Taxes incurred or required to be paid by any Group Company in connection with the Acquisition or the Transaction Documents or any Permitted Acquisition.

“**Adjusted EBITDA**” means, in relation to a Relevant Period, EBITDA for that Relevant Period adjusted by:

(a) including the operating profit before interest, tax, depreciation, amortisation and impairment charges (calculated on the same basis as EBITDA) of a Group Company (or attributable to a business or assets acquired during the Relevant Period for that part of the Relevant Period prior to its becoming a Group Company or (as the case may be) prior to the acquisition of the business or assets taking account of any Pro Forma Cost Savings); and

(b) excluding the operating profit before interest, tax, depreciation, amortisation and impairment charges (calculated on the same basis as EBITDA) attributable to any Group Company (or to any business or assets) disposed of during the Relevant Period for that part of the Relevant Period.

“**Adjusted Net Leverage**” means, in respect of any Relevant Period, the ratio of Total Net Debt on the last day of that Relevant Period to Adjusted EBITDA in respect of that Relevant Period.

“**Borrowings**” means, at any time, the aggregate outstanding principal, capital or nominal amount of any indebtedness of members of the Group (on a consolidated basis and therefore excluding any intra-Group indebtedness) for or in respect of:

(a) moneys borrowed and debit balances at banks or other financial institutions;

(b) any acceptances under any acceptance credit or bill discount facility (or dematerialised equivalent);

(c) any note purchase facility or the issue of bonds (but not Trade Instruments), notes, debentures, loan stock or any similar instrument;

(d) any Finance Lease;

(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirements for de-recognition under the Accounting Principles);

(f) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument (but not, in any case, Trade Instruments) issued by a bank or financial institution in respect of (i) an underlying liability of an entity which is not a member of the Group which liability would fall
within one of the other paragraphs of this definition or (ii) any liabilities of a Group Company relating to any post-retirement benefit scheme;

(g) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the Termination Date or are otherwise classified as borrowings under the Accounting Principles as at the date of this Agreement;

(h) 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 as at the date of this Agreement;

(i) any amount of any liability under an advance or deferred purchase agreement if (i) the primary reason behind the entry into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 120 days after the date of supply; and

(j) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (i) above.

“Business Acquisition” means the acquisition of a corporate entity or any shares or securities of a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company.

“Capital Expenditure” means any expenditure or obligation (other than expenditure or obligations in respect of Business Acquisitions) which, in accordance with the Accounting Principles, is treated as capital expenditure (and including the capital element of any expenditure or obligation incurred in connection with a Finance Lease).

“Cash” means cash at bank credited to an account in the name of a Group Company and to which that Group Company is beneficially entitled and which is repayable on demand (or within 30 days of demand) without condition and excluding, for the avoidance of doubt, Excluded Assets and Cash Overfunding.

“Cash Equivalent Investments” means at any time:

(a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;

(b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;

(c) commercial paper not convertible or exchangeable to any other security:

(i) for which a recognised trading market exists;

(ii) issued by an issuer incorporated in the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State;
(iii) which matures within one year after the relevant date of calculation; and

(iv) which has a credit rating of either A-1 or higher by Standard & Poor’s Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody’s Investors Service Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;

(d) any investment in money market funds which (i) have a credit rating of either A-1 or higher by Standard & Poor’s Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody’s Investors Service Limited, (ii) which invest substantially all their assets in securities of the types described in paragraphs (a) to (d) above and (iii) can be turned into cash on not more than 30 days’ notice; or

(e) any other debt security approved by the Majority Lenders,

in each case, denominated in the Base Currency and to which any Group Company is alone (or together with other Group Companies beneficially entitled at that time and which is not issued or guaranteed by any Group Company or subject to any Security (other than Security arising under the Transaction Security Documents) but, for the avoidance of doubt, excluding any such investments purchased or funded using Excluded Assets or Cash Overfunding.

“Cashflow” means, in respect of any Relevant Period, EBITDA for that Relevant Period after:

(a) adding the amount of any decrease (and deducting the amount of any increase) in Working Capital for that Relevant Period;

(b) adding the amount of any cash receipts (and deducting the amount of any cash payments) during that Relevant Period in respect of any Exceptional Items not already taken account of in calculating EBITDA for any Relevant Period;

(c) adding the amount of any cash receipts during that Relevant Period in respect of any Tax rebates or credits and deducting the amount actually paid or due and payable in respect of Taxes during that Relevant Period by any member of the Target Group;

(d) adding (to the extent not already taken into account in determining EBITDA) the amount of any dividends or other profit distributions received in cash by any Group Company during that Relevant Period from any entity which is itself not a Group Company;

(e) adding the amount of any increase in provisions, other non-cash debits and other non-cash charges (which are not Current Assets or Current Liabilities) and deducting the amount of any non-cash credits (which are not Current Assets or Current Liabilities) in each case to the extent taken into account in establishing EBITDA;

(f) deducting the amount of any Capital Expenditure actually made in cash during that Relevant Period by any Group Company and the aggregate of any cash consideration paid for, or the cash cost of, any Business Acquisitions (after netting off any cash on balance sheet of the acquired entities) save to the extent funded by:

(i) any Excluded Disposal Proceeds or Excluded Acquisition Proceeds or Excluded Insurance Proceeds;

(ii) Capital Expenditure funded by Cash Overfunding; or
(iii) an Incremental Facility;

(g) excluding, for the avoidance of doubt, any utilisation or repayment under the Revolving Facility; and

(h) before deducting any non-recurring payment elected to be funded by Unrestricted Cash.

“Cashflow Cover” means the ratio of Cashflow for a Relevant Period to Debt Service in respect of that Relevant Period.

“Cash Overfunding” means the aggregate amount identified as “Cash Overfunding” in the Funds Flow Statement, comprising £12,500,000 as at the Closing Date (as certified by the Chief Financial Officer) as reduced from time to time when used for a permitted purpose under this Agreement.

“Current Assets” means the aggregate (on a consolidated basis) of all inventory, work in progress, trade and other receivables of each Group Company including prepayments in relation to operating items and sundry debtors (but excluding Cash and Cash Equivalent Investments) expected to be realised within twelve months from the date of computation but excluding amounts in respect of:

(a) receivables in relation to Tax;

(b) Exceptional Items and other non-operating items;

(c) insurance claims;

(d) any interest owing to any Group Company; and

(e) Open Trades.

“Current Liabilities” means the aggregate (on a consolidated basis) of all liabilities (including trade creditors, accruals and provisions) of each Group Company expected to be settled within twelve months from the date of computation but excluding amounts in respect of:

(a) liabilities for Borrowings and Finance Charges;

(b) liabilities for Tax;

(c) Exceptional Items and other non-operating items;

(d) insurance claims;

(e) liabilities in relation to dividends declared but not paid by the Parent or by a Group Company in favour of a person which is not a Group Company; and

(f) Open Trades.

“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 and mandatory repayments of Borrowings falling due during that Relevant Period but excluding:

(i) any amounts falling due under any overdraft or revolving facility and (including, without limitation, the Revolving Facility and any Ancillary Facility) and which were available for simultaneous redrawing according to the terms of that facility (save as a consequence of Clause 4.2 (Further conditions precedent);

(ii) any voluntary prepayment or mandatory prepayment made pursuant to Clause 11.2 (Disposal, Insurance, Flotation and Acquisition Proceeds); and

(iii) any such obligations owed to any Group Company;

(c) any Permitted Payment under paragraph (f) of that definition in respect of that Relevant Period; and

(d) the amount of the capital element of any payments in respect of that Relevant Period payable under any Finance Lease entered into by any Group Company,

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

“EBITDA” means, in respect of any Relevant Period, the consolidated operating profit of the Group before taxation (excluding the results from discontinued operations):

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

(b) not including any accrued interest owing to any Group Company;

(c) after adding back any amount attributable to the amortisation, depreciation or impairment of assets of members of the Group (and taking no account of the reversal of any previous impairment charge made in that Relevant Period);

(d) before taking into account any Exceptional Items;

(e) before deducting any Acquisition Costs;

(f) after deducting the amount of any profit (or adding back the amount of any loss) of any Group Company which is attributable to minority interests;

(g) before taking into account any gain or loss arising from an upward or downward revaluation of any other asset;

(h) before taking into account any Pension Items;

(i) excluding the charge to profit represented by the expensing of stock options; and

(j) before taking into account any gain arising from any Excluded Debt Purchase Transaction,

in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining operating profits of the Group before taxation.
“Exceptional Items” means any exceptional, one off, non-recurring or extraordinary items including those arising on:

(a) the restructuring of the activities of an entity and reversals of any provisions for the cost of restructuring;

(b) disposals, write downs or impairment of non-current assets or any reversal of any write down or impairment; and

(c) disposals of assets associated with discontinued operations,

in each case, subject to a per Exceptional Items cap of 10 per cent. of EBITDA for any Financial Year of the Parent PROVIDED THAT in respect of one Financial Year only, (at the election of the Parent), such cap shall be increased to 15 per cent. of EBITDA for the relevant Financial Year of the Parent.

“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 in respect of Borrowings whether paid, payable or capitalised by any Group Company (calculated on a consolidated basis) in respect of that Relevant Period:

(a) excluding any upfront fees or costs;

(b) including the interest (but not the capital) element of payments in respect of Finance Leases;

(c) including any commission, fees, discounts and other finance payments payable by (and deducting any such amounts payable to) any Group Company under any interest rate hedging arrangement;

(d) excluding any Acquisition Cost;

(e) excluding any interest cost or expected return on plan assets in relation to any post-employment benefit schemes;

(f) taking no account of any unrealised gains or losses on any financial instruments other than any derivative instruments which are accounted for on a hedge accounting basis; and

(g) excluding (i) any capitalised interest or payment in kind interest in respect of Permitted Financial Indebtedness and (ii) capitalised interest in respect of any Permitted Equity Injection,

together with the amount of any cash dividends or distributions paid or made by the Parent in respect of that Relevant Period (other than under paragraph (f) of the definition of Permitted Payment) and so that no amount shall be added (or deducted) more than once.

“Finance Lease” means any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a finance or capital lease (but excluding any real estate lease or operating lease).

“Financial Quarter” means the annual accounting period of the Group ending on or about 31 January, 30 April, 31 July and 31 October in each year.
“Financial Year” means the annual accounting period of the Group ending on or about 31 December in each year.

"Gross Leverage" means, in respect of any Relevant Period, the ratio of Total Debt on the last day of that Relevant Period to Adjusted EBITDA in respect of that Relevant Period.

“Net Finance Charges” means, for any Relevant Period, the Finance Charges for that Relevant Period after deducting any interest payable in that Relevant Period to any Group Company on any Cash or Cash Equivalent Investments.

“Open Trades” means trade debtor, trade creditor and cash balances in relation to unsettled client transactions in units and which are required to be included on the balance sheet of a Group Company.

“Relevant Period” means each period of twelve Months ending on or about the last day of the Financial Year and each period of twelve Months ending on or about the last day of each Financial Quarter.

“Total Debt” means, at any time, the aggregate amount of all obligations of members of the Group for or in respect of Borrowings at that time but:

(a) excluding any such obligations to any other Group Company; and

(b) including, in the case of Finance Leases, only their capitalised value,

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

"Total Net Debt" means, at any time, the aggregate amount of all obligations of members of the Group for or in respect of Borrowings at that time but:

(a) excluding any such obligations to any other Group Company

(b) (which shall include the amount of guarantees or other contingent liabilities referred to in the definition of Borrowings to the extent that it relates to indebtedness of another Group Company which is already included in the calculation of Total Net Debt);

(c) excluding any such obligations in respect of the Topco Loan Agreement and any other Subordinated Debt;

(d) including, in the case of Finance Leases, only their capitalised value; and

(e) deducting the aggregate amount of Cash and Cash Equivalent Investments held by any Group Company at that time,

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

“Working Capital” means on any date Current Assets less Current Liabilities.

25.2 Financial Condition

The Parent shall ensure that:

(a) **Cashflow Cover:** Cashflow Cover in respect of any Relevant Period shall not be less than 1.00:1.00. Cashflow Cover will first be tested in respect of the Relevant Period
ending on 31 October 2017 and will be tested in respect of each Relevant Period thereafter.

(b) **Adjusted Net Leverage:** Adjusted Net Leverage in respect of any Relevant Period specified in column 1 below shall not exceed the ratio set out in column 2 below opposite that Relevant Period. Adjusted Net Leverage will first be tested under this Clause in respect of the Relevant Period ending on 31 October 2017 and will be tested in respect of each Relevant Period thereafter.

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Relevant Period</strong></td>
<td><strong>Adjusted Net Leverage</strong></td>
</tr>
<tr>
<td>Relevant Period ending 31 October 2017</td>
<td>4.06:1</td>
</tr>
<tr>
<td>Relevant Period ending 31 January 2018</td>
<td>3.77:1</td>
</tr>
<tr>
<td>Relevant Period ending 30 April 2018</td>
<td>2.78:1</td>
</tr>
<tr>
<td>Relevant Period ending 31 July 2018</td>
<td>2.42:1</td>
</tr>
<tr>
<td>Relevant Period ending 31 October 2018</td>
<td>3.18:1</td>
</tr>
<tr>
<td>Relevant Period ending 31 January 2019</td>
<td>2.81:1</td>
</tr>
<tr>
<td>Relevant Period ending 30 April 2019</td>
<td>2.25:1</td>
</tr>
<tr>
<td>Each Relevant Period ending thereafter</td>
<td>2.25:1</td>
</tr>
</tbody>
</table>

(c) **Minimum EBITDA:** EBITDA in respect of any Relevant Period ending on 31 October 2017 and thereafter shall not be less than £2,500,000.

(d) **Capital Expenditure:** The aggregate Capital Expenditure of the Group (other than Capital Expenditure funded by Unrestricted Cash) in respect of any Financial Year specified in column 1 below shall not exceed the amount set out in column 2 below opposite that Financial Year.

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Financial Year Ending</strong></td>
<td><strong>Maximum Expenditure</strong></td>
</tr>
<tr>
<td>30 April 2018</td>
<td>£1,235,000</td>
</tr>
<tr>
<td>Each Financial Year ending thereafter</td>
<td>£500,000</td>
</tr>
</tbody>
</table>

If in any Financial Year (the “**Original Financial Year**”) the amount of the Capital Expenditure is less than the maximum amount permitted for that Original Financial Year (the difference being referred to below as the “**Unused Amount**”), then the maximum expenditure amount set out in column 2 above for the immediately following Financial Year (the “**Carry Forward Year**”) shall for the purpose of that Carry Forward Year only be increased by an amount (the “**Permitted Carry Forward Amount**”) equal to 100 per cent. of the Unused Amount.
In any Carry Forward Year the original amount specified in column 2 above shall be treated as having been incurred prior to any Permitted Carry Forward Amount carried forward into that Carry Forward Year and no amount carried forward into that Carry Forward Year may be carried forward into a subsequent Financial Year.

If in any Original Financial Year the amount of the Capital Expenditure is more than the maximum amount permitted for that Original Financial Year (the difference being referred to below as the “Overused Amount”), then the maximum expenditure amount set out in column 2 above for the immediately following Financial Year (the “Carry Back Year”) shall for the purpose of that Carry Back Year only be decreased by an amount which does not exceed 50 per cent. of the maximum expenditure amount set out in column 2 above for the Carry Back Year (the “Permitted Carry Back Amount”) and that Permitted Carry Back Amount shall increase the maximum permitted amount for that Original Financial Year by the same amount. The Parent shall ensure that the Overused Amount shall never exceed the Permitted Carry Back Amount.

In any Carry Back Year the original amount specified in column 2 above shall be treated as having been incurred before any Permitted Carry Back Amount carried back into that Carry Back Year and no amount carried back into that Carry Back Year may be carried back into any preceding Financial Year.

25.3 Financial Testing

(a) The financial covenants set out in Clause 25.2 (Financial Condition) shall be calculated in accordance with the Accounting Principles and tested by reference to each of the financial statements delivered pursuant to paragraphs (a) and (b) of Clause 24.1 (Financial statements) and/or each Compliance Certificate delivered pursuant to Clause 24.2 (Provisions and contents of Compliance Certificate).

(b) Where any Relevant Period commences before the Closing Date the following principles shall apply:

(i) Debt Service for the purpose of Cashflow Cover shall be calculated for the period from the Closing Date to the end of that Relevant Period on an annualised straight line basis.

(ii) Cashflow for the purpose of Cashflow Cover shall be calculated for the period from the Closing Date to the end of the Relevant Period by reference to the actual amount of Cashflow; and

(iii) EBITDA for the purpose of Cashflow Cover and Adjusted Net Leverage, shall be calculated by reference to the actual EBITDA as set out in the relevant Annual Financial Statements and/or Quarterly Financial Statements (as appropriate) in respect of the preceding 12 Months ending on the last day of the Relevant Period.

(c) When calculating the financial covenants in this Clause the effect of all transactions between members of the Group shall be eliminated to the extent not already netted out on consolidation.

(d) No item shall be deducted or credited more than once in any calculation.
Where an amount in any financial statement or Compliance Certificate is not
denominated in the Base Currency, it shall be converted into the Base Currency at the
rate specified in the financial statements so long as such rate has been set in
accordance with the Accounting Principles.

If when determining Cashflow for any Relevant Period during which a Permitted
Acquisition occurred (the entity acquired pursuant to that Permitted Acquisition being an
“Acquired Group Company”) for the purposes of Clause 25.2(a) (Cashflow
Cover), in calculating Current Assets and Current Liabilities for that Relevant Period,
the Working Capital of that Acquired Group Company (calculated on the same basis
used in determining Current Assets and Current Liabilities but on an unconsolidated
basis, unless that Acquired Group Company itself had Subsidiaries) shall not take into
account any Working Capital of that Acquired Group Company as of the date of the
relevant Permitted Acquisition and that Acquired Group Company’s contribution to
Current Assets and Current Liabilities for that Relevant Period shall be limited to the
change in that Acquired Group Company’s working capital position on and from the
date of the relevant Permitted Acquisition to the end of the Relevant Period only.

25.4 Equity Cure

If the Parent is in breach (or would otherwise be in breach) of any obligation set out
in Clauses 25.2(a) (Cashflow Cover) to 25.2(b) (Leverage) (inclusive) (each a
“Financial Covenant” and together the “Financial Covenants”), then if the Parent:

(i) notifies the Agent on or before 5 Business Days after the date on which the
relevant Compliance Certificate is required to be delivered of its intent to pre-
cure or cure such breach by way of a Permitted Equity Injection and/or an
allocation of Cash Overfunding in an aggregate amount which will (at least)
cure such Financial Covenant breach as contemplated in paragraph (ii) below
(such aggregate amount being the “Cure Amount”); and

(ii) receives such Cure Amount and/or has available to it the necessary allocation
of Cash Overfunding, in each case, on or before the date which is 15 Business
Days after the date on which the Compliance Certificate setting out the
calculations in respect of the relevant covenant determination is required to
be delivered for the Relevant Period (the “Cure Date”) which, if applied
pursuant to this paragraph, shall have the effect that each Financial Covenant
is recalculated giving effect to the following adjustments (subject to the
conditions below):

(iii) for the purpose of calculating Cashflow Cover, the Cure Amount shall be
added to the calculation of Cashflow (for that Relevant Period and for the
following three successive Relevant Periods (for so long as such Cure
Amount is retained within the Group); and

(iv) for the purpose of calculating Adjusted Net Leverage, the Cure Amount shall
be deducted from the calculation of Total Net Debt prior to the expiry of the
Relevant Period (for so long as such Cure Amount which exceeds 50% is
retained within the Group),

and compliance with Clause 25.2 (Financial Condition) will be determined
by reference to the relevant recalculations as set out in a Compliance
Certificate.
(b) The contribution of a Permitted Equity Injection and/or an allocation of Cash Overfunding may only be made for the purpose of effecting a cure, or preventing the occurrence, of a Financial Covenant breach under this Clause 25.4 for a maximum of three times during the lifetime of the Facilities, not in consecutive Financial Quarters and not more than once in any 12 Months period.

(c) Any recalculation to the Financial Covenants made under this Clause 25.4 will be solely for the purpose of curing, or preventing the occurrence of, a relevant breach of Clause 25.2 (Financial Condition) and not for any other purpose.

(d) If the Parent has cured, or prevented the occurrence of, a breach of a Financial Covenant by complying with this Clause 25.4, then any Event of Default that would have arisen in respect of that breach shall be deemed remedied for the purposes of Clause 27.2(a) and the Parent shall be deemed to have satisfied the requirements of the Financial Covenants for that Relevant Period.

(e) If any part of a Cure Amount attributable to a Permitted Equity Injection (but not, for the avoidance of doubt, attributable to Cash Overfunding) such part being the (“Repayable Cure Amount”) is received and/or allocated under this Clause 25.4 for the purposes of remedying a breach of the Adjusted Net Leverage covenant, an amount equal to 50% of the amount of such Cure Amount (but excluding for this purpose any amount that exceeds the minimum amount required to ensure that the financial covenant in Clause 25.2(a) (Cashflow Cover) would be complied with if tested again as at the last day of the Relevant Period on the basis of paragraph (a)(ii) above) which is necessary to remedy (or prevent the occurrence of, as applicable) the relevant breach shall be applied in mandatory prepayment of the Facilities in accordance with Clause 11.3 (Application of prepayments and cancellations).

(f) For the avoidance of doubt there shall be no restriction on overcure and pre-cure.

26. GENERAL UNDERTAKINGS

The undertakings in this Clause 26 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

Authorisations and compliance with laws

26.1 Authorisations

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

(a) enable it to perform its obligations under the Finance Documents;

(b) ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document; and

(c) carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.
26.2 Compliance with laws

Each Obligor shall (and the Parent shall ensure that each Group Company will) comply in all respects with all laws to which it may be subject, if failure so to comply has or is reasonably likely to have a Material Adverse Effect.

26.3 Environmental compliance

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

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

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

26.4 Environmental claims

Each Obligor shall (through the Parent), promptly upon becoming aware of the same, inform the Agent in writing of:

(a) any Environmental Claim against any Group Company 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 Group Company,

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

26.5 Anti-corruption law

(a) No Obligor shall (and the Parent shall ensure that no other Group Company will) directly or indirectly use the proceeds of the Facilities for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.

(b) Each Obligor shall (and the Parent shall ensure that each other Group Company will):

(i) conduct its businesses in compliance with applicable anti-corruption laws; and
(ii) maintain policies and procedures designed to promote and achieve compliance with such laws.

26.6 Sanctions

(a) No Obligor shall use the proceeds of any Utilisation, directly or as far as it is aware indirectly, for the purposes of any transaction or business activity related to either:

(i) any person which is listed on a Designated Parties List or any person which is owned or controlled, by any person listed on a Designated Parties List;
(ii) any person that the Obligor knows or has reasonable cause to suspect is acting on behalf of any of the persons referred to in paragraph (i) above;

(iii) a governmental agency, authority, or body or state-owned enterprise of any country which is the subject of sanctions by any Sanctions Authority, even if located outside such country;

(iv) any country which is the subject of sanctions by any Sanctions Authority.

(b) No Group Company shall engage in, directly or as far as it is aware indirectly, any business activity or transaction related to either:

(i) any person which is listed on a Designated Parties List or any person which is owned by any person listed on a Designated Parties List; or

(ii) any person that the Group Company knows or has reasonable cause to suspect is acting on behalf of any of the persons listed in paragraph (i) above; or

(iii) any country which is the subject of sanctions by any Sanctions Authority.

26.7 Taxation

(a) Each Obligor shall (and the Parent shall ensure that each Group Company will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties including any grace period unless and only to the extent that:

(i) such payment is being contested in good faith;

(ii) adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest or will be disclosed in its next financial statements delivered to the Agent under Clause 24.1 (Financial statements); and

(iii) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.

(b) No Group Company may change its residence for Tax purposes.

Restrictions on business focus

26.8 Merger

No Obligor shall (and the Parent shall ensure that no other Group Company will) enter into (or agree to enter into) any amalgamation, demerger, merger, consolidation or corporate reconstruction other than a Permitted Transaction, a Permitted Acquisition or a Permitted Disposal.

26.9 Change of business

The Parent shall procure that no substantial change is made to the general nature of the business of the Group taken as a whole from that carried on by the Group at the date of this Agreement and, after Closing, from that carried on by the Target Group at Closing.
26.10 Acquisitions

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other Group Company will):

(i) acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or

(ii) incorporate a company.

(b) Paragraph (a) above does not apply to an acquisition of a company, of shares, securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company which is:

(i) a Permitted Acquisition; or

(ii) a Permitted Transaction.

26.11 Joint ventures

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other Group Company 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 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 is a Permitted Acquisition, a Permitted Disposal or a Permitted Loan.

26.12 Holding Companies

The Parent shall not trade, carry on any business, own any assets or incur any liabilities except for:

(a) the provision of administrative services (excluding treasury services) to other members of the Group of a type customarily provided by a holding company to its Subsidiaries;

(b) ownership of shares in its Subsidiaries, intra-Group debit balances, intra-Group credit balances and other credit balances in bank accounts, cash and Cash Equivalent Investments but only if those shares, credit balances, cash and Cash Equivalent Investments are subject to the Transaction Security; or

(c) any liabilities under the Transaction Documents to which it is a party and professional fees and administration costs in the ordinary course of business as a holding company.
Restrictions on dealing with assets and Security

26.13 Preservation of assets

Each Obligor shall (and the Parent shall ensure that each other Group Company 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 has or is reasonably likely to have a Material Adverse Effect.

26.14 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.

26.15 Negative pledge

Except as permitted under paragraph (d) below:

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

(b) No Obligor shall (and the Parent shall ensure that no other Group Company will) sell, transfer or otherwise dispose of any of its receivables on recourse terms.

(c) No Obligor shall (and the Parent shall ensure that no other Group Company will):

(i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by any other Group Company;

(ii) 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

(iii) 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. An arrangement or transaction referred to in paragraph (b) or in this paragraph (c) is termed “Quasi Security”.

(d) Paragraphs (a), (b) and (c) above do not apply to any Security or (as the case may be) Quasi-Security, which is:

(i) a Permitted Transaction;

(ii) Permitted Security; or

(iii) given under the Finance Documents.

26.16 Disposals

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other Group Company will) enter into a single transaction or a series of
transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer, licence, surrender, set-off or otherwise dispose of any asset, including tax assets.

(b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal which is:

(i) a Permitted Disposal (including a Material Disposal entered into in accordance with the terms of this Agreement);

(ii) a Permitted Transaction; or

(iii) a disposal giving effect to a Liabilities Acquisition which is permitted by, and as defined in, the Intercreditor Agreement.

26.17 Arm’s length basis

(a) Except as permitted by paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other Group Company will) enter into any transaction with any person except on arm’s length terms and for full market value.

(b) The following transactions shall not be a breach of this Clause 26.17:

(i) intra-Group transactions permitted under Clause 26.18 (Loans or credit);

(ii) fees, costs and expenses payable under the Transaction Documents in the amounts set out in the Transaction Documents delivered to the Agent under Clause 4.1 (Initial conditions precedent) or agreed by the Agent;

(iii) any Permitted Payment;

(iv) any Permitted Transaction;

(v) any loans or guarantees of indebtedness of directors or employees of members of the Group to the extent that such loans or guarantees are a Permitted Loan or a Permitted Guarantee;

(vi) any Permitted Equity Injection; and

(vii) any Liabilities Acquisition which is permitted by, and as defined in, the Intercreditor Agreement.

Restrictions on movement of cash - cash out

26.18 Loans or credit

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other Group Company 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 Transaction; or
26.19 No guarantees or indemnities

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other Group Company will) incur or allow to remain outstanding any guarantee, bond or indemnity in respect of any obligation of any person.

(b) Paragraph (a) does not apply to a guarantee which is:

(i) a Permitted Guarantee; or

(ii) a Permitted Transaction.

26.20 Dividends and share redemption

(a) Except as permitted under paragraph (b) below, the Parent shall not (and will ensure that no other Group Company will):

(i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);

(ii) repay or distribute any dividend or share premium reserve;

(iii) pay or allow any Group Company to pay any management or advisory fee or other amount to or to the order of any of the direct or indirect shareholders of the Parent; or

(iv) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.

(b) Paragraph (a) above does not apply to:

(i) a Permitted Distribution;

(ii) a Permitted Payment; or

(iii) a Permitted Transaction (other than one referred to in paragraph (d) of the definition of that term).

Restrictions on movement of cash - cash in

26.21 Financial Indebtedness

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other Group Company 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.
26.22 Subordinated Debt

No Obligor shall (and the Parent shall ensure that no other Group Company will) declare or make any payment of capital, interest or otherwise in respect of the Subordinated Debt (other than any Permitted Payment) or as otherwise permitted under the Intercreditor Agreement.

26.23 Share capital

No Obligor shall (and the Parent shall ensure that no other Group Company will) issue any shares except:

(a) pursuant to a Permitted Share Issue; or

(b) a Permitted Transaction.

Miscellaneous

26.24 Insurance

(a) Each Obligor shall (and the Parent shall ensure that each other Group Company will) maintain insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.

(b) All insurances must be with reputable independent insurance companies or underwriters.

(c) Without prejudice to the generality of the foregoing, the Parent shall procure that each Regulated Group Company has in place and maintains professional indemnity insurance as required by the Regulatory Rules.

26.25 Pensions

(a) The Parent shall ensure that all pension schemes operated by or maintained for the benefit of members of the Group and/or any of their employees are fully funded based on the statutory funding objective under sections 221 and 222 of the Pensions Act 2004 and that no action or omission is taken by any Group Company in relation to such a pension scheme which has or is reasonably likely to have a Material Adverse Effect (including, without limitation, the termination or commencement of winding-up proceedings of any such pension scheme or any Group Company ceasing to employ any member of such a pension scheme).

(b) The Parent shall ensure that no Group Company is or has been at any time an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993) or “connected” with or an “associate” of (as those terms are used in sections 38 or 43 of the Pensions Act 2004) such an employer.

26.26 Access

If an Event of Default has occurred and is continuing or the Agent reasonably suspects an Event of Default has occurred and is continuing, each Obligor shall, and the Parent shall ensure that each Group Company will, permit the Agent and/or the Security Agent and/or
accountants or other professional advisers and contractors of the Agent or Security Agent free access at all reasonable times and on reasonable notice:

(a) the premises, contracts, books, accounts and records of each relevant Group Company; and

(b) meet and discuss matters with Senior Management,

in each case only to the extent the Agent (acting reasonably) considers it to be necessary to investigate and plan any action in connection with the Event of Default referred to above and provided that all information obtained as a result of such access shall be subject to the confidentiality restrictions set out in this Agreement.

All costs and expenses reasonably incurred by the Agent and/or the Security Agent in connection with the above shall be met by the Parent.

26.27 Service Contracts

(a) The Parent must ensure that there is in place in respect of each Obligor and each Material Company qualified management with appropriate skills.

(b) The Parent shall ensure that the Service Contracts are on arm’s length and normal commercial terms for contracts of this type with qualified management of similar businesses.

26.28 Intellectual Property

(a) Each Obligor shall and the Parent shall procure that each other Group Company will:

(i) preserve and maintain the subsistence and validity of the Intellectual Property necessary for its business;

(ii) use reasonable endeavours (including the institution of legal proceedings) to prevent any infringement in any material respect of the Intellectual Property necessary for its business;

(iii) make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property necessary for its business in full force and effect and record its interest in that Intellectual Property;

(iv) not use or permit the Intellectual Property necessary for its business 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 that Intellectual Property or imperil the right of any Group Company to use such property; and

(v) not discontinue the use of the Intellectual Property necessary for its business, where failure to do so in the case of paragraphs (i) and (ii) above, or, in the case of paragraphs (iii), (iv) and (v) above, such use, permission to use, omission or discontinuation is reasonably likely to have a Material Adverse Effect.

(b) Failure to comply with any part of paragraph (a) above shall not be a breach of this Clause 26.28 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.

26.29 Amendments

(a) No Obligor shall (and the Parent shall ensure that no other Group Company will) amend, vary, novate, supplement, supersede, waive or terminate any term of a Transaction Document or any other document delivered to the Agent pursuant to Clauses 4.1 (Initial conditions precedent) or Clause 30 (Changes to the Obligors) or enter into any agreement with any shareholders of the Parent (other than as set out in the Joint Bidding Agreement or Service Contracts) or any of their Affiliates which is not a Group Company except in writing:

(i) in accordance with Clause 39 (Amendments and waivers);

(ii) to the extent that that amendment, variation, novation, supplement, superseding, waiver or termination is permitted by the Intercreditor Agreement; or

(iii) in a way which:

(iv) could not reasonably be expected to materially and adversely affect the interests of the Lenders or the ranking and/or subordination arrangements provided for in the Intercreditor Agreement or this Agreement; and

(v) would not bring forward the date, increase the amount or method of payment of interest or principal on the Topco Loan Agreement (it being agreed that it will not be a breach of this Agreement if the lender under the Topco Loan Agreement agrees to waive payment of, defer or reduce amounts due to them or convert such debts into shares in the Parent issued on substantially the same terms as those in issue on the Closing Date).

(b) The Parent shall promptly supply to the Agent a copy of any document relating to any of the matters referred to in paragraphs (i) to (ii) above.

26.30 Financial assistance

Each Obligor shall (and the Parent shall procure each other Group Company will) comply in all respects with all relevant financial assistance legislation in relevant jurisdictions including in relation to the execution of the Transaction Security Documents and payment of amounts due under this Agreement.

26.31 Treasury Transactions

No Obligor shall (and the Parent will procure that no other Group Company will) enter into any Treasury Transaction, other than:

(a) the hedging transactions documented by Clause 26.38 (Conditions subsequent);

(b) any Treasury Transaction entered into for the hedging of actual or projected real exposures arising in the ordinary course of trading activities of a Group Company and not for speculative purposes; and

(c) spot and forward delivery foreign exchange contracts entered into in the ordinary course of business and not for speculative purposes.
26.32 **Compliance with Hedging Letter**

The Parent shall ensure that all interest rate hedging arrangements required by the Hedging Letter are implemented in accordance with the terms of the Hedging Letter and that such arrangements are not terminated, varied or cancelled without the consent of the Agent (acting on the instructions of the Majority Lenders), save as permitted by the Intercreditor Agreement.

26.33 **Material Companies**

(a) The Parent shall procure that any entity which becomes a Material Company after the date of this Agreement shall, provided that it is not a Regulated Group Company, become an Additional Guarantor and shall grant Security as contemplated by the Agreed Security Principles in favour of the Security Agent as soon as possible and in any event within 45 days after becoming a Material Company.

(b) The Parent need only perform its obligations under paragraphs (a) and (b) above if it is not unlawful for the relevant person to become a Guarantor and that person becoming a Guarantor would not result in personal liability for that person’s directors or other management. Each Obligor must use, and must procure that the relevant person uses, all reasonable endeavours lawfully available to avoid any such unlawfulness or personal liability. 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.

26.34 **Further assurance**

(a) Subject to the Agreed Security Principles, each Obligor shall (and the Parent shall procure that each other Group Company will) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify and in such form as the Security Agent may reasonably require (in favour of the Security Agent or its nominee(s)) in order to:

(i) perfect or protect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;

(ii) confer on the Security Agent or confer on the Finance Parties, Security over any property and assets of that Obligor located in any jurisdiction which is (to the extent permitted by local law) equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or

(iii) facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.

(b) Subject to the Agreed Security Principles, each Obligor shall (and the Parent shall procure that each other Group Company will) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of
the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.

(c) Subject to the Agreed Security Principles:

(i) each Obligor must use, and must procure that any Group Company that is a Material Company uses the reasonable endeavours lawfully available to it to avoid or mitigate any applicable constraints on that Group Company in respect of the provision of Security; and

(ii) if there is a relaxation in the Regulatory Restrictions in relation to a Regulated Group Company or an improvement in the financial strength of the Group taken as a whole from the Closing Date which means that a Regulated Group Company is able to grant Security to the Security Agent, then the Parent shall procure that any such Regulated Group Company becomes a Guarantor pursuant to paragraph (a) of Clause 30.4 (Additional Guarantors),

provided that, in each case, no Obligor or Group Company that is a Material Company shall be and the Parent shall not be obliged to comply with paragraphs (i) or (ii) above (as applicable) if, in the reasonable opinion of the Parent, to do so may (A) result in the imposition of additional capital requirements or constraints on the relevant Obligor that would reasonably be expected to constrain the business plans of the Parent (in respect of the Group taken as a whole) or that Obligor in any material respect of (B) result in any material prejudice to the operations or prospects of that Obligor, in each case, as a result of compliance with the relevant paragraph.

(d) If Closing does not occur and/or the Availability Period ends without any utilisation of any Facility under this Agreement, the Finance Parties shall, at the request and cost of the Parent (such costs to be reasonable in all circumstances), promptly release the Obligors from their respective obligations under the Transaction Documents that they may have to the Finance Parties, including pursuant to any Transaction Security.

26.35 Regulated Group Companies

(a) Notwithstanding any other provision of this Agreement to the contrary, the Parent shall procure that no Regulated Group Company shall borrow, issue, incur or guarantee any Financial Indebtedness other than:

(i) Financial Indebtedness arising under a Permitted Loan or a Permitted Guarantee granted to it by another Group Company; or

(ii) any Financial Indebtedness incurred in relation to any cash pooling, netting, set-off, overdraft or bank account clearing arrangements entered into in the ordinary course of its banking arrangements.

(b) Notwithstanding any other provision of this Agreement to the contrary, no Obligor shall (and the Parent shall procure that no Group Company (other than a Regulated Group Company) will) subscribe for shares or otherwise invest in any Regulated Group Company or transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Regulated Group Company or maintain the solvency of or provide working capital to any Regulated Group Company (or agree to do any of the foregoing) unless:
(i) such transaction is made in order for such Regulated Group Company to maintain its Regulatory Capital requirements or comply with Applicable Law;

(ii) such transaction is funded from Retained Cashflow or from the proceeds of a Permitted Equity Injection provided for that purpose; or

(iii) the Majority Lenders have given their prior written consent.

(c) The Parent shall promptly provide to the Agent details of any statement in writing made to the Parent or any other Group Company by a Regulatory Authority which:

(i) imposes, or indicates that the Regulatory Authority is considering whether to impose, on a Regulated Group Company any requirement or limitation as regards the exercise by that Regulated Group Company of any Regulatory Authorisation or the performance of any of its business or the treatment of any of its assets where the imposition of the relevant requirement or limitation has, or is reasonably likely to have a Material Adverse Effect;

(ii) varies to the significant detriment of the relevant Regulated Group Company or cancels against the will of the Parent or the relevant Regulated Group Company (or, in each case, indicates that the Regulatory Authority is considering whether to vary or cancel, in such manner any Regulatory Authorisation of any Regulated Group Company); or

(iii) requests, or indicates that the Regulatory Authority is considering whether to request, any Regulated Group Company to apply for the imposition of a requirement or limitation as regards the exercise by such Regulated Group Company of any Regulatory Authorisation or the performance of any of its business or the treatment of any of its assets, where the imposition of the relevant requirement or limitation has, or is reasonably likely to have a Material Adverse Effect.

26.36 Offer undertakings

In the case of an Offer:

(a) The Company shall:

(i) ensure that the Offer Press Release, the Offer Document (other than information relating to the Target and its subsidiaries), all other documents issued by it or on its behalf in connection with the Offer and the conduct of the Offer comply in all material respects with the Takeover Code (subject to any waivers granted by the Panel) and all applicable laws and regulations having the force of law and the Company shall use reasonable endeavours to ensure that the Target has undertaken a verification exercise in relation to information for which Target’s directors are responsible in the Offer Document; and

(ii) except as required by the Parent, a court of competent jurisdiction or any other regulatory body, not, without the prior written consent of the Majority Lenders, treat as satisfied or waiver any material regulatory or anti-trust condition to the Offer, if the failure to fulfil such condition would result in
the Company being entitled to lapse the Offer under Rule 13.5(a) of the Takeover Code.

(b) The Company shall deliver to the Agent copies of each Offer Press Release, the Offer Document and all other material announcements and documents issued by it or, to the extent that it receives copies thereof, issued by the Target pursuant to the Offer, and all other material documents or statements issued by the Panel and any other regulatory authority received by the Company in relation to the Acquisition where such documents or statements could reasonably be expected to be material to the Lenders, in each case to the extent that it is able to do so in compliance with applicable laws and regulations and any obligations of confidentiality binding on it.

(c) The Company shall on a weekly basis, and to the extent that it is able to do so in compliance with applicable laws and regulations and any obligations of confidentiality binding on it, keep the Agent updated as to the progress of the Offer and acceptances thereunder.

(d) The Company shall, to the extent that it is able to do so in compliance with applicable laws and regulations and any obligations of confidentiality binding on it, keep the Agent informed as to any material developments in relation to the Acquisition, including notifying the Agent (i) if the Offer has become or been declared unconditional as to acceptances or wholly unconditional and (ii) if the Offer has lapsed (and the Company does not intend to reinstate it), been withdrawn or otherwise terminated.

(e) The Company shall not without the prior consent of the Majority Lenders:

(i) take or permit to be taken any step as a result of which any increase in the amount of cash payable by it in respect of each Target Share is required to be made or otherwise increase the cash consideration payable by it in respect of each Target Share except to the extent such increase is to be funded entirely (directly or indirectly) by the Original Obligors own resources or by amounts made available under Facility A for the purpose as set out in Clause 3.1(a) (Purpose); or

(ii) take any action or omit to take any action which will result in it becoming obliged to make a mandatory offer under Rule 9 of the Takeover Code.

(f) The Company shall promptly after becoming entitled so to do:

(i) exercise the “Drag Authority” (as defined in the Offer Press Release) granted to it in accordance with the terms of the Offer Document and the articles of association of the Target, as adopted by the shareholders of the Target on 13 October 2015 to acquire all remaining shares in the Target which have not already assented to the Offer; or

(ii) exercise its rights in respect of Squeeze-Out and ensure Squeeze-Out Notices are delivered to the relevant holders of shares in the Target in accordance with the requirement of the Companies Act 2006 and provide to the Agent a copy of the notice and statutory declaration referred to in paragraphs (a) and (b) of section 980 of the Companies Act 2006.
26.37 PSC Register

To the extent, in each case, where failure to comply, issue, provide, permit or notify would have or would reasonably likely to have a Material Adverse Effect and invalidate or prejudice the validity, legality and/or enforceability of such Transaction Security:

(a) each Obligor incorporated in England & Wales (an “English Obligor”) shall (and the Parent shall ensure that each other Group Company incorporated in England & Wales (an “English Group Company”) will) promptly:

(i) notify the Agent and the Security Agent of its intention to issue, or its receipt of, any warning notice or restrictions notice under Schedule 1B of the Companies Act 2006 in respect of any shares which are subject to Transaction Security; and

(ii) provide to the Agent and the Security Agent a copy of any such warning notice or restrictions notice,

in each case before it issues, or after it receives, any such notice; and

(b) no English Obligor shall (and the Parent shall ensure that no other English Group Company will) do anything, or permit anything to be done, which could result in any other person becoming a PSC Registrable Person in respect of a company whose shares are subject to Transaction Security or require that company to issue a notice under sections 7900 or 790E, or a warning or restrictions notice under Schedule 1B, of the Companies Act 2006.

For the purposes of withdrawing any restrictions notice or for any application (or similar) to the court under Schedule 1B of the Companies Act 2006, each English Obligor shall (and the Parent shall ensure that each other English Group Company will) provide such assistance as the Security Agent may reasonably request in respect of any shares which are subject to Transaction Security and provide the Security Agent with all information, documents and evidence that it may reasonably request in connection with the same.

26.38 Conditions subsequent

(a) The Parent shall procure that as soon as reasonably practicable and in any event within 15 Business Days following the Closing Date, it will:

(i) deliver a signed stock transfer form evidencing the transfer of the entire issued share capital of the Target to the Company to HMRC along with the appropriate amount of stamp duty for stamping; and

(ii) deliver a signed stock transfer form evidencing the Acquisition to HMRC along with the appropriate amount of stamp duty for stamping.

(b) As soon as reasonably practicable and in any event within 10 Business Days of receipt of the stamped stock transfer form from HMRC, the Parent shall procure that it delivers to the Security Agent:

(i) a certified copy of the register of members for the Target showing the Company as the legal owner of the entire issued share capital in the Target; and
(ii) the share certificates evidencing the shareholding of the Company in the Target.

(c) The Parent shall procure that as soon as reasonably practicable and, in any event, not less than 20 Business Days prior to the first date on which the Parent’s Auditors are to provide a Compliance Certificate, the Parent shall deliver to the Agent a letter of engagement from the Auditors with the Finance Parties.

(d) The Parent shall procure that as soon as reasonably practicable and, in any event, no later than the date falling 90 days after the first date on which the Screen Rate for three year LIBOR on that date is equal to or more than 1.00 per cent. per annum, the Original Borrower and/or another Borrower enters into Hedging Agreement(s) in accordance with the Hedging Letter.

(e) The Parent shall supply to the Agent prior to the first date on which a report is required to be delivered by the Auditors pursuant to paragraph (c) of Clause 24.2 (Provisions and contents of Compliance Certificate) together with confirmation from the Auditors that it can be relied upon by the Finance Parties.

(f) The Parent shall, no later than the first date on which the Parent is required to pay any amount into a Mandatory Prepayment Account pursuant to Clause 11.4 (Mandatory Prepayment Accounts), deliver to the Agent a letter from the Parent to the Agent specifying the Mandatory Prepayment Account, including details of each account name, account number and the name and address of the bank (which shall be an Acceptable Bank) where each account is held, together with evidence that any notices required to be served to such bank pursuant to the Transaction Security Documents have been served.

(g) The Parent shall procure that as soon as reasonably practicable and in any event within 60 days of the Closing Date, it will enter into Service Contracts with Senior Management in a form approved by the Lenders (acting reasonably).

27. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 27 is an Event of Default (save for Clause 27.19 (Acceleration)).

27.1 Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document in the manner in which it is expressed to be payable unless:

(a) its failure to pay is caused by:

   (i) administrative or technical error by a bank; or

   (ii) a Disruption Event,

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

(b) its failure to pay is in respect of Borrowings outstanding under an Ancillary Facility where a Revolving Facility Loan is available and can be borrowed to refinance such Borrowings in accordance with this Agreement and, that such refinancing by way of Revolving Facility Loan occurs within five Business Days of such failure to pay.
27.2 Financial covenants and other obligations

(a) Any requirement of Clause 25 (Financial covenants) is not satisfied (subject to the exercise of equity cure rights referred to in Clause 25.4 (Equity Cure) or an Obligor does not comply with the provision of Clauses 24.1 (Financial statements), 24.2 (Provisions and contents of Compliance Certificate) or 24.4(a) (Budget).

(b) An Obligor fails to comply with the provisions of Clause 26.6 (Sanctions) and, if capable of remedy, it is not remedied within 10 Business Days.

27.3 Other obligations

(a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 27.1 (Non-payment) and Clause 27.2(b) (Financial covenants and other obligations)).

(b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 20 Business Days after the earlier of (i) the Agent giving notice to the Parent or relevant Obligor and (ii) the Parent or an Obligor becoming aware of the failure to comply.

27.4 Misrepresentation

(a) Any representation, warranty or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading when made or deemed to be made.

(b) No Event of Default under paragraph (a) above will occur if the circumstances giving rise to the misrepresentation and the consequences of such misrepresentation are capable of remedy and are remedied within 20 Business Days of the earlier of (i) the Agent giving notice to the Parent or (ii) the relevant Obligor or any Group Company becoming aware of the misrepresentation.

27.5 Cross default

(a) Any Financial Indebtedness of any Group Company is not paid when due nor within any originally applicable grace period.

(b) Any Financial Indebtedness of any Group 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 of any Group Company is cancelled or suspended by a creditor of any Group Company as a result of an event of default (however described).

(d) Any creditor of any Group Company becomes entitled to declare any Financial Indebtedness of any Group 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 27.5 if:
(i) the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than £250,000 (or its Base Currency Equivalent);

(ii) the Financial Indebtedness is Subordinated Debt or is subject to the Intercreditor Agreement; or

(iii) any event falling within paragraphs (a) to (d) above is in respect of Financial Indebtedness arising under an Ancillary Facility where a Revolving Loan is available and can be borrowed to refinance such Financial Indebtedness in accordance with the terms of this Agreement, and such refinancing by way of Revolving Loan occurs within five Business Days of the relevant event.

27.6 Insolvency

(a) A Material Company or an Obligor:

(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; or

(iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party in its capacity as such) with a view to rescheduling any of its indebtedness.

(b) The value of the assets of any Material Company or Obligor is less than its liabilities (taking into account contingent and prospective liabilities) and as a result the relevant Group Company is obliged to cease trading.

(c) A moratorium is declared in respect of any indebtedness of any Material Company or any Obligor. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

27.7 Insolvency proceedings

(a) Any corporate action, legal proceedings or other formal procedure or step is taken in relation to:

(i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Group Company;

(ii) a composition, compromise, assignment or arrangement with any creditor of any Material Company or any Obligor;

(iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Material Company or any Obligor or any of its respective assets; or

(iv) enforcement of any Security over any assets of any Material Company or any Obligor with an aggregate value of £250,000 (or its Base Currency Equivalent) or more,
or any analogous procedure or step is taken in any jurisdiction.

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

(i) any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed before it is advertised and in any event within 14 days of commencement; or

(ii) any step or procedure contemplated by paragraph (b) of the definition of Permitted Transaction.

27.8 Creditors’ process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a Material Company or an Obligor having an aggregate value of £250,000 (or its Base Currency Equivalent) or more and is not discharged within 14 days.

27.9 Unlawfulness and invalidity

(a) Subject to Legal Reservations and Perfection Requirements it is or becomes unlawful for an Obligor or, any other Group Company that is party to the Intercreditor Agreement, to perform any of its obligations under the Finance Documents or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective or any subordination created under the Intercreditor Agreement is or becomes unlawful.

(b) Any obligation or obligations of any Obligor under any Finance Document or any Group Company under the Intercreditor Agreement are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents.

(c) Subject to Legal Reservations and Perfection Requirements any material part of a Finance Document ceases to be in full force and effect or any Transaction Security or any subordination created under the Intercreditor Agreement ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective.

27.10 Intercreditor Agreement

(a) Any party to the Intercreditor Agreement (other than a Finance Party or an Obligor) fails to comply with the material provisions of, or does not perform its obligations under, the Intercreditor Agreement; or

(b) a representation or warranty given by that party in the Intercreditor Agreement is incorrect in any material respect,

and, if the non-compliance 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.
27.11 Cessation of business

Any Material Company or Obligor suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business except as a result of a disposal which is a Permitted Disposal or a Permitted Transaction which is contemplated in paragraphs (a), (b) or (c) of the definition of that term.

27.12 Change of ownership

(a) After the Closing Date, an Original Obligor (other than the Parent) ceases to be a wholly-owned Subsidiary of the Parent; or

(b) an Obligor ceases to own at least the same percentage of shares in a Material Company as it owns in that Material Company on the Closing Date.

except in either case, as a result of a disposal which is a Permitted Disposal or a Permitted Transaction.

27.13 Audit qualification

Save for technical or minor adjustments, the Auditors qualify their report on any audited consolidated financial statement of the Group on the basis of non-disclosure or any inability to prepare accounts on a going concern basis.

27.14 Expropriation

The authority or ability of any Obligor 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 Group Company or any of its assets which limitation or curtailment (taking into consideration any compensation or payment received in respect thereof) has, or is reasonably likely to have, a Material Adverse Effect.

27.15 Repudiation and rescission of agreements

(a) An Obligor (or any other relevant party) rescinds or purports in writing to rescind or repudiates or purports to repudiate a Finance Document or any of the Transaction Security or evidences in writing an intention to rescind or repudiate a Finance Document or any Transaction Security.

(b) Any party to the Joint Bidding Agreement or the Intercreditor Agreement (other than a Finance Party) rescinds or purports in writing to rescind or repudiates or purports to repudiate any of those agreements or instruments in whole or in part where to do so has or is, in the reasonable opinion of the Majority Lenders, likely to have a material adverse effect on the interests of the Lenders under the Finance Documents.

27.16 Litigation

Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened in writing in relation to the Transaction Documents or the transactions contemplated in the Transaction Documents or against any Group Company or its assets which, in any case, is reasonably likely to be adversely determined and, if so adversely determined, is reasonably likely to have a Material Adverse Effect.
27.17 Regulatory compliance

Any Regulated Group Company loses any Regulatory Authorisation required to conduct its business or any such Regulatory Authorisation is wholly or partially suspended and such suspension is not remedied within 20 Business Days of the date of its occurrence. For the avoidance of doubt, no Event of Default shall occur under this Clause 27.17 to the extent a Regulated Group Company voluntarily surrenders, or allows to lapse or expire, any Regulatory Authorisation which it no longer requires to conduct its business.

27.18 Material adverse change

Any event or circumstance occurs which has or is reasonably likely to have a Material Adverse Effect.

27.19 Acceleration

Subject to clause 27.21 (Clean-up period) 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, by notice to the Parent:

(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 Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable;

(c) declare that all or part of the Loans 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 all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities to be immediately due and payable, at which time they shall become immediately due and payable;

(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.

27.20 Revolving Facility Lenders Acceleration

Subject to Clause 27.21 (Clean-up period) and the terms of the Intercreditor Agreement, on and at any time after the occurrence of a Material Event of Default which is continuing, the Agent shall, if so directed by the Majority Revolving Facility Lenders, by notice to the Parent:

(a) deliver a Super Senior Enforcement Notice to the Security Agent in accordance with the terms of the Intercreditor Agreement (a copy of which the Agent shall also deliver to each Lender);

(b) cancel all or part of the Revolving Facility Commitments and/or Ancillary Commitments at which time they shall immediately be cancelled;
(c) declare that all or part of the Revolving Facility Loans (if any), together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents in respect of the Revolving Facility be immediately due and payable, at which time they shall become immediately due and payable;

(d) declare that all or part of the Revolving Facility Loans (if any) be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Revolving Facility Lenders;

(e) declare all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities to be immediately due and payable, at which time they shall become immediately due and payable;

(f) declare that all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Revolving Facility Lenders; and/or

(g) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents,

27.21 Clean-up period

Notwithstanding any other provision of any Finance Document, any breach of a representation or warranty made or deemed to have been made or repeated under Clause 23 (Representations), a breach of covenant or an Event of Default will be deemed not to be a breach of representation or warranty, a breach of covenant or an Event of Default only by reason of circumstances relating exclusively to any member to the Target Group (or any obligation to procure or ensure in relation to a member of the Target Group) (in the case of the Acquisition) or (in the case of an acquisition permitted under and in accordance with paragraph (e) of the definition of “Permitted Acquisition”, an “Acquisition Target”) the Acquisition Target or any other person, undertaking or business which is the direct or indirect subject of the relevant acquisition (or any obligation to procure or ensure in relation to the Acquisition Target or any such other person, undertaking or business);

(a) it would have been (if it were not for this provision) a breach of representation or warranty, a breach of covenant or an Event of Default only by reason of circumstances relating exclusively to any member to the Target Group (or any obligation to procure or ensure in relation to a member of the Target Group) (in the case of the Acquisition) or (in the case of an acquisition permitted under and in accordance with paragraph (e) of the definition of “Permitted Acquisition” any Group Company); and

(b) it is capable of remedy and reasonable steps are being taken to remedy it;

(c) the circumstances giving rise to it have not been procured by or approved by the Parent, or any Investor (in the case of the Acquisition) or (in the case of the acquisition permitted under and in accordance with the paragraph (e) of the definition of “Permitted Acquisition” any Group Company); and

(d) it is not reasonably likely to have a Material Adverse Effect.

If the relevant circumstances are continuing on or after the Clean-up Date, there shall be a breach of representation or warranty, breach of covenant or Event of Default, notwithstanding the above (and without prejudice to the rights and remedies of the Finance Parties). This Clause shall not prejudice the rights of the Finance Parties in respect of any other Event of Default.
SECTION 9

CHANGES TO PARTIES

28. CHANGES TO THE LENDERS

28.1 Assignments and transfers by the Lenders

Subject to this Clause 28 and to Clause 29 (Restriction on Debt Purchase Transactions), a Lender (the “Existing Lender”) may:

(a) assign any of its rights; or

(b) transfer by novation any of its rights and obligations,

under any Finance Document to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the “New Lender”).

28.2 Conditions of assignment, Transfer or Sub-Participation

(a) An Existing Lender must obtain the prior consent of the Original Borrower or the Parent (not to be unreasonably withheld or delayed and consent shall be deemed given if no response is received by the Existing Lender within 5 Business Days of consent being requested) before it may make an assignment, sub-participation (but only where voting rights are transferred) or transfer in accordance with Clause 28.1 (Assignments and transfers by the Lenders) unless the assignment, transfer or sub-participation is:

(i) to another Lender or an Affiliate of a Lender;

(ii) if the Existing Lender is a fund, to a fund which is a Related Fund of the Existing Lender;

(iii) to an entity on the Approved List; or

(iv) made at a time when an Event of Default is continuing.

(b) It is acknowledged by the Parties that it would be reasonable to withhold the Parent or the Original Borrower’s Consent if the proposed transferee is:

(i) a competitor, supplier or sub-contractor of any Group Company in any of the material activities of the Group;

(ii) a competitor of an Investor engaging in private equity or venture capital equity funding; or

(iii) any person that it is an Affiliate of or is acting (in relation to the Facilities) on behalf of a person who falls within Clauses (i) or (ii) above.

(c) Each assignment or transfer of any Lender’s participation other than to an Affiliate or a Related Fund shall be in a minimum amount of £2,000,000 unless the assignment or transfer is of the whole of that Lender’s participation under this Agreement.

(d) An assignment will only be effective on:
(i) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Senior 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 to the Intercreditor Agreement (which requirement would, without limitation, be satisfied on completion of an assignment using the form of Assignment Agreement attached as Schedule 5 (Form of Assignment Agreement)); and

(iii) the performance by the Agent (to the extent it thinks fit) 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.

(e) Any assignment or transfer by a Lender of rights and/or obligations (by whatever method) will be deemed to be subject (to the extent possible) to the rights and restrictions contained in the Intercreditor Agreement applicable to the Senior Lenders (as defined in the Intercreditor Agreement). If the New Lender is not already a party to the Intercreditor Agreement as a Senior Lender, then (for the benefit of the Senior Finance Parties) the New Lender agrees to become, with effect from the Transfer Date, a party to and agrees to be bound by the terms of the Intercreditor Agreement as if it had originally been party to the Intercreditor Agreement as a Senior Lender.

(f) 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 (which requirement would, without limitation, be satisfied on completion of a transfer using the form of Transfer Certificate attached as Schedule 4 (Form of Transfer Certificate)) and if the procedure set out in Clause 28.5 (Procedure for transfer) is complied with.

(g) If:

(i) a Lender assigns or transfers any of its rights or obligations under the Senior Finance Documents or changes its Facility Office; and

(ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 18.1(a) (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.

(h) 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.
28.3 Assignment or transfer fee

Unless the Agent otherwise agrees and excluding an assignment or transfer:

(a) to an Affiliate of a Lender;

(b) to a fund which is a Related Fund of the relevant Existing Lender; or

(c) made in connection with primary syndication of the Facilities,

the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of £2,500.

28.4 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 any Obligor or any other Group Company of its obligations under the Transaction Documents or any other documents; or

(iv) the accuracy of any statements (whether written or oral) made in or in connection with any Transaction Document or any other document,

and any representations or warranties implied by law are excluded.

(b) Each New 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 reassignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 28; 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.
28.5 Procedure for transfer

(a) Subject to the conditions set out in Clause 28.2 (Conditions of assignment, Transfer or Sub-Participation) a transfer is effected in accordance with paragraph (b) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.

(b) The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.

(c) On the Transfer Date:

(i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights, benefits 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 and benefits against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other Group Company and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

(iii) the Agent, the Arranger, the Security Agent, the New Lender, the other Lenders and any relevant Ancillary Lender shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Arranger, the Security Agent and any relevant Ancillary Lender and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

(iv) the New Lender shall become a Party as a “Lender”.

28.6 Procedure for assignment

(a) Subject to the conditions set out in Clause 28.2 (Conditions of assignment, Transfer or Sub-Participation) an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply
with the terms of this Agreement and delivered in accordance with the terms of this
Agreement, execute that Assignment Agreement.

(b) The Agent shall only be obliged to execute an Assignment Agreement delivered to it
by the Existing Lender and the New Lender once it is satisfied it has complied with
all necessary “know your customer” or other similar checks under all applicable laws
and regulations in relation to the assignment to such New Lender.

c) On the Transfer Date:

(i) the Existing Lender will assign absolutely to the New Lender its rights under
the Finance Documents and in respect of the Transaction Security expressed
to be the subject of the assignment in the Assignment Agreement;

(ii) the Existing Lender will be released from the obligations (the “Relevant
Obligations”) expressed to be the subject of the release in the Assignment
Agreement (and any corresponding obligations by which it is bound in
respect of the Transaction Security); and

(iii) the New Lender shall become a Party as a “Lender” and will be bound by
obligations equivalent to the Relevant Obligations.

d) Lenders may utilise procedures other than those set out in this Clause 28.6 to assign
their rights under the Finance Documents (but not, without the consent of the relevant
Obligor or unless in accordance with Clause 28.5 (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 28.2 (Conditions of assignment, Transfer or Sub-
Participation).

28.7 Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to
Parent

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate
or an Assignment Agreement or Increase Confirmation, send to the Parent a copy of that
Transfer Certificate or Assignment Agreement or Increase Confirmation.

28.8 Accession of Hedge Counterparties

Any person which becomes a party to the Intercreditor Agreement as a Hedge Counterparty
shall, at the same time, become a Party to this Agreement as a Hedge Counterparty in
accordance with Clause 19.9 (Creditor Accession Undertaking) of the Intercreditor
Agreement.

28.9 Accession of Revolving Facility Lender

Any person which agrees with the Parent to take all, but not part of the Revolving Facility
Commitments pursuant to the terms of this Agreement (as at the date of this Agreement)
shall, on or before it becomes a Party as a “Lender”, accede to the Intercreditor Agreement
and this Agreement in accordance with Clause 19.9 (Creditor Accession Undertaking) of the
Intercreditor Agreement (which the Security Agent and all other existing Finance Parties shall
be deemed to accept).
28.10 Security Interests over Lenders’ rights

In addition to the other rights provided to Lenders under this Clause 28, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

(a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and

(b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities, except that no such charge, assignment or Security shall:

(i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or 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.

29. RESTRICTION ON DEBT PURCHASE TRANSACTIONS

29.1 Permitted Debt Purchase Transactions

(a) The Parent shall not, and shall procure that each other Group Company shall not:

(i) enter into any Debt Purchase Transaction other than in accordance with the other provisions of this Clause 29; or

(ii) (1) beneficially own all or any part of the share capital of a company that is a Lender or (2) be 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.

(b) A Borrower may purchase by way of assignment pursuant to Clause 28 (Changes to the Lenders) a participation in any Loan in respect of which it is the borrower and any related Commitment where:

(i) such purchase is made for a consideration of less than par;

(ii) such purchase is made using one of the processes set out at paragraphs (c) and (d) below;

(iii) such purchase is made at a time when no Default is continuing; and

(iv) the consideration for such purchase is funded from (1) that part of Excess Cashflow for the Financial Year of the Parent immediately preceding the Financial Year of the Parent in which such purchase is to be made which is not required to be applied in prepayment of the Facilities pursuant to the other terms of this Agreement or (2) New Equity.
(c)

(i) A Debt Purchase Transaction referred to in paragraph (b) above may be entered into pursuant to a solicitation process (a “Solicitation Process”) which is carried out as follows.

(ii) Prior to 11.00 am on a given Business Day (the “Solicitation Day”) the Parent or a financial institution acting on its behalf (the “Purchase Agent”) will approach at the same time each Lender which participates in Facility A to enable them to offer to sell to the relevant Borrower(s) an amount of their participation in Facility A. Any Lender wishing to make such an offer shall, by 11.00 am on the second Business Day following such Solicitation Day, communicate to the Purchase Agent details of the amount of its participation it is offering to sell and the price at which it is offering to sell such participation. Any such offer shall be irrevocable until 11.00 am on the third Business Day following such Solicitation Day and shall be capable of acceptance by the Parent on behalf of the relevant Borrower(s) on or before such time by communicating its acceptance in writing to the Purchase Agent or, if it is the Purchase Agent, the relevant Lenders. The Purchase Agent (if someone other than the Parent) will communicate to the relevant Lenders which offers have been accepted by 12 noon on the third Business Day following such Solicitation Day. In any event by 5.00 pm on the fourth Business Day following such Solicitation Date, the Parent shall notify the Agent of the amounts of the participations purchased through the relevant Solicitation Process, the identity of Facility A to which they relate and the average price paid for the purchase of participations in Facility A. The Agent shall promptly disclose such information to the Lenders.

(iii) Any purchase of participations in Facility A pursuant to a Solicitation Process shall be completed and settled on or before the fifth Business Day after the relevant Solicitation Day.

(iv) In accepting any offers made pursuant to a Solicitation Process the Parent shall be free to select which offers and in which amounts it accepts but on the basis that in relation to a participation in Facility A it accepts offers in inverse order of the price offered (with the offer or offers at the lowest price being accepted first) and that if in respect of participations in Facility A it receives two or more offers at the same price it shall only accept such offers on a pro rata basis.

(d)

(i) A Debt Purchase Transaction referred to in paragraph (b) above may also be entered into pursuant to an open order process (an “Open Order Process”) which is carried out as follows.

(ii) The Parent (on behalf of the relevant Borrower(s)) may by itself or through another Purchase Agent place an open order (an “Open Order”) to purchase participations in Facility A up to a set aggregate amount at a set price by notifying at the same time all the Lenders participating in Facility A of the same. Any Lender wishing to sell pursuant to an Open Order will, by 11.00 am on any Business Day following the date on which the Open Order is placed but no earlier than the first Business Day, and no later than the fifth Business Day, following the date on which the Open Order is placed,
communicate to the Purchase Agent details of the amount of its participations it is offering to sell. Any such offer to sell shall be irrevocable until 11.00 am on the Business Day following the date of such offer from the Lender and shall be capable of acceptance by the Parent on behalf of the relevant Borrower(s) on or before such time by it communicating such acceptance in writing to the relevant Lender.

(iii) Any purchase of participations in Facility A pursuant to an Open Order Process shall be completed and settled by the relevant Borrower(s) on or before the fourth Business Day after the date of the relevant offer by a Lender to sell under the relevant Open Order.

(iv) If in respect of participations in Facility A the Purchase Agent receives on the same Business Day two or more offers at the set price such that the maximum amount of Facility A to which an Open Order relates would be exceeded, the Parent shall only accept such offers on a pro rata basis.

(v) The Parent shall, by 5.00 pm on the sixth Business Day following the date on which an Open Order is placed, notify the Agent of the amounts of the participations purchased through such Open Order Process and the identity of Facility A to which they relate. The Agent shall promptly disclose such information to the Lenders.

(e) For the avoidance of doubt, there is no limit on the number of occasions a Solicitation Process or an Open Order Process may be implemented.

(f) In relation to any Debt Purchase Transaction entered into pursuant to this Clause 29.1, notwithstanding any other term of this Agreement or the other Finance Documents:

(i) on completion of the relevant assignment pursuant to Clause 28 (Changes to the Lenders), the portions of the Facility A Loans to which it relates shall be extinguished;

(ii) such Debt Purchase Transaction and the related extinguishment referred to in paragraph (i) above shall not constitute a prepayment of the Facilities;

(iii) the Borrower which is the assignee shall be deemed to be an entity which fulfils the requirements of Clause 28.1 (Assignments and transfers by the Lenders) to be a New Lender;

(iv) no Group Company shall be deemed to be in breach of any provision of Clause 26 (General Undertakings) solely by reason of such Debt Purchase Transaction;

(v) Clause 32 (Sharing among the Finance Parties) shall not be applicable to the consideration paid under such Debt Purchase Transaction; and

(vi) for the avoidance of doubt, any extinguishment of any part of the Facility A Loans shall not affect any amendment or waiver which prior to such extinguishment had been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement.

159
29.2 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:

in ascertaining:

(iii) the Majority Lenders, the Majority Revolving Facility Lenders or the Incremental Facility Majority Lenders; or

(iv) whether:

(A) any given percentage (including unanimity) of the Total Commitments; or

(B) the agreement of any specified group of Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents such Commitment shall be deemed to be zero and such Sponsor Affiliate or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Lender for the purposes of paragraphs (i) and (ii) 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 11 (Forms of Notifiable Debt Purchase Transaction 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 11 (Forms of Notifiable Debt Purchase Transaction 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
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.

29.3 Sponsor Affiliates’ 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 5.00pm 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.

30. CHANGES TO THE OBLIGORS

30.1 Assignment and transfers by Obligors

No Obligor or any other Group Company may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

30.2 Additional Borrowers

(a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 24.11 (“Know your customer” checks), the Parent may request that any of its wholly owned Subsidiaries which is not a Dormant Subsidiary becomes a Borrower. That Subsidiary shall become a Borrower if:

(i) all the Lenders approve the addition of that Subsidiary unless it is incorporated in the same jurisdiction as an existing Borrower where the Majority Lenders (or in respect of the Revolving Facility, the Majority Revolving Facility Lenders) are deemed to have approved the addition of that Subsidiary;

(ii) the Parent and that Subsidiary deliver to the Agent a duly completed and executed Accession Deed;

(iii) the Subsidiary is (or becomes) a Guarantor prior to becoming a Borrower;

(iv) the Parent confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and

(v) the 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.

(b) The Agent shall notify the Parent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence referred to in sub-paragraph (a)(iv) of this Clause.

(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.
30.3 Resignation of a Borrower

(a) In this Clause 30.3, Clause 30.5 (Resignation of a Guarantor) and Clause 30.7 (Resignation and Release of Security on Disposal), “Third Party Disposal” means the disposal of an Obligor to a person which is not a Group Company where that disposal is permitted under Clause 26.16 (Disposals) or made with the approval of the Majority Lenders (and the Parent has confirmed this is the case).

(b) If a Borrower is the subject of a Third Party Disposal, the Parent may request that such Borrower (other than the Parent) ceases to be a Borrower by delivering to the Agent a Resignation Letter.

(c) The Agent shall accept a Resignation Letter and notify the Parent and the other Finance Parties of its acceptance if:

(i) the Parent has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;

(ii) the Borrower is under no actual or contingent obligations as a Borrower under any Finance Documents;

(iii) where the Borrower is also a Guarantor (unless its resignation has been accepted in accordance with Clause 30.5 (Resignation of a Guarantor)), its obligations in its capacity as Guarantor continue to be legal, valid, binding and enforceable and in full force and effect (subject to the Legal Reservations) and the amount guaranteed by it as a Guarantor is not decreased (and the Parent has confirmed this is the case); and

(iv) the Parent has confirmed that (if appropriate) it shall ensure that any relevant Disposal Proceeds will be applied in accordance with Clause 11.2 (Disposal, Insurance, Flotation and Acquisition Proceeds).

(d) Upon notification by the Agent to the Parent of its acceptance of the resignation of a Borrower, that company shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents as a Borrower except that the resignation shall not take effect (and the Borrower will continue to have rights and obligations under the Finance Documents) until the date on which the Third Party Disposal takes effect.

(e) The Agent may, at the cost and expense of the Parent, require a legal opinion from counsel to the Agent confirming the matters set out in paragraph (c)(iii) above and 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.

30.4 Additional Guarantors

(a) Subject to compliance with the provisions of paragraphs (b) and (c) of Clause 24.11 (“Know your customer” checks), the Parent may request that any of its wholly owned subsidiaries become a Guarantor.

(b) The Parent shall procure that any other Group Company which is a Material Company (but which is not a Regulated Group Company) and subject to the Agreed Security Principles, shall, as soon as possible and in any event within 45 days after
becoming a Material Company, become an Additional Guarantor and grant such Security as the Agent may require and shall accede to the Intercreditor Agreement.

(c) A Group Company shall become an Additional Guarantor if:

(i) the Parent and the proposed Obligor 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 Obligor, each in form and substance satisfactory to the Agent.

(d) The Agent shall notify the Parent and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part 2 of Schedule 2 (Conditions precedent).

30.5 Resignation of a Guarantor

(a) The Parent may request that a Guarantor (other than the Parent) 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 30.3 (Resignation of a Borrower)) and the Parent has confirmed this is the case; or

(ii) all the Lenders have consented to the resignation of that Guarantor.

(b) Subject to Clause 20.13(a) (Resignation of a Debtor) of the Intercreditor Agreement, the Agent shall accept a Resignation Letter and notify the Parent and the Lenders of its acceptance if:

(i) the Parent has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;

(ii) no payment is due from the Guarantor under Clause 22 (Guarantee and Indemnity);

(iii) where the Guarantor is also a Borrower, it is under no actual or contingent obligations as a Borrower and has resigned and ceased to be a Borrower under Clause 30.3 (Resignation of a Borrower); and

(iv) the Parent has confirmed that it shall ensure that the Disposal Proceeds will be applied in accordance with Clause 11.3 (Application of prepayments and cancellations) (if appropriate).

(c) The resignation of that Guarantor shall not be effective until the date of the relevant Third Party Disposal at which time that company shall cease to be a Guarantor and shall have no further rights or obligations under the Finance Documents as a Guarantor.

30.6 Repetition of representations

Delivery of an Accession Deed constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in paragraph (e) of Clause 23.34 (Times when
representations made) are true and correct in relation to it as at the date of delivery as if made
by reference to the facts and circumstances then existing.

30.7  Resignation and Release of Security on Disposal

(a)  If a Borrower or Guarantor is or is proposed to be the subject of a Third Party
Disposal then:

(i)  where that Borrower or Guarantor created Transaction Security over any of
its assets or business in favour of the Security Agent, or Transaction Security
in favour of the Security Agent was created over the shares (or equivalent) of
that Borrower or Guarantor, the Security Agent may, at the request and cost
of the Parent, release those assets, business or shares (or equivalent) and issue
certificates of non-crystallisation; and

(ii)  any resignation of that Borrower or Guarantor and related release of
Transaction Security referred to in paragraph (a) above shall become
effective only on the making of that disposal.

(b)  If a Group Company disposes of any asset to a person which is not a Group Company
where that disposal is permitted under Clause 26.16 (Disposals) (including with the
approval of the Majority Lenders) the Security Agent will at the request and cost of
the Parent, release those assets from the Transaction Security and issue any certificate
of non-crystallisation of any floating charge that will, in the absolute discretion of the
Security Agent, be considered necessary or desirable.

SECTION 10
THE FINANCE PARTIES


31.1  Appointment of the Agent

(a)  Each of the Arranger and the Lenders appoints the Agent to act as its agent under and
in connection with the Finance Documents (other than the Hedging Agreements).

(b)  Each of the Arranger 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.

31.2  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 Incremental Facility Majority Lenders if the relevant Finance Document stipulates the matter is an Incremental Facility 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.

31.3 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 28.7 (Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Parent), paragraph (b) above shall not apply to any Transfer Certificate, any Assignment Agreement or any Increase Confirmation.
(d) Except where a Finance Document specifically provides otherwise, the 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. The Agent is not obliged to monitor or enquire whether a Default has occurred.

(f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent, the 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).

31.4 Role of the Arranger

(a) Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

(b) None of the Agent, the Arranger or any Ancillary Lender shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

31.5 Business with the Group

The Agent, the Arranger and each Ancillary Lender may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

31.6 No fiduciary duties

(a) Nothing in any Finance Document constitutes the Agent or the Arranger as a trustee or fiduciary of any other person.

(b) None of the Agent or the Arranger shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

31.7 Business with the Group

The Agent and the Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Group Company.

31.8 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 paragraphs (b) or (c) of Clause 29.2 (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, Majority Revolving Facility 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 (i) 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 27.1 (Non-payment));

(ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised;

(iii) any notice or request made by the Parent (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors; and

(iv) no Notifiable Debt Purchase Transaction:

(A) has been entered into;

(B) has been terminated; or

(C) has ceased to be with a Sponsor Affiliate.

(c) The Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.

(d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be 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:

(i) may disclose; and

(ii) on the written request of the Parent or the Majority Lenders shall, as soon as reasonably practicable, disclose, the identity of a Defaulting Lender to the Parent and to the other Finance Parties.

(i) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent or the Arranger is obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

(j) Notwithstanding any provision of any Finance Document to the contrary, the 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.

31.9 Majority Lenders’ instructions

(a) Unless a contrary indication appears in a Finance Document, the Agent shall:

(i) 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 the Lenders if the relevant Finance Document stipulates the matter is an all Lender decision;

(B) the Majority Revolving Facility Lenders in accordance with Clause 27.20 (Revolving Facility Lenders Acceleration) or if the relevant Finance Document stipulates that the matter is a Revolving Facility Consent Provision; and

(C) in all other cases, the Majority Lenders; and

(b) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with Clause 31.9(a) above.
(c) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders (as applicable) will be binding on all the Finance Parties other than the Security Agent.

(d) The Agent may refrain from acting in accordance with the instructions of the Lenders (or, if appropriate the Majority Lenders) until it has received such indemnification and/or security as it may in its discretion (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

(e) 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 those instructions or that clarification.

(f) 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 Finance Parties and will be binding on all Finance Parties save for the Security Agent.

(g) In the absence of instructions from the Lenders (or, if appropriate the Majority Lenders), the Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.

(h) 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 Clause 31.9(h) 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.

31.10 Responsibility for documentation

None of the Agent, the Arranger or any Ancillary Lender is responsible or liable for:

(a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, the Arranger, an Ancillary Lender, an Obligor or any other person in or in connection with any Finance Document or the Reports or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security; or

(c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.
31.11 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.

31.12 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 be liable (including, without limitation, for negligence or any other category of liability whatsoever) for:

(i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct;

(ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Transaction Security; or

(iii) without prejudice to the generality of 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:

(iv) any act, event or circumstance not reasonably within its control; or

(v) 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 (as applicable)) 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 or any Transaction Document and any officer, employee or agent of the Agent or any Ancillary Lender may rely on this
Clause subject to Clause 1.4 *(Third party rights)* and the provisions of the Third Parties Act.

(c) Nothing in this Agreement shall oblige the Agent or the Arranger to carry out:

(i) any “know your customer” or other checks in relation to any person; or

(ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender,

on behalf of any Lender and each Lender confirms to the Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Arranger.

(d) 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.

31.13 **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 33.7 *(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 Parent shall immediately on 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.

31.14 **Resignation of the Agent**

(a) The Agent may resign and appoint one of its Affiliates acting through an office in the UK as successor by giving notice to the Lenders and the Parent.
(b) Alternatively the Agent may resign by giving 30 days’ notice to the Lenders and the Parent, in which case the Majority Lenders (after consultation with the Parent) may appoint a successor Agent.

(c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Agent (after consultation with the Parent) may appoint a successor Agent acting through an office in the UK.

(d) If the Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Agent is entitled to appoint a successor Agent under paragraph (c) above, the Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent to become a party to this Agreement as Agent) agree with the proposed successor Agent amendments to this Clause 31 and any other term of this Agreement dealing with the rights or obligations of the Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this Agreement which are consistent with the successor Agent’s normal fee rates and those amendments will bind the Parties.

(e) The retiring Agent at its own cost 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 Parent shall, within three 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.

(f) The Agent’s resignation notice shall only take effect upon the appointment of a successor.

(g) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of Clause 19.3 (Indemnity to the Agent) and this Clause 31 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

(h) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (c) above) if on or after the date which is three 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 17.8 (FATCA Information) and 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 17.8 (\textit{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 Parent and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) the Parent or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and the Parent or that Lender, by notice to the Agent, requires it to resign.

31.15 Replacement of the Agent

(a) After consultation with the Parent, the Majority Lenders may, by giving 30 days’ notice to the Agent (or, at any time whilst 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 Clause 19.3 \textit{(Indemnity to the Agent)} and this Clause 31 (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.

31.16 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.

31.17 Relationship with the Lenders

(a) The Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent’s principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
(i) entitled to or liable for any payment due under any Finance Document on that day; and

(ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five 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 dispatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 35.6 (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 (or such other information), fax number, electronic mail address, department and officer by that Lender for the purposes of Clause 35.2 (Addresses) and paragraph (a)(ii) of Clause 35.6 (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.

31.18 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 and each Lender and Ancillary Lender confirms to the Agent, the Arranger and each Ancillary Lender that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each Group Company;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

(c) whether that Lender or Ancillary Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

(d) the adequacy, accuracy or completeness of the Reports and any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
(e) the right or title of any person in or to, or the value or sufficiency of any part of the
Charged Property, the priority of any of the Transaction Security or the existence of
any Security affecting the Charged Property.

31.19 Reliance and engagement letters

Each Finance Party and Secured Party confirms that each of the Arranger and the Agent has
authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or
reports already accepted by the Arranger or Agent) the terms of any reliance letter or
engagement letters relating to the Reports or any reports or letters provided by accountants in
connection with the Finance Documents or the transactions contemplated in the Finance
Documents and to bind it in respect of those Reports, reports or letters and to sign such letters
on its behalf and further confirms that it accepts the terms and qualifications set out in such
letters.

31.20 Role of Base Reference Banks

(a) No Base Reference Bank is under any obligation to provide a quotation or any other
information to the Agent.

(b) No Base Reference Bank will be liable for any action taken by it under or in
connection with any Finance Document, or for any Reference Bank Quotation, unless
directly caused by its gross negligence or wilful misconduct.

(c) No Party (other than the relevant Base Reference Bank) may take any proceedings
against any officer, employee or agent of any Base Reference Bank in respect of any
claim it might have against that Base Reference Bank or in respect of any act or
omission of any kind by that officer, employee or agent in relation to any Finance
Document, or to any Reference Bank Quotation, and any officer, employee or agent
of each Base Reference Bank may rely on this Clause 31.9 subject to Clause 1.4
(Third party rights) and the provisions of the Third Parties Act.

31.21 Third party Base Reference Banks

A Base Reference Bank which is not a Party may rely on Clause 31.20 (Role of Base
Reference Banks), paragraph (a) of Clause 39.5 (Other exceptions) and Clause 41
(Confidentiality of Funding rates and Reference Bank Quotations) subject to Clause 1.4
(Third party rights) and the provisions of the Third Parties Act.

31.22 Conduct of business by the Finance Parties

No provision of any 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.
32. SHARING AMONG THE FINANCE PARTIES

32.1 Payments to Finance Parties

(a) If a Finance Party (a “Recovering Finance Party”) receives or recovers any amount from an Obligor other than in accordance with Clause 33 (Payment mechanics) (a “Recovered Amount”) and applies that amount to a payment due under the Finance Documents then:

(i) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;

(ii) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid if distributed in accordance with Clause 33 (Payment mechanics); and

(iii) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the other Lender as directed by 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.

(b) Paragraph (a) above shall not apply to any amount received or recovered by an Ancillary Lender in respect of any cash cover provided for the benefit of that Ancillary Lender.

32.2 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 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.

32.3 Exceptions

(a) This Clause 32 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor except where that would be inconsistent with the terms of the Intercreditor Agreement.

(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.

32.4 Ancillary Lenders

(a) This Clause 32 shall not apply to any receipt or recovery by a Lender in its capacity as an Ancillary Lender at any time prior to service of notice under Clause 27.19 (Acceleration).

(b) Following service of notice under Clause 27.19 (Acceleration), this Clause 32 shall apply to all receipts or recoveries by Ancillary Lenders except to the extent that the receipt or recovery represents a reduction of Permitted Gross Outstandings of a Multi-account Overdraft to or towards an amount equal to its Designated Net Amount.

SECTION II

ADMINISTRATION

33. PAYMENT MECHANICS

33.1 Payments

On each date on which an Obligor is required to make a payment under a Finance Document, excluding a payment under the terms of an Ancillary Document, that Obligor shall ensure that such payment is made directly to the party to whom the payment is owed.

33.2 Partial payments

(a) If there is insufficient funding available to the Obligors to discharge all the amounts then due and payable by an Obligor under any Finance Documents, payments should be made in the following order:

(i) **first**, in or towards payment *pro rata* of any unpaid amount owing to the Agent or the Security Agent under those Finance Documents;

(ii) **secondly**, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under those Finance Documents; and

(iii) **thirdly**, in or towards payment *pro rata* of any principal due but unpaid under those Finance Documents.

(b) The Agent shall, if so directed by the Majority Lenders and Majority Revolving Facility Lenders, vary the order set out in paragraphs (a)(ii) to (a)(iii) above.

(c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

33.3 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.
33.4 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.

33.5 Currency of account

(a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.

(b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated, pursuant to this Agreement, on its due date.

(c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated, pursuant to this Agreement, when that interest accrued.

(d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

33.6 Change of currency

(a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Parent); and

(ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).

(b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Parent) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

33.7 Disruption to Payment Systems etc.

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Parent that a Disruption Event has occurred:
(a) the Agent may, and shall if requested to do so by the Parent, consult with the Parent with a view to agreeing with the Parent such changes to the operation or administration of the Facilities as the Agent may deem necessary in the circumstances;

(b) the Agent shall not be obliged to consult with the Parent in relation to any changes mentioned in paragraph (a) if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;

(c) the Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;

(d) any such changes agreed upon by the Agent and the Parent shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 39 (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 33.7; and

(f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

34. SET-OFF

(a) Whilst an Event of Default is continuing, a Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. 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. No security interest is created by this Clause 34.

(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.

35. NOTICES

35.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

35.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:
(a) in the case of the Parent, the Company or the Original Borrower, 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, fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days’ notice.

35.3 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 35.2 (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 Parent in accordance with this Clause 35.3 will be deemed to have been made or delivered to each of the Obligors or any other Group Company party to a Finance Document.

(e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

35.4 Notification of address and fax number

Promptly upon changing its address or fax number, the Agent shall notify the other Parties.

35.5 Communication when Agent is Impaired Agent

If the Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Agent, communicate with each other directly and (while the Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Agent has been appointed.
35.6 Electronic communication

(a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:

(i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and

(ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days’ notice.

(b) Any such electronic communication as specified in paragraph (a) above to be made between an Obligor and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.

(c) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the 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 which becomes effective, in accordance with paragraph (c) above, after 5:00 pm in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.

(e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 35.6.

35.7 Use of websites

(a) The Parent may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the “Website Lenders”) who accept this method of communication by posting this information onto an electronic website designated by the Parent and the Agent (the “Designated Website”) if:

(i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;

(ii) both the Parent and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and

(iii) the information is in a printable format or otherwise capable of being downloaded by the relevant Website Lender and is in a format previously agreed between the Parent and the Agent.

If any Lender (a “Paper Form Lender”) does not agree to the delivery of information electronically then the Agent shall notify the Parent accordingly and the Parent shall at its own cost supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Parent shall at its own
cost supply the Agent with at least one copy in paper form of any information required to be provided by it.

(b) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Parent and the Agent.

(c) The Parent shall promptly upon becoming aware of its occurrence notify the Agent if:

(i) the Designated Website cannot be accessed due to technical failure;

(ii) the password specifications for the Designated Website change;

(iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;

(iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

(v) the Parent becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Parent notifies the Agent under sub-paragraph (c)(i) or sub-paragraph (c)(v) above, all information to be provided by the Parent under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

(d) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Parent shall at its own cost comply with any such request within ten Business Days.

35.8 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.

36. CALCULATIONS AND CERTIFICATES

36.1 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.
36.2 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.

36.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.

37. PARTIAL INVALIDITY

If, at any time, any provision of any 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.

38. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Secured Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document. No election to affirm any Finance Document on the part of any Finance Party or Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

39. AMENDMENTS AND WAIVERS

39.1 Intercreditor Agreement

This Clause 39 is subject to the terms of the Intercreditor Agreement.

39.2 Required consents

(a) Subject to Clause 39.3 (All Lender matters) and Clause 39.5 (Other exceptions), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Parent and any such amendment or waiver will be binding on all Parties.

(b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 39.

(c) Without prejudice to the generality of paragraphs (c), (d) and (e) of Clause 31.8 (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 39 which is agreed to by the Parent. This includes any amendment or waiver which would, but for this paragraph (d), require the consent of all of the Guarantors.
39.3 All Lender matters

Subject to Clause 39.5 (Other exceptions), an amendment, waiver or (in the case of a Transaction Security Document) a consent of, or in relation to, any term of any Finance Document that has the effect of changing or which relates to:

(a) the definition of “Majority Lenders”, “Majority Revolving Facility Lenders” or “Incremental Facility Majority Lenders” in Clause 1.1 (Definitions);

(b) an extension to the date of payment of any amount under the Finance Documents (other than in relation to Clause 11.2 (Disposal, Insurance, Flotation and Acquisition Proceeds));

(c) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable (other than as a result of any amendment or change to the recovery and application of proceeds under Clause 11.2 (Disposal, Insurance, Flotation and Acquisition Proceeds));

(d) a change in currency of payment of any amount under the Finance Documents;

(e) an increase in 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;

(f) a change to the Borrowers or Guarantors other than in accordance with Clause 30 (Changes to the Obligors);

(g) any provision which expressly requires the consent of all the Lenders;

(h) Clause 2.4 (Finance Parties’ rights and obligations), Clause 11 (Mandatory Prepayment and Cancellation) (except for Clause 11.2 (Disposal, Insurance, Flotation and Acquisition Proceeds), Clause 12.9 (Application of prepayments), Clause 28 (Changes to the Lenders), this Clause 39, Clause 44 (Governing law) or Clause 45.1 (Jurisdiction of English courts);

(i) (other than as expressly permitted by the provisions of any Finance Document) the nature or scope of:

   (i) the guarantee and indemnity granted under Clause 22 (Guarantee and Indemnity);

   (ii) the Charged Property; or

   (iii) the manner in which the proceeds of enforcement of the Transaction Security are distributed

   (except in the case of paragraphs (ii) and (iii) above, insofar as it relates 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);

(j) the release of any guarantee and indemnity granted under Clause 22 (Guarantee and Indemnity) or of any Transaction Security 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; or

(k) any amendment to the order of priority or subordination under the Intercreditor Agreement,

shall not be made, or given, without the prior consent of all the Lenders.

39.4 Agreed List

(a) Subject to paragraphs (b) and (c) below, the Agreed List may be amended with the prior written consent of the Agent (acting on the instruction of the Majority Lenders and the Majority Revolving Facility Lenders) and the Parent provided that the number of banks and financial institutions on the Agreed List is not reduced at any time.

(b) The Parent may, subject to giving five Business Days prior notice to the Agent, in its sole discretion:

(i) add any new person to the Agreed List at any time;

(ii) remove up to three persons from the Agreed List per Financial Year (but no more than five in aggregate during the life of the Facilities) provided that the Parent shall simultaneously add a new person (chosen by the Parent in its sole discretion) to the Agreed List in place of each person removed; and

(iii) remove a potential transferee name from the Agreed List where such potential transferee has been acquired by, has merged with or has otherwise combined its operations with, a person who is not included in the Agreed List.

(c) Any person included in the Agreed List who has been acquired by, has merged with or has otherwise combined its operations with not on the Agreed List or an affiliate of such person shall become considered as not included on the Agreed List.

(d) A Lender may at any time notify the Parent of the details of any entity it wishes to be added to the Agreed List. The addition of any such entities will be subject to the consent (such consent not to be unreasonably withheld) of the Parent.

(e) Any entity consented to by the Parent as a permitted transferee or assignee under Clause 28.2 (Conditions of assignment, Transfer or Sub-Participation) shall be automatically added to the Agreed List.

(f) For the avoidance of doubt, an amendment to the Agreed List will be without prejudice to the effect of any assignment or transfer which is made in accordance with Clause 28 (Changes to the Lenders) prior to the date of such amendment.

(g) The Agent shall make available the Agreed List for review by a Lender or a prospective New Lender at its request for the purposes of verifying of such Lender’s compliance with the provisions of this agreement.

39.5 Other exceptions

(a) An amendment or waiver which relates to the rights or obligations of the Agent, the 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, the
Arranger, the Security Agent, that Ancillary Lender or that Hedge Counterparty as the case may be.

(b) Any amendment or waiver which:

(i) relates only to the rights or obligations applicable to a particular Loan, Facility or class of Lender; and

(ii) does not adversely affect the rights or interests of Lenders in respect of any other Loan or Facility or another class of Lender,

may be made in accordance with this Clause 39 but as if references in this Clause 39 to the specified proportion of Lenders (including, for the avoidance of doubt, all the Lenders) whose consent would, but for this paragraph (b), be required for that amendment or waiver were to that proportion of the Lenders participating in that particular Loan or Facility or forming part of that particular class.

(c) an amendment or waiver or a consent of, or in relation to, any term of any Finance Document that has the effect of waiving or changing a Revolving Facility Consent Provision shall not be made or given, without the prior consent of the Majority Lenders and the Majority Revolving Facility Lenders.

(d) An Event of Default or Default may be waived with the consent of the Majority Lenders (and in the case of a Material Event of Default only, the Majority Revolving Facility Lenders), provided that an Event of Default arising under Clause 27.1 (Non-payment) may not be waived without the consent of each Lender to which the relevant overdue payment is still owing. Any notice, demand, declaration or other step or action taken under or pursuant to Clause 27.19 (Acceleration) may be revoked with the consent of the Majority Lenders (or in relation to Clause 27.20 (Revolving Facility Lenders Acceleration) may be revoked with the consent of the Majority Revolving Facility Lenders).

39.6 Excluded Commitments

If:

(a) any Defaulting Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of Lenders under the terms of this Agreement within 15 Business Days of that request being made; or

(b) any Lender which is not a Defaulting Lender fails to respond to such a request (other than an amendment, waiver or consent referred to in paragraphs (b), (c) and (e) of Clause 39.3 (All Lender matters)) or other or such a vote within 15 Business Days of that request being made,

(unless, in either case, the Parent and the Agent agree to a longer time period in relation to any request):

(i) its Commitment(s) shall not be included for the purpose of calculating the Total Commitments under the relevant Facility/ies when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request; and
(ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

39.7 Replacement of Lender

(a) If:

(i) any Lender becomes a Non-Consenting Lender (as defined in paragraph (f) below); or

(ii) an Obligor becomes obliged to repay any amount in accordance with Clause 10.1 (Illegality) or to pay additional amounts pursuant to Clause 18.1 (Increased Costs), Clause 17.2 (Tax gross-up) or Clause 17.3 (Tax Indemnity) to any Lender,

then the Parent may, on 10 Business Days’ prior written notice to the Agent and such Lender, replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 28 (Changes to the Lenders) all (and not part only) of its rights and obligations under this Agreement to a Lender or other bank, financial institution, trust, fund or other entity (a “Replacement Lender”) selected by the Parent which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 28 (Changes to the Lenders) for a purchase price in cash payable at the time of transfer in an amount equal to the outstanding principal amount of such Lender’s participation in the outstanding Loans and all accrued interest, Break Costs and other amounts accrued on/or due under the Finance Documents to such lender.

(b) The right of prepayment or replacement pursuant to this Clause 39.7 shall be subject to the following conditions:

(i) the Parent shall have no right to replace the Agent or Security Agent;

(ii) neither the Agent nor the Lender shall have any obligation to the Parent to find a Replacement Lender;

(iii) in the event of a prepayment in relation to a Non-Consenting Lender such prepayment must take place no later than 60 days after the date on which that Lender is deemed a Non-Consenting Lender, and

(iv) in no event shall the Lender which receives a prepayment under Clause 39.7 be required to pay or surrender to any party any of the fees received by such Lender pursuant to the Finance Documents.

(c) A Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to that transfer. A Lender shall perform those checks as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Parent when it is satisfied that it has complied with those checks.

(d) Subject to paragraph (e) below, if at any time any Lender becomes a Non-Consenting Lender, the Parent may, on not less than 10 Business Days’ prior written notice to the
Agent and that Lender, prepay that Lender’s participation in all (and not part only) of the Utilisations and cancel all (and not part only) of that Lender’s Commitments.

(e)  Prepayments made under this clause:

(i) will be at par and will include all accrued interest, fees, Break Costs and other amounts payable in relation thereto under the Finance Documents;

(ii) may be made only out of the proceeds of a Permitted Equity Injection made expressly for that purpose or out of Unrestricted Cash.

(f)  In the event that:

(i) the Parent or the Agent (at the request of the Parent) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents;

(ii) the consent, waiver or amendment in question requires the approval of all the Lenders; and

(iii) Lenders whose Commitments aggregate in the case of a consent, waiver or amendment requiring the approval of all the Lenders, more than 85 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 85 per cent. of the Total Commitments prior to that reduction) have consented or agreed to such waiver or amendment, then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a “Non-Consenting Lender”.

39.8 Disenfranchise of Defaulting Lenders

(a) For so long as a Defaulting Lender has any Available Commitment, in ascertaining:

(i) the Majority Lenders, the Majority Revolving Facility Lenders or the Incremental Facility Majority Lenders; or

(ii) whether:

(A) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments under the relevant Facility/ies; or

(B) the agreement of any specified group of Lenders,

has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents, that Defaulting Lender’s Commitments under the relevant Facility/ies will be reduced by the amount of its Available Commitments under the relevant Facility/ies and, to the extent that that reduction results in that Defaulting Lender’s Total Commitments being zero, that Defaulting Lender shall be deemed not to be a Lender for the purposes of paragraphs (i) and (ii) above.

(b) For the purposes of this Clause 39.8, the Agent may assume that the following Lenders are Defaulting Lenders:
(i) any Lender which has notified the Agent that it has become a Defaulting Lender;

(ii) any Lender in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a) or (b) 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.

39.9 Replacement of a Defaulting Lender

(a) The Parent may, at any time a Lender has become and continues to be a Defaulting Lender, by giving 5 Business Days’ prior written notice to the Agent and such Lender:

(i) replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 28 (Changes to the Lenders) all (and not part only) of its rights and obligations under this Agreement;

(ii) require such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 28 (Changes to the Lenders) all (and not part only) of the undrawn Revolving Facility Commitment of the Lender; or

(iii) require such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 28 (Changes to the Lenders) all (and not part only) of its rights and obligations in respect of the Revolving Facility, to a Lender or other bank, financial institution, trust, fund or other entity (a “Replacement Lender”) selected by the Parent which confirms its willingness to assume and does assume all the obligations, or all the relevant obligations, of the transferring Lender in accordance with Clause 28 (Changes to the Lenders) for a purchase price in cash payable at the time of transfer which is either:

(iv) in an amount equal to the outstanding principal amount of such Lender’s participation in the outstanding Loans and all accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents; or

(v) in an amount agreed between that Defaulting Lender, the Replacement Lender and the Parent and which does not exceed the amount described in paragraph (i) above.

(b) Any transfer of rights and obligations of a Defaulting Lender pursuant to this Clause 39.9 shall be subject to the following conditions:

(i) the Parent shall have no right to replace the Agent or Security Agent;

(ii) neither the Agent nor the Defaulting Lender shall have any obligation to the Parent to find a Replacement Lender;

(iii) the transfer must take place no later than 90 days after the notice referred to in paragraph (a) above;
(iv) in no event shall the Defaulting Lender be required to pay or surrender to the Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Finance Documents; and

(v) the Defaulting Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to that transfer to the Replacement Lender.

(c) The Defaulting Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Parent when it is satisfied that it has complied with those checks.

40. CONFIDENTIAL INFORMATION

40.1 Confidentiality

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 40.2 (Disclosure of Confidential Information) and Clause 40.3 (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.

40.2 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, investors and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

(b) to any person:

(i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent or Security Agent and, in each case, to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;

(ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;
(iii) appointed by any Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;

(iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;

(v) to whom information is required or requested to be disclosed by any court of competent jurisdiction, any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;

(vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;

(vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 28.10 (Security Interests over Lenders’ rights);

(viii) who is a Party; or

(ix) with the consent of the Parent;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

(A) in relation to paragraphs (b)(i), (b)(ii) and (b)(iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;

(B) in relation to paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;

(C) in relation to paragraphs (b)(v), (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances; and

(c) to any person appointed by that Finance Party or by a person to whom sub paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service
provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Parent and the relevant Finance Party; and

(d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

40.3 Disclosure to numbering service providers

(a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facilities and/or one or more Obligors the following information:

(i) names of Obligors;

(ii) country of domicile of Obligors;

(iii) place of incorporation of Obligors;

(iv) date of this Agreement;

(v) Clause 44 (Governing law);

(vi) the names of the Agent and the Arranger;

(vii) date of each amendment and restatement of this Agreement;

(viii) amounts of, and names of, the Facilities (and any tranches);

(ix) amount of Total Commitments;

(x) currencies of the Facilities;

(xi) type of Facilities;

(xii) ranking of Facilities;

(xiii) Termination Date for Facilities;

(xiv) changes to any of the information previously supplied pursuant to paragraphs (i) to (xiii) above; and

(xv) such other information agreed between such Finance Party and the Parent, to enable such numbering service provider to provide its usual syndicated loan numbering identification services.
(b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

(c) The Agent shall notify the Parent and the other Finance Parties of:

(i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facilities 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.

40.4 Entire agreement

This Clause 40 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.

40.5 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.

40.6 Notification of disclosure

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Parent of the circumstances of any disclosure by it of Confidential Information made pursuant to sub paragraph (b)(v) of Clause 40.2 (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.

40.7 Continuing obligations

The obligations in this Clause 40 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.
41. CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS

41.1 Confidentiality and disclosure

(a) The Agent and each Obligor agree to keep each Funding Rate (and, in the case of the Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c) and (d) below.

(b) The Agent may disclose:

(i) any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to the relevant Borrower pursuant to Clause 13.4 (Notification of rates of Interest); and

(ii) any Funding Rate or any Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Agent and the relevant Lender or Base Reference Bank, as the case may be.

(c) The Agent may disclose any Funding Rate or any Reference Bank Quotation, and each Obligor may disclose any Funding Rate, to:

(i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;

(ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;

(iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the
opinion of the Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and

(iv) any person with the consent of the relevant Lender or Base Reference Bank, as the case may be.

(d) The Agent’s obligations in this Clause 41 relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 13.4 (Notification of rates of Interest) provided that (other than pursuant to paragraph (b)(i) above) the Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.

41.2 Related obligations

(a) The Agent and each Obligor acknowledge that each Funding Rate (and, in the case of the Agent, each Reference Bank Quotation) is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and each Obligor undertake not to use any Funding Rate or, in the case of the Agent, any Reference Bank Quotation for any unlawful purpose.

(b) The Agent and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender or Base Reference Bank, as the case may be:

(i) of the circumstances of any disclosure made pursuant to paragraph (c)(ii) of Clause 41.1 (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 41.

41.3 No Event of Default

No Event of Default will occur under Clause 27.3 (Other obligations) by reason only of an Obligor’s failure to comply with this Clause 41.

42. DISCLOSURE OF LENDER DETAILS BY AGENT

42.1 Supply of Lender details to Parent

The Agent shall provide to the Parent, within 5 Business Days of a request by the Parent (but no more frequently than once per calendar month), a list (which may be in electronic form) setting out the names of the Lenders as at the date of that request, their respective Commitments, the address and fax number (and the department or officer, if any, for whose attention any communication is to be made) of each Lender for any communication to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the 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.
42.2 Supply of Lender details at Parent’s direction

(a) The Agent shall, at the request of the Parent, disclose the identity of the Lenders and the details of the Lenders’ Commitments to any:

(i) other Party or any other person if that disclosure is made to facilitate, in each case, a refinancing of the Financial Indebtedness arising under the Finance Documents or a material waiver or amendment of any term of any Finance Document; and

(ii) Group Company.

(b) Subject to paragraph (c) below, the Parent 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.

42.3 Supply of Lender details to other Lenders

(a) If a Lender (a “Disclosing Lender”) indicates to the Agent that the Agent may 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.

42.4 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) a Finance Party 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.

42.5 Lender details definitions

In this Clause 42:

“Investment Grade Rating” means, in relation to an entity, a rating for its long-term unsecured and non credit-enhanced debt obligations of BBB- or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody’s Investors Service Limited or a comparable rating from an internationally recognised credit rating agency.
“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).

43. 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.

SECTION 12

GOVERNING LAW AND ENFORCEMENT

44. GOVERNING LAW

This Agreement and all non-contractual obligations arising in any way whatsoever out of or in connection with this Agreement shall be governed by, construed and take effect in accordance with English law.

45. ENFORCEMENT

45.1 Jurisdiction of English courts

(a) The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way whatsoever out of or in connection with the Finance Documents expressed to be governed by English law (including a dispute regarding the existence, validity or termination of any Finance Document or any claim for set-off) or the legal relationships established by any Finance Document (a “Dispute”), only where such Dispute is the subject of proceedings commenced by an Obligor.

(b) Where a Dispute is the subject of proceedings commenced by one or more Finance Parties, the Finance Parties are entitled to bring such proceedings in any court or courts of competent jurisdiction (including but not limited to the courts of England). If any Obligor raises a counter-claim in the context of proceedings commenced by one or more Finance Parties, that Obligor shall bring such counter-claim before the court seized of the Finance Party’s claim and no other court.

(c) The commencement of legal proceedings in one or more jurisdictions shall not, to the extent allowed by law, preclude the Finance Parties from commencing legal actions or proceedings in any other jurisdiction, whether concurrently or not.

(d) To the extent allowed by law, each Obligor irrevocably waives any objection it may now or hereafter have on any grounds whatsoever to the laying of venue of any legal proceeding, and any claim it may now or hereafter have that any such legal proceeding has been brought in an inappropriate or inconvenient forum.

45.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):
(a) irrevocably appoints the Original Borrower at its registered office at the date of this Agreement (or such other address in England and Wales as the Original Borrower may notify to the Agent in writing) as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document (and the Original Borrower by its execution of this Agreement, accepts that appointment); and

(b) agrees that failure by an agent for service of process to notify the relevant Obligor of the process will not invalidate the proceedings concerned; and

(c) if any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Parent (on behalf of all the Obligors) must immediately (and in any event within 10 days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.

The Parent expressly agrees and consents to the provisions of Clause 44 (Governing law) and of Clause 45 (Enforcement).

45.3 Waiver of immunity

Each Obligor (to the fullest extent permitted by law) irrevocably and unconditionally:

(a) agrees not to claim any immunity from proceedings brought against it by any Finance Party in relation to any Finance Document, and to ensure that no such claim is made on its behalf;

(b) waives all rights of immunity in respect of it or its assets; and

(c) consents generally in respect of such proceedings to the giving of relief or the issue of any process in connection with such proceedings.

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

### Part 1 - The Original Obligors

<table>
<thead>
<tr>
<th>Name of Original Borrower</th>
<th>Registration number (or equivalent, if any) and Original Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regit Finco Limited</td>
<td>10700999, England &amp; Wales</td>
</tr>
<tr>
<td>Regit Holdco Limited</td>
<td>123561, Jersey</td>
</tr>
<tr>
<td>Regit Finco Limited</td>
<td>10700999, England &amp; Wales</td>
</tr>
<tr>
<td>Regit Bidco Limited</td>
<td>123560, Jersey</td>
</tr>
</tbody>
</table>

### Part 2 - The Original Lenders

<table>
<thead>
<tr>
<th>Name of Original Lender</th>
<th>Facility Commitment</th>
<th>A Revolving Facility Commitment</th>
<th>Treaty Scheme Number and jurisdiction of tax residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>European Capital UK SME Debt SARL</td>
<td>£12,134,000</td>
<td>None</td>
<td>48/E/365378/ DTTP, Luxembourg</td>
</tr>
<tr>
<td>European Capital Private Debt SARL</td>
<td>£6,066,000</td>
<td>None</td>
<td>48/E/366323/ DTTP, Luxembourg</td>
</tr>
<tr>
<td>To be confirmed on accession of Revolving Facility Lender to the Facilities Agreement</td>
<td>None</td>
<td>£2,500,000</td>
<td>To be confirmed on accession of Revolving Facility Lender to the Facilities Agreement.</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>£18,200,000</strong></td>
<td><strong>£2,500,000</strong></td>
<td></td>
</tr>
</tbody>
</table>
SCHEDULE 2: CONDITIONS PRECEDENT

Part 1A - Conditions precedent to signing of the Agreement

1. Obligors

(a) A copy of the Constitutional Documents and of the constitutional documents of each other Original Obligor and Topco.

(b) A copy of a resolution of the board of directors of each Original Obligor and Topco:

(i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party;

(ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request and Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and

(iv) in the case of the Original Borrower, authorising the Parent to act as its agent in connection with the Finance Documents.

(c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (a) above in relation to the Finance Documents and related documents.

(d) A copy of a resolution signed by all the holders of the issued shares of each Original Obligor approving the terms of, and the transactions contemplated by, the Finance Documents to which such Original Obligor is a party.

(e) A certificate of the Parent (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on any Original Obligor to be exceeded.

(f) A certificate of an authorised signatory of the Parent certifying that each copy document relating to it specified in this Part 1A of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement.

2. Transaction Documents

A copy of each of the Joint Bidding Agreement and the other Transaction Documents (other than the Finance Documents, the Offer Document and the Service Contracts) executed by the parties to those documents.

3. Finance Documents

(a) A copy of the Intercreditor Agreement executed by the parties thereto.

(b) This Agreement executed by the Original Obligors.
(c) The Fee Letters executed by the Parent.

(d) The Hedging Letter executed by the Parent.

(e) At least two originals of each of the following Transaction Security Documents executed by the Original Obligors specified below opposite the relevant Transaction Security Document:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Borrower</td>
<td>A debenture</td>
<td>English law</td>
<td></td>
</tr>
<tr>
<td>Company</td>
<td>A debenture</td>
<td>English law</td>
<td></td>
</tr>
<tr>
<td></td>
<td>A security interest</td>
<td>Jersey law</td>
<td></td>
</tr>
<tr>
<td></td>
<td>agreement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parent</td>
<td>A security interest</td>
<td>Jersey law</td>
<td></td>
</tr>
<tr>
<td></td>
<td>agreement</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>A debenture</td>
<td>English law</td>
<td></td>
</tr>
</tbody>
</table>

(f) A copy of all notices required to be sent under the Transaction Security Documents as of the date of such Transaction Security Documents executed by the relevant Original Obligors.

(g) Originals of all share certificates, transfers and stock transfer forms (all stock transfer forms in respect of the Original Obligors to be executed, in the case of the stock transfer form in respect of the shares of the Company, by one director of the Parent and, in the case of the stock transfer form in respect of the shares in the Original Borrower, by one director but in each case with the sections relating to the consideration and the transferee left blank) or equivalent, duly executed by the relevant Original Obligor in relation to the assets subject to or expressed to be subject to the Transaction Security as of the date of such Transaction Security Documents and other documents of title to be provided under the Transaction Security Documents as of the date of such Transaction Security Documents.

(h) If the relevant Original Obligor is not incorporated in England and Wales or Scotland, such documentary evidence as legal counsel to the Agent may require, that such Original Obligor has complied with any law in its jurisdiction relating to financial assistance or analogous process.

(i) Signed consent letters for the purposes of registration of financing statements in relation to the security interests listed at 3(e) above on the register of security interests maintained pursuant to part 8 of the Security Interests (Jersey) Law 2012.

4. **Legal opinions**

The following legal opinions, each addressed to the Agent, the Security Agent and the Original Lenders:
(a) a legal opinion of Proskauer Rose (UK) LLP, legal advisers to the Agent and the Arranger as to English law; and

(b) a legal opinion of Bedell Cristin Jersey Partnership, legal advisers to the Agent and the Arranger as to Jersey law,

each substantially in the form distributed to the Original Lenders prior to signing this Agreement.

5. Other documents and evidence

(a) The Agreed List, initialled by a director of the Parent.

(b) The Group Structure Chart which shows the Group assuming the Closing Date has occurred and that steps 1 to 14 of the Structure Memorandum have completed.

(c) The Base Case Model.

(d) Copies of each of the Reports and the letters setting out the terms on which the Finance Parties are entitled to rely on each of the Reports.

(e) A copy, certified by an authorised signatory of the Parent to be a true copy, of the financial statements of the Target Group for the monthly period ending April 2017 and the annual period ending April 2016.

(f) A certificate signed by an authorised signatory of the Parent confirming which companies within the Group (assuming the Closing Date will occur) are Regulated Group Companies.

(g) In respect of the Original Borrower, either:

(i) a certificate of an authorised signatory of the Parent certifying that:

(A) the Original Borrower has complied within the relevant timeframe with any notice it has received pursuant to Part 21A of the Companies Act 2006 from the Original Borrower; and

(B) no “warning notice” or “restrictions notice” (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of those shares,

together with a copy of the “PSC register” (within the meaning of section 790C(10) of the Companies Act 2006) the Original Borrower, is certified by an authorised signatory of the Parent to be correct, complete and not amended or superseded as at a date no earlier than the date of this Agreement; or

(ii) a certificate of an authorised signatory of the Original Borrower certifying that such Charged Company is not required to comply with Part 21A of the Companies Act 2006.

(h) The Report Recoveries Letter.

(i) A draft funds flow statement in a form agreed by the Parent and the Agent detailing the proposed movement of funds on or before the Closing Date.
(j) Any information and evidence in respect of any Obligor or Investor required by any
Finance Party to enable it to be satisfied with the results of all “know your customer”
or other checks which it is required to carry out in relation to such person.

**Part 1B - Conditions precedent to initial Utilisation**

1. **Offer Certificate**

A certificate of an authorised signatory of the Company certifying that:

(a) the Unconditional Date has occurred and specifying the date on which the
Unconditional Date occurred; and

(b) except as required by the Parent, a court of competent jurisdiction or any other
regulatory body, the Company has not, without the prior written consent of the
Majority Lenders, treated as satisfied or waived any material regulatory or anti-trust
condition to the Offer, if the failure to fulfil such condition would result in the
Company being entitled to lapse the Offer under Rule 13.5(a) of the Takeover Code.

2. **Offer Documents**

Either:

(a) an up-to-date copy (certified in accordance with paragraph (b) below) of (A) each
Offer Press Release; (B) the Offer Document; and (C) any material announcements
and documents issued by it or, to the extent that it has received copies thereof, by the
Target pursuant to the Offer previously delivered to the Agent under paragraph (b) of
Clause 26.36 *(Offer undertakings)*; or

(b) a certificate of an authorised signatory of the Company certifying that, as at the date
no earlier than the date on which the Closing Date is proposed to occur, the
documents, referred to in paragraph (a) above (as delivered to the Agent pursuant to
paragraph (b) of Clause 26.36 *(Offer undertakings)*) are true, complete and up-to-date
and have not been amended, supplemented or replaced.

3. **Cash confirmation**

A certificate of an authorised signatory of the Parent certifying that sufficient sources of
funding (including the proceeds of any Facility A Loan(s) to be utilised for such purposes)
have been or will be applied to satisfy in full the cash consideration payable pursuant to the
Acquisition in accordance with the terms of, or as contemplated by, the Offer.

4. **Other documents and evidence**

(a) A final form funds flow statement detailing the proposed movement of funds on or
before the Closing Date which shall be in form and substance satisfactory to the
Agent or in a form and substance substantially the same as the draft funds flow
statement delivered under Part 1A of this Schedule or with such other changes which
could not reasonably be expected to be prejudicial to the Lenders.

(b) A Certificate of the Parent (signed by a director) certifying that:

(i) the debt and/or equity investment by Investors in aggregate amount equal to
at least 50 per cent. of the aggregate funded structure of the Group at the
Closing Date will be received by the Group on or contemporaneously with occurrence of the Closing Date;

(ii) the Joint Bidding Agreement is in full force and effect; and

(iii) no Obligor which is an overseas company has registered an establishment in the UK under the Overseas Companies Regulations 2009 (SI 2009/1801), or, if any Obligor has so registered a UK establishment: (1) giving the full name and registered number of each such UK establishment; (2) attaching a certified copy of that company’s own internal register of charges; and (3) confirming that the relevant Obligor has not created any charges (whether registrable or not) which have not been registered on that register of charges for any reason;

(c) Evidence that the fees, costs and expenses then due from the Parent pursuant to Clause 16 (Fees), Clause 16.6 (Interest, commission and fees on Ancillary Facilities), Clause 17.6 (Stamp taxes) and Clause 21 (Costs and expenses) have been paid or will be paid by the Closing Date.

(d) Utilisation Requests relating to any Loans to be made on the Closing Date.

(e) The Tutman Acquisition Documents signed by the Parties thereto.

(f) If the Unconditional Date occurs before the date on which the level of acceptances in respect of the Offer is greater than or equal to 75% (the “75% Date”) and the Drag Authority (as defined in the Press Release) is not able to be exercised as contemplated by Clause 26.36(f)(i) as a result of an injunction granted after the Unconditional Date but before the 75% Date by certain shareholders in the Target and such injunction remains in place on the proposed Closing Date, evidence that the Utilisation Request (referred to in paragraph (b) above) requests a utilisation in respect of Facility A for an amount no greater than the minimum amount necessary to ensure that:

(i) the Closing Date; and

(ii) the payment in full of all amounts due and payable as contemplated by Clause 3.1(a)(ii),

occurs as contemplated by the Funds Flow Statement, in each case, on the assumption that £34,538,818 is provided to the Company from sources other than the Lenders for the purpose of ensuring that the Closing Date occurs.

Part 2 - Conditions precedent required to be delivered by an Additional Obligor

1. An Accession Deed executed by the Additional Obligor and the Parent.

2. A copy of the constitutional documents of the Additional Obligor.

3. A copy of a resolution of the board of directors of the Additional Obligor (at which the finance director shall be present):

(a) approving the terms of, and the transactions contemplated by, the Accession Deed and the Finance Documents and resolving that it execute, deliver and perform the Accession Deed and any other Finance Document to which it is party;
(b) authorising a specified person or persons to execute the Accession Deed and other Finance Documents on its behalf;

(c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices (including, in relation to an Additional Borrower, any Utilisation Request or Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and

(d) authorising the Parent to act as its agent in connection with the Finance Documents.

4. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.

5. 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 copy of a resolution of the board of directors of each corporate shareholder of each Additional Obligor approving the terms of the resolution referred to in paragraph 3 above.

7. A certificate of the Additional Obligor (signed by a director) confirming that: (1) 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; and (2) the Additional Obligor has positive net assets.

8. 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.

9. A copy of any other Authorisation or other document, opinion or assurance which the Agent considers to be necessary (and which it has notified the Parent of the requirement to deliver) in connection with the entry into and performance of the transactions contemplated by the Accession Letter or for the validity and enforceability of any Finance Document.

10. If available, the latest audited financial statements of the Additional Obligor.

11. The following legal opinions, each addressed to the Agent, the Security Agent and the Lenders:

   (a) A legal opinion of the legal adviser to the Agent in England, as to English law in the form distributed to the Lenders prior to signing the Accession Deed.

   (b) If the Additional Obligor is incorporated in or has its “centre of main interest” or “establishment” (as referred to in Clause 23.29 (*Centre of main interests and establishments*)) 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 adviser to the Agent in the jurisdiction of its incorporation, “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.

   (c) If an Obligor or Additional Obligor (as the case may be) grants security over the shares it owns in a Subsidiary where that Subsidiary is incorporated in a different
jurisdiction from the jurisdiction of that Obligor, legal opinions of the legal advisers to the Agent:

(i) in the Applicable Jurisdiction for the relevant Transaction Security Document; and

(ii) in the jurisdiction where the relevant Obligor or Additional Obligor is incorporated, or has its centre of main interests or “establishment” (as applicable).

12. The proposed Additional Obligor is incorporated in a jurisdiction other than England and Wales, evidence that the process agent specified in Clause 45.2 (Service of process), if not an Obligor, has accepted its appointment in relation to the proposed Additional Obligor.

13. Subject to the Agreed Security Principles, the Transaction Security Documents or other security documents which are required by the Agent to be executed by the proposed Additional Obligor.

14. Any notices or documents (including title deeds) required to be given or executed under the terms of the Transaction Security Documents referred to in paragraph 13 above and which are required to be delivered on the date of such Transaction Security Document.

15. Share certificates and stock transfer forms executed in blank (as described in paragraph 3(g) of Part 1B of this Schedule) as required by any of the Transaction Security Documents referred to in paragraph 13 above.

16. 

(a) In relation to Additional Obligors incorporated in England and Wales or Scotland, evidence that members of the Group incorporated in England and Wales or Scotland have done all that is necessary (including, without limitation, by re-registering as a private company) to ensure that the relevant Additional Obligor can enter into the Finance Documents and perform its obligations under the Finance Documents without breach of any applicable financial assistance or capital maintenance laws. Such evidence shall include copies of board and special resolutions for each relevant Additional Obligor and copies of the registers of directors and shareholders of each relevant Additional Obligor.

(b) If the Additional Obligor is not incorporated in England and Wales or Scotland, such documentary evidence as legal counsel to the Agent may require, that such Additional Obligor:

(i) has complied with any law in its jurisdiction relating to financial assistance or analogous process, if applicable; and

(ii) is not an overseas company which has registered an establishment in the UK under the Overseas Companies Regulations 2009 (SI 2009/1801), or, if that Additional Obligor has so registered a UK establishment: (1) giving the full name and registered number of such UK establishment; (2) attaching a certified copy of that company’s own internal register of charges; and (3) confirming that the Additional Obligor has not created any charges (whether registrable or not) which have not been registered on that register of charges for any reason.
17. Evidence that all necessary Authorisations from any government authority or other regulatory body in connection with the entry into and performance of the transactions contemplated by the Accession Deed, any Finance Document or Transaction Document to which the Additional Obligor is party or for the validity or enforceability of any of those documents have been obtained and are in full force and effect, together with certified copies of those obtained.

18. A certificate of the Parent confirming that no Default is continuing or would occur as a result of the Additional Obligor executing the Accession Deed or the Finance Documents or the Transaction Documents to which it is party.

19. Such other information or documents that the Agent may reasonably require, including any information and evidence in respect of the Additional Obligor required by any Finance Party to enable it to be satisfied with the results of all “know your customer” or other checks which it is required to carry out in relation to such Obligor.

20. A copy of the register listing the directors of the Additional Obligor.
SCHEDULE 3: REQUESTS

Part 1 - Utilisation Request - Loans

From: [Borrower] [Parent]*

To: [Agent]

Dated:

Dear Sirs

[Parent] – Senior Facilities Agreement dated [***] (the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2. We wish to borrow a Loan on the following terms:

(a) Borrower: [***]

(b) Proposed Utilisation Date: [***] (or, if that is not a Business Day, the next Business Day)

(c) Facility to be utilised: [Facility A]/[Revolving Facility]/[Incremental Facility with an Establishment Date of [ ]][**]

(d) Currency of Loan: [***]

(e) Amount: [***] or, if less, the Available Facility

(f) Interest Period: [***]

3. We confirm that each condition specified in Clause 4.2 (Further conditions precedent) [or, to the extent applicable, Clause 4.5 (Utilisations during the Certain Funds Period)] is satisfied on the date of this Utilisation Request.

4. [This Loan is to be made in [whole] / [part] for the purpose of refinancing [identify maturing Revolving Facility Loan] / [The proceeds of this Loan should be credited to [account]].

5. This Utilisation Request is irrevocable.

Yours faithfully

..................................................

authorised signatory for

[the Parent on behalf of] [insert name of relevant Borrower] / [insert name of Borrower]*

NOTES:

* Amend as appropriate. The Utilisation Request can be given by the Borrower or by the Parent.
** Select the Facility to be utilised and delete references to the other Facility.

---

**Part 2 - Selection Notice applicable to a Facility A Loan**

From: [Borrower] [Parent]*  
To:  [Agent]  
Dated:  

Dear Sirs

[Parent] - [***] SENIOR FACILITIES AGREEMENT DATED [***] (THE “FACILITIES AGREEMENT”)

1. We refer to the Facilities Agreement. This is a Selection Notice. Terms defined in the Facilities Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.

2. We refer to the following [Facility A]/[Incremental Facility] Loan[s] with an Interest Period ending on [***].

3. [We request that the above [Facility A]/[Incremental Facility] Loan[s] be divided into [***] [Facility A]/[Incremental Facility] Loans with the following amounts and Interest Periods:][***]  
   or
   [We request that the next Interest Period for the above Facility A] /[Incremental Facility] Loan[s] is [***].

4. This Selection Notice is irrevocable.

Yours faithfully,

..............................................

authorised signatory for

[the Parent on behalf of] [insert name of Relevant Borrower] *

**NOTES:**

* Amend as appropriate. The Selection Notice can be given by the Borrower or the Parent.

** Insert details of all Facility A Loans which have an Interest Period ending on the same date.

*** Use this option if division of Facility A Loans or Incremental Facility Loans is requested.

**** Amend as appropriate. The selection Notice can be given by the Borrower or the Parent.
SCHEDULE 4: FORM OF TRANSFER CERTIFICATE

To: [***] as Agent and [***] as Security Agent

From: [The Existing Lender] (the “Existing Lender”) and [The New Lender] (the “New Lender”)

Dated:

[Parent] - [***] SENIOR FACILITIES AGREEMENT DATED [***] (THE “FACILITIES AGREEMENT”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This agreement (the “Agreement”) shall take effect as a Transfer Certificate for the purpose of the Facilities Agreement and as a [*** Creditor 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 28.5 (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 28.5 (Procedure for transfer) all of the Existing Lender’s rights and obligations under the Facilities Agreement and the other Finance Documents which relate to that portion of the Existing Lender’s Commitment(s) and participations in Loans under the Facilities Agreement as specified in the Schedule [OR] [*** Each Existing Lender listed in Part 1 of the Schedule transfers by novation to each New Lender listed in Part 2 of the Schedule that portion of the outstanding Loans and Commitments in accordance with Clause 28.5 (Procedure for transfer), such that:

      (i) each New Lender will become a Lender under the Agreement with the respective Commitment and portion of outstanding Loans set out opposite its name in Part 3 of the Schedule; and

      (ii) each Existing Lender’s Commitment and portion of outstanding Loans will be reduced to the amounts set out opposite its name in Part 3 of the Schedule. ***]

   (b) The proposed Transfer Date is [***].

   (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 35.2 (Addresses) are set out in the Schedule.

3. [*** The/Each ***] New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in paragraph (c) of Clause 28.4 (Limitation of responsibility of Existing Lenders).

4. The New Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:

   (a) [a Qualifying Lender (other than a Treaty Lender);]

   (b) [a Treaty Lender;]

   (c) [not a Qualifying Lender].

- 210 -
5. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

(a) a company resident in the United Kingdom for United Kingdom tax purposes;

(b) a partnership each member of which is:

(i) a company so resident in the United Kingdom; or

(ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]

6. [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [*]) and is tax resident in [*], so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify:

(a) each Borrower which is a Party as a Borrower as at the Transfer Date; and

(b) each Additional Borrower which becomes an Additional Borrower after the Transfer Date,

that it wishes that scheme to apply to the Facilities Agreement]***

7. 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.

8. [ *** We refer to Clause 20.4 (Change of Lender) of the Intercreditor Agreement, *** ] in consideration of the New Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined therein), the New Lender confirms that, as from the Transfer Date, it intends to be a party to the Intercreditor Agreement as a Senior Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Senior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement. The address for service of notices to [ *** the/each *** ] New Lender for the purposes of the Intercreditor Agreement is as set out in the Schedule to this Transfer Certificate [ *** add

---

1 Include only if New Lender is a UK Non-Bank Lender i.e. falls within paragraph (a)(i)(B) of the definition of Qualifying Lender in Clause 17.1 (Definitions).

2 Insert jurisdiction of tax residence.

3 Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.
checklist of steps (if any) necessary for the/each New Lender to obtain the benefit of the Transaction Security.

9. The New Lender confirms that it [ *** is *** ]/[ *** is not *** ] a Sponsor Affiliate.

10. For the purpose of Clause 35.7 (Use of websites) the New Lender is a [ *** Website Lender *** ] [ *** Paper Form Lender *** ] OR [ *** each New Lender specifies in Part 4 of the Schedule opposite its name whether it is a Website Lender or a Paper Form Lender. *** ]

11. This Agreement and all non-contractual obligations arising in any way whatsoever out of or in connection with this Agreement shall be governed by, construed and take effect in accordance with English law.

12. 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, fax number and attention details for notices and account details for payments.]

[Existing Lender] [New Lender]

By: By:

This Agreement is accepted as a Transfer Certificate for the purposes of the Facilities Agreement by the Agent, and as a [ *** Creditor/Agent Accession Undertaking for the purposes of the Intercreditor Agreement *** ] by the Security Agent and the Transfer Date is confirmed as [ *** ].

[Agent]

By:

[Security Agent]

By:
[ *** OR FOR GLOBAL TRANSFER CERTIFICATES *** ]

Part 1 - The Existing Lenders

<table>
<thead>
<tr>
<th>Lender</th>
<th>Commitment</th>
<th>Utilisations</th>
<th>Revolving Facility</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Facility A</td>
<td>Facility A</td>
<td>Commitment</td>
</tr>
</tbody>
</table>

[ *** list here existing and new lenders *** ]

Part 2 - The New Lenders

<table>
<thead>
<tr>
<th>Lender</th>
<th>Commitment</th>
<th>Utilisations</th>
<th>Revolving Facility</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Facility A</td>
<td>Facility A</td>
<td>Commitment</td>
</tr>
</tbody>
</table>

Part 3 - Details of portion of outstanding Loans and Commitment for each Facility

Part 4 - New Lenders’ Administrative Details

<table>
<thead>
<tr>
<th>New Lender</th>
<th>Facility office Address/Fax no. Attention of:</th>
<th>Address for service of notices (if different)</th>
<th>Account for Payment</th>
<th>Website or Paper Form Lender</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ *** ]</td>
<td>[ *** ]</td>
<td>[ *** ]</td>
<td>[ *** ]</td>
<td>[ *** ]</td>
</tr>
</tbody>
</table>

EXECUTED as a Deed by )

[ *** Each Existing Lender *** ] ) Authorised Signatory

Dated:

Executed as a Deed by )

[ *** Each New Lender *** ] ) Authorised Signatory

Dated:
The Transfer Certificate is accepted by the Agent and the Transfer Date is confirmed by the Agent as [*** ].

Signed by [ *** Agent *** ]

Dated:

Signed by [ *** Security Agent *** ]

Dated:
SCHEDULE 5: FORM OF ASSIGNMENT AGREEMENT

To: [***] as Agent and [***], [***] as Security Agent, [***] as Parent, for and on behalf of each Obligor.

From: [the Existing Lender] (the “Existing Lender”) and [the New Lender] (the “New Lender”)

Dated: [***]

[Parent] - [***] Senior Facilities Agreement
dated [***] (the “Facilities Agreement”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This is an Assignment Agreement. This agreement (the “Agreement”) shall take effect as an Assignment Agreement for the purposes of the Facilities Agreement and as a [*** Creditor Accession Undertaking ***] for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2. We refer to Clause 28.6 (Procedure for assignment) of the Facilities Agreement.
   (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Facilities Agreement, the other Finance Documents and in respect of the Transaction Security which correspond to that portion of the Existing Lender’s Commitment(s) and participations in Loans under the Facilities Agreement as specified in the Schedule;
   (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender’s Commitment(s) and participations in Loans under the Facilities Agreement specified in the Schedule.
   (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.

3. The proposed Transfer Date is [***].

4. On the Transfer Date the New Lender becomes:
   (a) Party to the relevant Finance Documents (other than the Intercreditor Agreement) as a Lender; and
   (b) Party to the Intercreditor Agreement as a Senior Lender.

5. The Facility office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 35.2 (Addresses) are set out in the Schedule.

6. The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in paragraph (c) of Clause 28.4 (Limitation of responsibility of Existing Lenders).

7. The New Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:
   (a) [a Qualifying Lender (other than a Treaty Lender);]
(b) [a Treaty Lender;]

(c) [not a Qualifying Lender].

8. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

(a) a company resident in the United Kingdom for United Kingdom tax purposes;

(b) a partnership each member of which is:

(i) a company so resident in the United Kingdom; or

(ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.  

9. [The New Lender confirms that it holds a passport under the HMRC DT Treaty Passport scheme (reference number [*]) and is tax resident in [*], so that interest payable to it by borrowers is generally subject to full exemption from UK withholding tax and requests that the Parent notify:

(a) each Borrower which is a Party as a Borrower as at the Transfer Date; and

(b) each Additional Borrower which becomes an Additional Borrower after the Transfer Date,

that it wishes that scheme to apply to the Facilities Agreement]*

10. This Agreement acts as notice to the Agent (on behalf of each Finance Party) and upon delivery in accordance with Clause 28.7 (Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Parent) to the Parent (on behalf of each Obligor) of the assignment referred to in this Assignment Agreement.

11. The New Lender confirms that it [ *** is *** ][ *** is not *** ] a Sponsor Affiliate.

12. The New Lender confirms that it [is/is not] a non-Acceptable L/C Lender.

---

4 Include only if New Lender is a UK Non-Bank Lender i.e. falls within paragraph (a)(i)(B) of the definition of Qualifying Lender in Clause 17.1 (Definitions).

5 Insert jurisdiction of tax residence.

6 Include if the New Lender holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facilities Agreement.
13. [ *** We refer to Clause [ *** 22.5 *** ] (Change of Senior Lender) of the Intercreditor Agreement, ***] in consideration of the New Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined therein), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intercreditor Agreement as a Senior Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Senior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement. The address for service of notices to the New Lender for the purpose of the Intercreditor Agreement is as set out in the Schedule to this Agreement.

14. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Assignment Agreement.

15. For the purpose of Clause 35.7 (Use of websites) the New Lender is a [ *** Website Lender *** ] [ *** Paper Form Lender *** ]

16. This Agreement and all non-contractual obligations arising in any way whatsoever out of or in connection with this Assignment Agreement shall be governed by, construed and take effect in accordance with English law.

17. This Agreement has been entered into on the date stated at the beginning of this Agreement.

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

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

[ *** insert relevant details *** ]

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

[ *** Existing Lender *** ]

By:

[ *** New Lender *** ]

By:

This Agreement is accepted as an Assignment Agreement for the purposes of the Facilities Agreement by the Agent, and as a [ *** Creditor Accession Undertaking for the purposes of the Intercreditor Agreement *** ] by the Security Agent and the Transfer Date is confirmed as [ *** ].

[ *** Signature of this Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to in this Agreement, which notice the Agent receives on behalf of each Finance Party. *** ]

[ *** Agent *** ]

By:

[ *** Security Agent ***]

By:
SCHEDULE 6: FORM OF ACCESSION DEED

To: [***] as Agent and [***] as Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below

From: [Subsidiary] and [Parent]

Dated:

Dear Sirs

[Parent] – SENIOR FACILITIES AGREEMENT DATED [***] (THE “FACILITIES AGREEMENT”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement. This deed (the “Accession Deed”) shall take effect as an Accession Deed for the purposes of the Facilities Agreement and as a [***]Debtor Accession Deed [***] for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in paragraphs 1-3 of this Accession Deed unless given a different meaning in this Accession Deed.

2. [Subsidiary] agrees to become an Additional [Borrower]/[Guarantor] and to be bound by the terms of the Facilities Agreement and the other Finance Documents (other than the Intercreditor Agreement) as an Additional [Borrower]/[Guarantor] pursuant to Clause [30.2 (Additional Borrowers)]/[Clause 30.4 (Additional Guarantors)] of the Facilities Agreement. [Subsidiary] is a company duly incorporated under the laws of [name of relevant jurisdiction] and is a limited liability company and registered number [***].

3. [The Parent confirms that no Default is continuing or would occur as a result of [Subsidiary] becoming an Additional Borrower.]

4. [Subsidiary’s] administrative details for the purposes of the Facilities Agreement and the Intercreditor Agreement are as follows:

   Address:

   Fax No.:

   Attention:

5. [Subsidiary] (for the purposes of this paragraph [4/5], (the “Acceding Debtor”) intends to [incur Liabilities under the following documents][give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:

   [Insert details (date, parties and description) of relevant documents]

   the “Relevant Documents”.

IT IS AGREED as follows:

(a) Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Accession Deed, bear the same meaning when used in this paragraph [4/5].

(b) The Acceding Debtor and the Security Agent agree that the Security Agent shall hold:
(i) [any Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;]

(ii) all proceeds of that Security; and]

(iii) all obligations expressed to be undertaken by the Acceding Debtor to pay amounts in respect of the Liabilities to the Security Agent as trustee for the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee for the Secured Parties, on trust for the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.

(c) The Acceding Debtor confirms that it intends to be party to the Intercreditor Agreement as a Debtor, undertakes to perform all the obligations expressed to be assumed by a Debtor under the Intercreditor Agreement and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement.

(d) [***In consideration of the Acceding Debtor being accepted as an [***intercompany creditor/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 [***intercompany creditor/Intra-Group Lender ***], and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an [ *** intercompany creditor/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 all non-contractual obligations arising in any way whatsoever out of or in connection with this Accession Deed] shall be governed by, construed and take effect in accordance with English law.

**This Accession Deed** has been signed on behalf of the Security Agent (for the purposes of paragraph [4/5] above only), signed on behalf of the Parent and executed as a deed by [Subsidiary] and is delivered on the date stated above.

[Subsidiary]

[Executed as a Deed ]

by: [Subsidiary]

Director

Director/Secretary

OR

- 220 -
[Executed as a Deed ]
by: [Subsidiary]  

Signature of Director: ________________________________
Name of Director: ________________________________
in the presence of:
Signature of witness: ________________________________
Name of witness: ________________________________
Address of witness: ________________________________

Occupation of witness: ________________________________

THE PARENT
[Parent]
By:

THE SECURITY AGENT
[Full name of Current Security Agent]
By:
Date:
SCHEDULE 7: FORM OF RESIGNATION LETTER

To: [ ] as Agent

From: [resigning Obligor] and [Parent]

Dated:

Dear Sirs

[Parent] – [ ] SENIOR FACILITIES AGREEMENT DATED [***] (THE “FACILITIES AGREEMENT”)

1. We refer to the Facilities Agreement. This is a Resignation Letter. Terms defined in the Facilities Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.

2. Pursuant to [Clause 30.3] (Resignation of a Borrower)/[Clause 30.5 (Resignation of a Guarantor)], we request that [resigning Obligor] be released from its obligations as a [Borrower]/[Guarantor] under the Facilities Agreement and the Finance Documents (other than the Intercreditor Agreement).

3. We confirm that:
   
   (a) no Default is continuing or would result from the acceptance of this request;
   
   (b) *[this request is given in relation to a Third Party Disposal of [resigning Obligor];
   
   (c) the Disposal Proceeds have been or will be applied in accordance with Clause 11.2 (Disposal, Insurance, Flotation and Acquisition Proceeds);
   
   (d) [ ]

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

[Parent] [resigning Obligor]

By: By:

NOTES:

** Amend as appropriate, e.g. to reflect agreed procedure for payment of proceeds into a specified account.

*** Insert any other conditions required by the Facilities Agreement.
SCHEDULE 8: FORM OF COMPLIANCE CERTIFICATE

To: [***] as Agent

From: [Parent]

Dated:

Dear Sirs

[Parent] - SENIOR FACILITIES AGREEMENT DATED [***] (THE “FACILITIES AGREEMENT”)

1. We refer to the Facilities Agreement. This is a Compliance Certificate. Terms defined in the Facilities Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2. We confirm that:

[Insert details of covenants to be certified].

3. We confirm that no Default is continuing.

4. We confirm the following amounts in respect of the relevant Financial Quarter:

(a)  Cash Overfunding: [*];

(b)  Unrestricted Cash: [*];

(c)  Permitted Payments: [*];

(d)  Borrowings of the Group: [*]; and

(e)  Capital Expenditure of the Group: [*].

5. We confirm that the following companies constitute Material Companies for the purposes of the Facilities Agreement: [***].

6. We confirm that the following companies constitute Regulated Group Companies for the purposes of the Facilities Agreement: [***].

Signed: ................................. .................................

Director  Director

Of  Of

[Parent]  [Parent]

[insert applicable certification language]

.................................

- 223 -
for and on behalf of

[name of Auditors]
<table>
<thead>
<tr>
<th><strong>SCHEDULE 9: TIMETABLES</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Loans in sterling</strong></td>
</tr>
<tr>
<td>Agent notifies the Parent if a currency is approved as an Optional Currency in accordance with Clause 4.3 <em>(Conditions relating to Optional Currencies)</em></td>
</tr>
<tr>
<td>Delivery of a duly completed Utilisation Request (Clause 5.1 <em>(Delivery of a Utilisation Request)</em> or a Selection Notice (Clause 14.1 <em>(Selection of Interest Periods and Terms))</em></td>
</tr>
<tr>
<td>Agent determines (in relation to a Loan) the Base Currency Amount of the Loan, if required under Clause 5.4 <em>(Lenders’ participation)</em> and notifies the Lenders of the Loan in accordance with Clause 5.4 <em>(Lenders’ participation)</em></td>
</tr>
<tr>
<td>LIBOR or EURIBOR is fixed</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>EURIBOR</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------</td>
</tr>
<tr>
<td>Base Reference Bank Rate calculated by reference to available quotations in accordance with Clause 15.2 (<em>Calculation of Base Reference Bank Rate</em>)</td>
</tr>
<tr>
<td>“U” = date of utilisation or, if applicable, in the case of a Facility A Loan that has already been borrowed, the first day of the relevant Interest Period for that Facility A Loan</td>
</tr>
</tbody>
</table>
SCHEDULE 10: [ *** FORM OF INCREASE CONFIRMATION *** ]

To: [ ] as Agent, [ ] as Security Agent and [ ] as Parent, for and on behalf of each Obligor

From: [the Increase Lender] (the “Increase Lender”)

Dated:

[Parent] – [ ] SENIOR FACILITIES AGREEMENT DATED [ *** ]

(THE “FACILITIES AGREEMENT”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This agreement (the “Agreement”) shall take effect as an Increase Confirmation for the purpose of the Facilities Agreement and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement). Terms defined in the Facilities Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2. We refer to Clause 2.3 (Increase) of the Facilities Agreement.

3. The Increase Lender agrees to assume and will assume all of the obligations corresponding to the Commitment specified in the Schedule (the “Relevant Commitment”) as if it was an Original Lender under the Facilities Agreement.

4. The proposed date on which the increase in relation to the Increase Lender and the Relevant Commitment is to take effect (the “Increase Date”) is [***].

5. On the Increase Date, the Increase Lender becomes:

(a) party to the relevant Finance Documents (other than the Intercreditor Agreement) as a Lender; and

(b) party to the Intercreditor Agreement as a Senior Lender (as defined in the Intercreditor Agreement).

6. The Facility Office and address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 35.2 (Addresses) are set out in the Schedule.

7. The Increase Lender expressly acknowledges the limitations on the Lenders’ obligations referred to in paragraph (g) of Clause 2.3 (Increase).

8. The Increase Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:

(a) [a Qualifying Lender (other than a Treaty Lender);]

(b) [a Treaty Lender;]

(c) [not a Qualifying Lender].

9. The Increase Lender confirms that it is not a Sponsor Affiliate.

10. [The Increase Lender confirms that it [is]/[is not]* a Non-Acceptable L/C Lender.]*

*Note: The text marked with an asterisk (*) may be removed or replaced with a specific condition or disclaimer depending on the specific requirements or circumstances of the circumstances of the transaction.
11. We refer to Clause [20.9] (Creditor Accession Undertaking) of the Intercreditor Agreement. In consideration of the Increase Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), the Increase Lender confirms that, as from the Increase Date, it intends to be party to the Intercreditor Agreement as a Senior Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Senior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

12. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

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

14. This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Increase Confirmation may not be sufficient for the Increase Lender to obtain the benefit of the Transaction Security in all jurisdictions. It is the responsibility of the Increase Lender to ascertain whether any other documents or other formalities are required to obtain the benefit of the Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

THE SCHEDULE

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

[insert relevant details]

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

[Increase Lender]

By:

This Agreement is accepted as an Increase Confirmation for the purposes of the Facilities Agreement by the Agent, and as a Creditor Accession Undertaking for the purposes of the Intercreditor Agreement by the Security Agent and the Increase Date is confirmed as [ ].

Agent

By:

Security Agent

By:

NOTE:
Only if increase in the Total Revolving Facility Commitments.
SCHEDULE 11: FORMS OF NOTIFIABLE DEBT PURCHASE TRANSACTION NOTICE

Part 1 - Form of Notice on Entering into Notifiable Debt Purchase Transaction

To: [ ] as Agent

From: [The Lender]

Dated:

[Parent] – [ ] SENIOR FACILITIES AGREEMENT DATED [ *** ]

(THE “FACILITIES AGREEMENT”)

1. We refer to paragraph (b) of Clause 29.2 (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. We have entered into a Notifiable Debt Purchase Transaction.

3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to the amount of our Commitment(s) as set out below.

<table>
<thead>
<tr>
<th>Commitment</th>
<th>Amount of our Commitment to which Notifiable Debt Purchase Transaction relates</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Facility A Commitment]</td>
<td>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</td>
</tr>
<tr>
<td>[Incremental Facility Commitment under the Incremental Facility [with an Establishment Date of [ ]]]</td>
<td>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</td>
</tr>
</tbody>
</table>

[Publisher]

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]

Dated:


1. We refer to paragraph (c) of Clause 29.2 (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.

<table>
<thead>
<tr>
<th>Commitment</th>
<th>Amount of our Commitment to which Notifiable Debt Purchase Transaction relates (Base Currency)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facility A Commitment</td>
<td>[insert amount (of that Commitment) to which the relevant Debt Purchase Transaction applies]</td>
</tr>
</tbody>
</table>

[Name]

By:
SCHEDULE 12: AGREED SECURITY PRINCIPLES

1. The Principles

The guarantees and Security to be provided in support of the Facilities (and any related hedging arrangements in respect of the types of liabilities and/or risks which the Hedging Letter requires to be hedged) will be given in accordance with the agreed security principles set out in this schedule.

2. Potential restrictions on credit support

The Agreed Security Principles recognise that there may be legal and practical difficulties in obtaining security from all Obligors in every jurisdiction in which Obligors are incorporated or operate. In particular:

(a) general statutory limitations, financial assistance, fraudulent preference, thin capitalisation rules, capital maintenance, exchange control restrictions, retention of title claims and similar principles may limit the ability of a Group Company to provide a guarantee or grant security or may require that its guarantee be limited in amount or scope. The Parent will use all reasonable endeavours to assist in demonstrating that adequate corporate benefit accrues to the Target and each Obligor;

(b) the Security and extent of its perfection will be agreed taking into account the economic cost to the Group of providing Security and the proportionate benefit accruing to the Lenders having regard to the extent of the obligations which can be secured by that Security and the priority that will be offered by taking or perfecting the Security;

(c) any assets subject to pre-existing third party arrangements which are permitted by this agreement and which prevent those assets from being charged will be excluded from any relevant Transaction Security Document but the Obligors must use reasonable endeavours to obtain consent to charging any such assets if the relevant asset is material;

(d) Guarantors will not be required to give guarantees or enter into security documents if that would conflict with the mandatory fiduciary duties of their or any Affiliates’ directors or contravene any legal prohibition or result in a risk of personal or criminal liability on the part of any officer or member of such company provided that the relevant Guarantor shall use reasonable endeavours to overcome any such obstacle to the extent that that can be done at reasonable cost;

(e) a Regulated Group Company shall not be required to grant any Security or becoming a Guarantor where it is prohibited from doing so pursuant to the Regulatory Restrictions;

(f) Guarantors will not be required to give guarantees or enter into Security where the Guarantor can demonstrate that there would be a significant Tax cost disadvantage in doing so such that the cost of giving such guarantees or entering into such Security would be disproportionate to the benefit of such guarantee and/or Security to the Lenders, provided that the relevant Guarantor shall use reasonable endeavours to overcome any such obstacle to the extent that that can be done at reasonable cost;

(g) perfection of Security, when required, and other legal formalities will be completed as soon as practicable and, in any event, within the time periods specified in the Senior
Finance Documents therefore or (If earlier or to the extent no such time periods are specified in the Senior Finance Documents) within the time periods specified by applicable law in order to ensure due perfection;

(h) the perfection of Security granted will not be required if it would have a material adverse effect on the commercial reputation of the relevant Guarantor or on its ability to conduct its operations and business in the ordinary course as otherwise not prohibited by the Senior Finance Documents;

(i) access to the assets of a Guarantor, the maximum guaranteed or secured amount may be restricted or limited by guarantee limitation language agreed to reflect these principles and to the extent consistent with them, customary practice in the relevant jurisdiction to minimise stamp duty, notarisation, registration or other applicable fees where the economic benefit of increasing the guaranteed or secured amount is disproportionate to the level of such fees, Taxes and duties or where registration, notarial or other fees are payable by reference to the stated amount secured in which case, any asset Security granted by that Guarantor shall be limited to the maximum recoverable amount under the guarantee;

(j) where a class of assets to be secured includes material and immaterial assets, if the cost of granting Security over the immaterial assets is disproportionate to the benefit of such Security, Security will be granted over the material assets only;

(k) unless granted under a global security document governed by the law of the jurisdiction of a Guarantor or under English law all Security (other than share Security over its Guarantor subsidiaries) shall be governed by the law of and secure assets located in the jurisdiction of incorporation of that Guarantor;

(l) no perfection action will be required in jurisdictions where Guarantors are not located (other than in relation to any security over shares or equity interests or in intellectual property) but perfection action may be required in the jurisdiction of one Obligor in relation to security granted by an Obligor located in a different jurisdiction;

3. Security perfection

Security will be for all liabilities of the relevant grantor (including its liabilities in respect of any guarantee) under the Senior Finance Documents in accordance with, and subject to, the requirements of the Agreed Security Principles in each relevant jurisdiction.

To the extent possible, all Security shall be given in favour of the Security Agent as agent for the Senior Finance Parties and not the Finance Parties individually. “Parallel debt” provisions will be used where necessary and not in cases where local law does not require this concept; such provisions will be contained in the Intercreditor Agreement and not the individual Transaction Security Documents unless required under local laws. To the extent possible, there should be no action required to be taken in relation to the guarantees or Security when any Lender transfers any of Its participation in the Facilities to a new Lender.

4. Terms of Security Documents

The following principles will be reflected In the terms of any Transaction Security:

(a) the security will be first ranking, to the extent legally possible and subject to this Agreed security Principles;
(b) security will not be enforceable until a Declared Default has occurred (however notice to debtors may be served upon the occurrence of an Event of Default or Material Event of Default which is continuing);

(c) any rights of set-off will only be exercisable in respect of matured obligations and after the occurrence of a Declared Default;

(d) representations and undertakings (such as in respect to insurances, monitoring of assets, information or payment of costs) shall only be included in each Transaction Security Document to the extent necessary or customary under local law to confirm any registration or perfection of the Security, if required for the creation, perfection or preservation of the Security or assets subject to the Security or otherwise required by or customary under local law;

(e) the provisions of each Transaction Security Document will not be unduly burdensome on the Guarantor or interfere unreasonably with the operation of its business or have an adverse effect on the commercial reputation of the Guarantor and will be limited to those required to create effective Security and not impose additional commercial obligations;

(f) Permitted Disposals of assets, Permitted Transactions, the incurrence and subsistence of Permitted Financial Indebtedness and the existence and creation of Permitted Security over assets (other than shares and intercompany loans), will be permitted in accordance with the terms of this Agreement;

(g) the Security Agent shall release any guarantees or Security in the event that such release is required to permit a Permitted Disposal;

(h) information, such as periodically updated lists of assets, will be provided if and, only to the extent, required by or customary under local law to be provided to perfect or register the Security and, that this information can be provided without breaching confidentiality requirements or damaging business relationships or commercial reputation and, unless required to be provided by local law more frequently, will be provided annually;

(i) the Lenders shall only be able to exercise a power of attorney following the occurrence of a Declared Default or if the relevant Guarantor has failed to comply with a further assurance or perfection obligation within 10 Business Days of being notified of that failure (with a copy of that notice being sent to the Parent) and being requested to comply;

(j) subject to the other provisions of these Agreed Security Principles, security will where possible automatically create Security over future assets of the same type as those already secured;

(k) in the Transaction Security Documents there will be no repetition or extension of clauses set out In the Senior Facilities Agreement (or the Intercreditor Agreement) such as those relating to notices, cost and expenses, indemnities, tax gross up, distribution of proceeds and release of Security other than if expressly required by local law to perfect the Security or make it enforceable or to facilitate the admissibility of a Transaction Security Document in court.
5. Shares

(a) Transaction Security will be granted over the shares in Material Companies unless owned by a Regulated Group Company.

(b) The relevant Transaction Security Document will be governed by the laws of the jurisdiction of Incorporation of the Group member whose shares are subject to the Security and not by the law of the jurisdiction of incorporation of the Group member granting the Security.

(c) Until a Declared Default, the legal title to such shares shall remain with the relevant pledgor and the pledgor will be permitted to retain and to exercise voting rights to any shares pledged by them in a manner which does not adversely affect the validity or enforceability of the Security or cause an Event of Default to occur and the pledgors will be permitted to pay, receive and retain dividends subject to the terms of this Agreement. Notice in connection with voting rights (for instance to entitle the Security Agent to exercise such voting rights) may be served upon the occurrence of an Event of Default which is continuing.

(d) Where customary the share certificate (or other documents evidencing title to the relevant shares) and a stock transfer form executed In blank (or local law equivalent) will be provided to the Security Agent and where required by law the share certificate or shareholders register will be endorsed or written up and the endorsed share certificate or a copy of the written up register provided to the Security Agent.

(e) Unless the restriction is required by law, the constitutional documents of the Group member whose shares are to be pledged will be amended to remove any restriction on grant of security or any provision which restricts enforcement of the Transaction Security, the transfer or the registration of the transfer of the shares on enforcement of the Security granted over them.

6. Release of Security

Unless required by local law, the circumstances in which the Security shall be released should not be dealt with in individual Transaction Security Documents but, if so required, shall, except to the extent required by local law, be the same as those set out in the Intercreditor Agreement.
SCHEDULE 13: FORM OF INCREMENTAL FACILITY NOTICE

To: [ ] as Agent

and [ ] as Security Agent

From: [ ] as the Parent and the entities listed in the Schedule as Incremental Facility Lenders (the “Incremental Facility Lenders”)

Dated:

[Parent] - [ *** ] Senior Facilities Agreement dated [ *** ] (the “Facilities Agreement”)

1. We refer to the Facilities Agreement and to the Intercreditor Agreement (as defined in the Facilities Agreement). This is an Incremental Facility Notice. This Incremental Facility Notice shall take effect as an incremental facility notice 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 Incremental Facility Notice unless given a different meaning in this Incremental Facility Notice.

2. We refer to Clause 8 (Establishment of Incremental Facilities) of the Facilities Agreement.

3. We request the establishment of an Incremental Facility with the following Incremental Facility Terms:

   (a) Currency:
       Sterling.

   (b) Total Incremental Facility Commitments:

   [ ]

   (c) Margin:

   [ ]

   (d) Level of commitment fee payable pursuant to Clause 16.2 (Commitment fee) of the Facilities Agreement in respect of the Incremental Facility:

   [ ]

   (e) Borrower(s) to which the Incremental Facility is to be made available:

   [ ]

   (f) Purpose(s) for which all amounts borrowed under the Incremental Facility shall be applied pursuant to Clause 3.1 (Purpose) of the Facilities Agreement:

   [ ]

   (g) Availability Period:

   [ ]
(h) Incremental Facility Conditions Precedent:

[ ]

(i) The repayment terms for the Incremental Facility for the purposes of clause 9.1 (Repayment of Loans) of the Facilities Agreement.

[ ]

(j) Termination Date:

[ ]

4. The proposed Establishment Date is [ ].

5. The Parent confirms that:

(a) each of:

(i) the Incremental Facility Terms set out above;

(ii) the Margin and any fee, commission or original issue discount applicable to the Incremental Facility; and

(iii) the fees payable to any Arranger of the Incremental Facility,

comply with Clause 8.5 (Restrictions on Incremental Facility Terms and Fees) of the Facilities Agreement;

(b) The Incremental Facility Lenders and the Incremental Facility Commitments set out in this Incremental Facility Notice have been selected and allocated in accordance with Clause 8.1 (Selection of Incremental Facility Lenders) of the Facilities Agreement; and

(c) each condition specified in paragraph (l) of Clause 8.6 (Conditions to Establishment) of the Facilities Agreement is satisfied on the date of this Incremental Facility Notice.

6. Each Incremental Facility Lender agrees to assume and will assume all of the obligations corresponding to the Incremental Facility Commitment set opposite its name in the Schedule as if it was an Original Lender in respect of that Incremental Facility Commitment under the Facilities Agreement.

7. On the Establishment Date each Incremental Facility Lender becomes:

(a) party to the relevant Finance Documents (other than the Intercreditor Agreement) as a Lender; and

(b) party to the Intercreditor Agreement as a Senior Lender (as defined in the Intercreditor Agreement).

8. Each Incremental Facility Lender expressly acknowledges the limitations on the Lenders’ obligations referred to in Clause 8.12 (Limitation of responsibility) of the Facilities Agreement.

9. [Each Incremental Facility Lender confirms that it is not a Sponsor Affiliate.]
10. We refer to clause [22.11] (Creditor Accession Undertaking) of the Intercreditor Agreement. In consideration of each Incremental Facility Lender being accepted as a Senior Lender for the purposes of the Intercreditor Agreement (and as defined in the Intercreditor Agreement), each Incremental Facility Lender confirms that, as from the Establishment Date, it intends to be party to the Intercreditor Agreement as a Senior Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Senior Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

11. This Incremental Facility Notice is irrevocable.

12. This Incremental Facility Notice may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Incremental Facility Notice.

13. This Incremental Facility Notice [and any non-contractual obligations arising out of or in connection with it] [is/are] governed by English law.

14. This Incremental Facility Notice has been entered into on the date stated at the beginning of this Incremental Facility Notice.

NOTE: THE EXECUTION OF THIS INCREMENTAL FACILITY NOTICE MAY NOT BE SUFFICIENT FOR EACH INCREMENTAL FACILITY LENDER TO OBTAIN THE BENEFIT OF THE TRANSACTION SECURITY IN ALL JURISDICTIONS. IT IS THE RESPONSIBILITY OF EACH INCREMENTAL FACILITY LENDER TO ASCERTAIN WHETHER ANY OTHER DOCUMENTS OR OTHER FORMALITIES ARE REQUIRED TO OBTAIN THE BENEFIT OF THE TRANSACTION SECURITY IN ANY JURISDICTION AND, IF SO, TO ARRANGE FOR EXECUTION OF THOSE DOCUMENTS AND COMPLETION OF THOSE FORMALITIES.

THE SCHEDULE

<table>
<thead>
<tr>
<th>Name of Incremental Facility Lender</th>
<th>Incremental Facility Commitment</th>
</tr>
</thead>
</table>

The Parent

BY: .....................................................

The Incremental Facility Lenders

[ .................................................. ]

This document is accepted as an Incremental Facility Notice 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 Establishment Date is confirmed as [ ].

The Agent

- 238 -
By: ..................................................

The Security Agent

By: ..................................................
SCHEDULE 14: FORM OF INCREMENTAL FACILITY LENDER CERTIFICATE

To: [ ] as Agent and [ ] as Parent

From: [The Incremental Facility Lender]

DATED:

[Parent] – [ ] SENIOR FACILITIES AGREEMENT DATED [ *** ]
(THE “FACILITIES AGREEMENT”)

1. We refer to the Facilities Agreement and to the Incremental Facility Notice dated [ ]. This is an Incremental Facility Lender Certificate. Terms defined in the Facilities Agreement have the same meaning in this Incremental Facility Lender Certificate unless given a different meaning in this Incremental Facility Lender Certificate.

2. We confirm, for the benefit of the Agent and without liability to any Obligor, that we are:

(a) [a Qualifying Lender (other than a Treaty Lender);]

(b) [a Treaty Lender;]

(c) [not a Qualifying Lender.]

3. [We confirm that the person beneficially entitled to interest payable to us in respect of an advance under a Finance Document is either:

(a) a company resident in the United Kingdom for United Kingdom tax purposes;

(b) a partnership each member of which is:

(i) a company so resident in the United Kingdom; or

(ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of part 17 of the CTA; or

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]

4. [We confirm that we hold a passport under the HMRC DT Treaty Passport scheme (reference number [ ]) and are tax resident in [[ ]], so that interest payable to us by borrowers is generally subject to full exemption from UK withholding tax and request that the Parent notify:

(a) each Borrower which is a Party as a Borrower as at the Establishment Date of the Incremental Facility requested in the Incremental Facility Notice referenced above; and

(b) each Additional Borrower which becomes an Additional Borrower after that Establishment Date,
that we wish that scheme to apply to the Facilities Agreement.]

5. The Facility Office and address, fax number and attention details for notices of the Incremental Facility Lender for the purposes of Clause 35.2 \textit{(Addresses)} of the Facilities Agreement are:

[ ].

Incremental Facility Lender

[Incremental Facility Lender]

By:
THE PARENT
REGIT HOLDCO LIMITED
By: 
Address: 47 Esplanade, St Helier, Jersey JE1 0BD
Fax: +44 1534 835650

THE ORIGINAL BORROWER
REGIT FINCO LIMITED
By: 
Address: 32 Hampstead High Street, London, NW3 1JQ
Fax: +44 20 7435 7377

THE COMPANY
REGIT BIDCO LIMITED
By: 
Address: 47 Esplanade, St Helier, Jersey JE1 0BD
Fax: +44 1534 835650
THE ORIGINAL GUARANTORS

REGIT HOLDCO LIMITED
By: 
Address: 47 Esplanade, St Helier, Jersey JE1 0BD
Fax: +44 1534 835650

REGIT FINCO LIMITED
By: 
Address: 32 Hampstead High Street, London, NW3 1JQ
Fax: +44 20 7435 7377

REGIT BIDCO LIMITED
By: 
Address: 47 Esplanade, St Helier, Jersey JE1 0BD
Fax: +44 1534 835650

Signature Pages - Project Tiger Facilities Agreement
THE ARRANGERS

EUROPEAN CAPITAL UK SME DEBT SARL

By:  
Address: 1, rue Hildegard von Bingen, L-1282 Luxembourg.
Phone: +352 26 49 58 41 86
Fax: +352 26 49 58 41 87
Attention: Maximilien Dambax

EUROPEAN CAPITAL PRIVATE DEBT SARL

By:  
Address: 1, rue Hildegard von Bingen, L-1282 Luxembourg.
Phone: +352 26 49 58 41 86
Fax: +352 26 49 58 41 87
Attention: Maximilien Dambax
THE AGENT

EUROPEAN CAPITAL FUND MANAGEMENT LIMITED

By: [Signature]

25 Bedford Street, WC2E 9ES London, United Kingdom

Attn: Caryn Wonfor and Colin Wright

Telephone: +44 207 539 7000

Fax: +44 207 691 9383

Email: caryn.wonfor@europeancapital.com; colin.wright@europeancapital.com

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THE SECURITY AGENT

EUROPEAN CAPITAL FUND MANAGEMENT LIMITED

By: [Signature]

25 Bedford Street, WC2E 9ES London, United Kingdom

Attn: Caryn Wonfor and Colin Wright

Telephone: +44 207 539 7000

Fax: +44 207 691 9383

Email: caryn.wonfor@europeancapital.com; colin.wright@europeancapital.com
THE ORIGINAL LENDERS

EUROPEAN CAPITAL UK SME DEBT SARL
By: 
Address: 1, rue Hildesgard von Bingen L-1282 Luxembourg.
Phone: +352 26 49 58 41 86
Fax: +352 26 49 58 41 87
Attention: Maximilien Dambax

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